



Hacettepe Üniversitesi Sosyal Bilimler Enstitüsü

Department of International Relations

**THE ROLE OF SECURITY PERCEPTIONS IN THE
DEVELOPMENT OF TURKEY'S MIGRATION POLICY AND
LEGAL FRAMEWORK: THE EXAMPLE OF TURKEY-EU
RELATIONS**

Emre TAN

Master's Thesis

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ÖZET

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Bu yüksek lisans çalışmasının amacı, Türkiye'nin göç politikası ve hukuki çerçevesini AB kaynaklı güvenlik algıları açısından incelemektir. İncelemede, Türkiye'nin göç politikasının ve hukuki çerçevesinin gelişiminde AB'nin ne kadar etkili olduğu da ortaya konulmaya çalışılacaktır. Türkiye'nin göç konusuna yaklaşımı AB tarafından son yıllarda sistematik bir çerçeveye oturtulmaya teşvik edilmektedir. Özellikle, Türkiye'nin AB'ye aday ülke olma düşüncesi ile başlayan bu süreç yıllar içinde gelişerek devam etmektedir. AB temel güvenlik normları ve göç ile ilişkisi bu anlamda kemikleşmiş bir güvenlik algısı oluşturmuştur. Yani AB kendi güvenliğini tahsis etmek için güvenlik algılarını dışsallaştırarak diğer ülkelere yaymıştır. AB bu güvenlik odaklı göç politikasını ve algılarını Türkiye gibi adaylık sürecinden geçmiş veya geçmekte olan ülkelerde de tesis etmek istemektedir. Böylece aday ülkelerin ve Türkiye'nin iç mevzuatları ve hukuki alt yapısı da AB müktesebatı ile uyumlu hale getirilmek istenmektedir. Tezde AB'nin göçü güvenlikleştirmesinin, Türkiye'nin göç politikasını ve hukuki çerçevesinin dönüşümünde etkisi olup olmadığı konusu da ele alınacaktır. Tezin temel varsayımı ise göç konusunun AB'de güvenlikleştirildiğidir. Literatürde göç ve bununla ilgili kavramlar genellikle siyasi tercihlerle ilişkilendirilmiş ve bu boşluğu doldurmak için göç ve güvenlik kavramları üzerinden analizler yapılmıştır. Bu bağlamda Türkiye, Helsinki Zirvesi'yle birlikte göç ve hukuki çerçevesini, AB güvenliği temelinde oluşturmaya teşvik ve telkin edilmiştir. Bu sebepten dolayı basit ve indirgenmiş güvenlik teorilerinin bu olguları açıklamada yetersiz kaldığı görülmektedir. Bu bağlamda, tezin teorik tabanını oluşturan Kopenhag Okulunun güvenlikleştirme teorisi ve güvenliğe çoklu yaklaşımı olarak adlandırılan çok-sektörlü güvenlik yaklaşımı üzerinde durulmuştur.

Anahtar Kelimeler; Türkiye'nin göç politikası, göç ve güvenlik, AB'de göçün güvenlikleştirilmesi, düzensiz göç

ABSTRACT

TAN, Emre, *The Role of Security Perceptions in the Development of Turkey's Migration Policy and Legal Framework: The Example of Turkey-EU Relations*, Master's Thesis, Ankara, 2020.

The purpose of this thesis is to examine Turkey's migration policy and its legal framework with regards to the perceptions of security originating from the EU. This thesis analyzes how and to what extent EU's migration policies affect the development of Turkey's migration policy. In recent years, the EU has encouraged Turkey to build its approach to migration issues upon a systematic basis. In the EU, there is a deep-rooted perception of security regarding migrants that has developed after the 1970s with the incoming migrants. In this context, the important point for the EU has been the prevention of large migration flows and the protection of external borders. Accordingly, the EU has exported its perceptions of security in order to ensure security within its borders, aiming at the establishment of these security-oriented migration policies and perceptions in third countries such as Turkey. Harmonization of the migration-related legislation and legal infrastructure of the candidate countries, including Turkey with the EU *acquis* is one step that is taken to that end. This thesis aims to investigate whether the securitization of migration in the EU affects the migration policies of Turkey directly. The main assumption of the present thesis is that the issue of migration is securitized in the EU. In the literature, migration and migration-related concepts are generally associated with political preferences and analyses have been made on the concepts of migration and security to fill the gap. In this context, with the Helsinki Summit, Turkey has been encouraged and suggested to develop an EU-oriented perspective on migration policies. For this reason, it is seen that simple and conventional security theories are not sufficient to explain the migration phenomenon. In this context, the theory of securitization of the Copenhagen School, which forms the theoretical basis of the thesis, and the multi-sector security approach, also known as the multiple approach to security, are elaborated.

Key Words: Migration policy, securitization, TR-EU relations, security, irregular migration

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ABBREVIATIONS

EU	European Union
UN	United Nations
SEA	Single European Act
AFSJ	Area of Freedom, Security and Justice
VIS	Visa Information System
SIS	Schengen Information System
EC	European Commission
ESS	Entry-Exit System
RTP	Registered Traveler Program
DGMM	Directorate General of Migration Management
YUKK	Yabancılar ve Uluslararası Koruma Kanunu
ECHR	European Court of Human Rights
FRIT	EU Facility for Refugees in Turkey

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INTRODUCTION

Migration refers to the movement of individuals, groups or communities from places where they live due to social or political reasons, lack of security and demographic changes. Migration within the borders of the country is called internal migration, while migration that goes beyond the borders of the country and directed to other countries is expressed as international migration. The number of people who migrate for various reasons are increasing all over the world. Migration movements occur in certain regions and by following certain routes. Generally, migration routes are emerging from less developed countries to highly developed countries. One of the developed region is considered as EU, as required by the subject of the thesis. In this context, the issue of international migration has gained importance in the European Union after the 1990s. Over time, with the enlargement process of the EU, the phenomenon of migration has become important.

The EU has been waging a war against irregular migration and asylum seekers since the Cold War and it was clearly stated by the Union that, migration from other countries is a security problem for both EU and EU citizens. In this context, the issue of illegal migration was referred to as crime, threat to internal security and deformation of national identity (Chebel D'Appollonia & Reich, 2008).

September 11 was a turning point for the EU's securitization of migration. With the impact of the attacks, immigration to the EU was seen as a threat to public security and also to its stability. This perception paved the way for the EU's attempts to export its understanding of security to third countries. Regarding strategic location, Turkey has a strategic location between the Middle East and Europe. Turkey has become a very important country in the face of migratory flows towards the EU region. Turkey is also undertaking a very important task for the EU on immigration. The reason for this is the Turkey's multisectoral immigration policy (sending, receiving and transit country).

Today, Turkey is the country that hosts the largest number of asylum seekers. Due to the strategic position of the country and its proximity to the borders of the EU, the issue of migration and border management is an important issue in TR-EU relations. It is especially worth noting that the primary cause of doubts about Turkey's EU membership is mainly related with migration policies(Şemşit, 2010: 8).

At the 1999 Helsinki Summit, Turkey was given the candidate country status to gain full membership to the EU and the accession negotiations started in 2005. Following these two landmarks, the Europeanization process of Turkey has become more visible. This process brought about significant changes and transformations to Turkey's migration policy and legal framework, leading the country to shape its migration policy in accordance with relevant EU policies. On the other hand, there are few studies on migration management in the literature. Most of the migration studies conducted in Turkey are primarily concerned with internal migration. However, studies in the international literature focus on a wide range of migration-related issues such as the socio-economic effects, historical dimension and state policies on irregular migration. This thesis provides an insight into Turkey's immigration policy and its legal framework as well as explaining the relationship between Turkey and the EU with regards to the issue of migration.

The primary research question of the thesis is: How and to what extent is Turkey affected, in terms of its migration policy and legal framework, by EU's security-oriented migration policies through externalization. The hypothesis of this thesis is that the concept of migration is securitized by the EU and, with the accession process, Turkey has been Europeanized in its migration policy and legal framework by adopting the EU's stance on the issue of migration. Within this context, this thesis investigates the changes and improvements in the migration policies of Turkey in relation to the TR-EU relations and the effect of the securitization of migration on Turkey's policies by reviewing the texts of the Treaties, the Summit declarations, progress reports and legal regulations. The study also includes a discourse analysis that is based on literature review and document analysis. Within the scope of the discourse analysis, cases like how the discourse of political parties and policy makers about the phenomenon of migration has led to the securitization of migration in the EU are studied. In this context, the impact of Europeanization on Turkey's migration policy is specifically examined.

Candidate countries for the EU membership are important in terms of the Union's attempts to export its migration policies because it is these countries that will be protecting the borders of the EU in the following years. In this sense, Turkey as a candidate country, can be regarded as a big player in the externalization strategy of the EU. Although Turkey was emigrant country in the 1960s, it has recently turned into a

transit and then a receiving country. This transformation can be a reflection for the Turkey-EU relations. Turkey is also closely affected by the securitization process and the externalization of the integration process of the EU immigration policy. In literature, Turkey's and EU's immigration policy is examined separately or in connection with each other.

In the first part of the study, the theoretical framework is thoroughly explained and different aspects of securitization are briefly touched upon. In this sense, the relationship between migration and security is discussed with an analysis of security concept and the main principles of securitization theory are laid down. This part also focuses on the foundations of the Copenhagen School – the school that formulated the securitization theory, the securitization process and its components. The effectiveness of securitization in the transition of any issue from the usual political sphere to the sphere of securitization is also examined in this part.

The second part of the study, explains, in general, the roots and establishment of the EU's common policies regarding migration and their relation with securitization. It also includes an analysis of the elements of the migration policy that are transferred to the supranational level in the EU. The question of how and to what extent the security-oriented migration policies of the EU are effective on the member and candidate countries is addressed. Also, this part provides details about the migration policies that have been transferred to the supranational level by analyzing the five years programmes, summits and treaties on the development of the area of justice, security and freedom since the Maastricht Treaty of 1992. In this sense, it also examines the migration-security relation and explains the role of the securitization in the EU in this process. In addition, the EU's security policies for immigrants with a special focus on Syrian immigrants and migration policies will be discussed. In this context, the common migration policies of the EU and the reflection of these policies on the third countries are mentioned, and the routes the migrants use when entering EU countries are shown.

The third part seeks to assess Turkey's alignment with migration policy of the EU with regards to the perceptions of security. To that end, firstly, Turkey's transition from an emigrant country to a transit and migration-receiving country is explained. After that, the

EU's expectations from Turkey are analyzed. Then legal regulations made in the area of migration in Turkey are explained.



CHAPTER 1

THEORETICAL FRAMEWORK

1.1. The Definition of Security

The definition of security in the social sciences is quite ambiguous and controversial. In the framework of International Relations, the phenomenon of security was first discussed by Arnold Wolfers. Wolfers (1952: 484) defines security as “in the objective meaning, the absence of threats to acquired values and in the subjective meaning, the comfort of not having any attack against those values”. The concept of security emerged in the 1940s under the name of Strategic Studies. In the course of time, it has been studied from a realist perspective in an area which has become a sub-discipline in the field of International Relations. This discipline is now known as Security Studies, and it incorporates various security theories (Açıkmeşe, 2011: 44).

According to Buzan (1991: 7); *“as in the concepts of love, freedom and power, it [security] is open to debate and also ambiguous”*. McSweeney (1999: 13) stated that security is a difficult concept to define and described it as a phenomenon which is connected to many other concepts such as peace, honor and justice but resistant to identification. Despite the difficulty and uncertainty in defining it, it is most common to define security as the absence of a threat to core values (Baysal & Lüleci, 2011: 65).

It can be observed that, before the Second World War, international security studies were conducted within the sphere of the ‘war studies’, ‘military studies’ and ‘strategy studies’. In the post-war period, international security studies aiming at protecting states from the negative effects of war became a separate area of study. This period marked the beginning of the process of demilitarization for security studies. This shift in the understanding of security led to the use of the concept of security as the central phenomenon instead of war and defense (Buzan & Hansen, 2009: 4). The realist security approach based on the philosophy of idealism failed to establish an environment of security in the period following World War I. It also failed to prevent the Second World War. Between 1930 and 1980, the Realist approach was accepted as the absolute dominant security approach

in the discipline of International Relations (Küçüksolak, 2012: 202). The traditional security approach was nowhere near explaining the changing environmental and economic factors in the 1970s, the identity concerns that emerged in the 1980s and the international crimes that seen in the 1990s and this raised doubts about its efficiency (Baran and Macar, 2017: 25). For example; the sudden increase in oil prices following the oil embargo imposed by the OPEC in 1973 and the rapid depreciation of the dollar in the continuation of the crisis made the effects of economic crises on the security phenomenon questionable.

1.2. A New Understanding Of Security

In the post-Cold War time of period, all structures, actors and roles constituting the concept of security underwent a rapid change. Following the developments in this process, the concepts of threat and security were opened to discussion. In addition, the adequacy of the security studies focusing on the military aspect of security, which places the concept of state at its center were questioned. New approaches to security were developed after the studies carried out under the leadership of Copenhagen School and the definition of security changed. The Copenhagen School and its leading scholars including Buzan, Waever and de Wilde developed a different perspective on the phenomenon of security with their studies based on the constructivist approach. This new approach considered the concept of security as a discursive and political force. The members of the Copenhagen School stated that security has destructive effects and that there is no concept of security where there is no threat. (Buzan & Hansen, 2009: 213). As a criticism of the traditional security approach, expansionary and deepening security approaches emerged. These approaches tried to find answers to the following questions regarding security: “What is / is made secure?”, “Against which threats?”, “By what means?” and so on (Buzan, 1998: 2).

After the first years of the Cold War period, the only type of threat that was acknowledged as security threat was the military threat and the state was regarded as the sole security provider. Waltz underlined that security is the highest goal in an anarchic environment, and only if the survival is guaranteed, states can seek other purposes such as power, gain, and peace (Baran & Macar, 2017: 254). International security during the Cold War was ideologically polarized and jeopardized by two superpowers that militarily

strong. In the aftermath of the Cold War, the world witnessed a transition from a period of two superpowers to a world dominated by a greater number of great powers. In this period, the realist traditional security approach, covering only the threats to the nation-state and its borders began to lose its importance relatively and the other sectors of security, social, environmental and economic issues come to the fore (Yesevi, 2017: 134). This rendered the traditional security approaches insufficient to explain the ethnic and religious conflicts that emerged after the Cold War. As a result of the wave of change in the perception of security, which started in the 1980s and increased in the 1990s, countries aimed to prevent problems such as “ethnic problems, economic security, mass migration” and so on (Aktaş, 2011: 9). The new security approach included a wide range of issues from population control to human rights, from terrorism to immigration (Şener, 2017: 7). Richard Ulman (1983: 134) emphasized this fact in his article titled “Redefining Security” by stating that the concept of security should cover a wide area ranging from natural disasters to environmental factors and even migration issues.

Despite this wind of change in the perception of security that emerged after the Cold War period, the proponents of traditionalist security approach continued to argue that security should remain as a military concept exclusively. and the authors who argued that the concept of security should also cover areas such as migration issues. As one of the scholars who adopted a traditionalist approach towards the concept of security, Walt (1991: 212) stated that as a result of the broadening of the security activities to a large extent, the such issues as economic problems and migration would be seen as a security threat, and that this would be a preventive factor in solving important issues. Defenders of the new security approaches, on the other hand, argued that future threats to humanity would not be produced by aggressive states that are seen as rivals, but it would be the global and irregular migration that would pose the real security threats (Miller, 2001: 18) After the end of the Cold War and with the disappearance of the nuclear threat, the traditionalist approach to security in the discipline of International Relations diminished and Ken Booth stated that the limitations of military security are now outdated and that the new possible security threats may stem from the existing economic problems, political pressures, irregular migration (Booth, 1991: 319). The economic, social, religious, cultural, ideological, environmental, social and health-related threats emerged as a result of the quantitative increase and qualitative diversification in the concept of threat after

the Cold War with the effect of globalization. The phenomenon of the classic threat that is directed by a state to another state altered and the concept of threat became asymmetrical and multi-dimensional. This made it hard to predict the source, time and shape of the risks and threats. In the new era, the field of struggle has changed to cover the entire world by crossing the counter-state borders (Erdoğan, 2013: 269).

This shift in the perception of security led to a change in the perception of migration-related threats, too. With the emergence of new types of threats as stated above, the focus shifted from external threats to internal threats. It was argued that the threats that may be encountered in the future would not only be caused by hostile countries, but they may also arise in the form of non-state threats. An example of this non-state threats is irregular migration. It is emphasized that the threats that may arise can be more comprehensive or non-military threats. Contrary to the premises of the traditional security approach, non-military threats such as economic threats, identity problem, irregular migration and refugees had to be prioritized in the new period and this change in the sources and types of threat affected the responses given to threats, too. In the new period, the response to threats has shifted towards the non-military side. Democratization and economic development are important factors in eliminating the threats related to the phenomenon of migration. The threat posed by migration to the global security is a problem that should be dealt with the participation of all individuals rather than being left to the hands of the states as envisaged by the traditional security approach. In the new understanding of security, there is an apparent change from national to global and from state to individual (Şener, 2017: 9).

After the collapse of the bipolar world order in the post-Cold War era and the failure of the traditionalist security understanding to explain the developments, the new security approaches emerged under two groups. The first group comprises of the “deepeners” who accept the state as a reference object within the traditional security approach. This group includes scholars who incorporate concepts such as individual, society and humanity into their security efforts. The main objective of this group was to find an answer to the question ‘the security of whom and what?’ The second group consists of scholars focusing on threats. This group identifies new threats in a wide range of areas such as migration, development, security and economics (Baysal & Lüleci, 2011: 69).

Within the scope of the expanded understanding of security, the concept of social security was developed by the members of the Copenhagen School. When the identity, welfare and ‘homogeneous’ structure in a society is at risk, this can be interpreted as a social security threat. Weaver (2008: 158) examines social threats in three different groups: migration, horizontal competition and vertical competition. In this regard, in the process of securitization, which starts with the premise of immigrants posing a threat to society, the concept of social security is constructed as a security issue by making society, instead of the state, a reference object (Rumelili & Karadağ, 2017: 75).

Next section will discuss the emergence of the Copenhagen School, and the theory of securitization developed by its leading authors. The phenomenon of migration, which has become a serious security issue today, and the securitization process will be assessed within this context. The reference objects they identified and the acts that play an important role in this process will also be addressed.

1.3. The Definition of Migration

Referring to the movement of displacement of people, the concept of migration has a multi-dimensional structure making it related to numerous areas from geography to politics, from international relations to economics.. In general, migration is defined as “crossing an international border or relocating within a state” (Perruchoud, 2009: 22). While the movements of migration within the borders of the country are described as internal migration; crossing an international border and settling in another country, either temporarily or permanently, is international migration (Perruchoud, 2009: 27). There are various parameters by which the types of migration can be specified. Migration can be forced or voluntary it can be done for work or asylum, and it can be legal or illegal (Ekici & Tuncel, 2015: 14). For the purposes of this thesis, the concepts of illegal and forced immigration are of utmost importance. Migration is referred to as legal or regular if it is carried out using legal channels (Perruchoud, 2009: 15). Movements outside the regulatory norms of sending, transit and receiving countries, on the other hand, are called illegal or irregular migration (Perruchoud, 2009: 15). Due to natural or human-induced reasons, if there is an element that poses a threat to life and prosperity within the process

of migration, this can be regarded within the scope of forced migration (Perruchoud, 2009: 69).

Although the concepts of immigrant, asylum seeker and refugee are used interchangeably in daily life, it would be useful to clarify this situation within the framework of the academic literature in this study. According to the 1951 Geneva Convention Relating to the Status of Refugees, “A refugee is someone who has been forced to flee his or her country because of persecution, war or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. Most likely, they cannot return home or are afraid to do so” (1951 Convention Relating to the Status of Refugees; 14). The term asylum seeker, on the other hand, refers to the person who wants to be accepted as a refugee national or international documents and also waits for the final results of their former applications for status.(Perruchoud, 2009: 49).

Irregular migration, one of the main concepts upon which this thesis is grounded, is among the most important issues of the international migration agenda. It is difficult to make a generally accepted definition of the type of irregular migration but it generally refers to the movements that does not comply the norms regulated by the source, transit and destination countries. However, for the target country, it should be noted that the foreigner comes to the country illegally and does not have the permits to reside or work in that country. On this basis, foreigners who lack legal status in transit or host country due to illegal entry or visa expiration are also referred to as irregular migrants. This also applies to refugees who violate entry rules and others who are not permitted to stay in the host country (IOM, 2009: 3). In addition, cases where refused asylum seekers continue to stay in the country by which they are refused are also considered as cases of irregular migration (İçduygu, 2004: 4).

1.4.The Relationship Between Security and Migration

One of the prominent issues in the context of expanding and deepening security is migration. In particular, states see migration as a something that needs to be controlled (Yılmaz & Elmas, 2016:178). With a solid change in the concept of security in the 1990s, migration became the subject of political debates on the maintenance of public order and the protection of internal stability (Huysmans, 2000: 757). Considering migration as a

security problem basically means that migration is presented as a threat by the security actors. During the process of securitization, the point of view of the securitizing actor, the demographic, economic and socio-cultural characteristics of the countries and how the society defines its own structure and identity gain importance. Societies that define their identity as closed or isolated tend not to tolerate even a limited number of migration flows (Özerim, 2012: 58).

Increasing instability and emergence of numerous civil wars after the 1990's led refugees and asylum seekers who seek security and prosperity to the EU and transit countries. Certain incidents occurring in the EU and Turkey strengthen the perception of immigrants as a security issue. The firewall was strengthened with the accusations that refugees and asylum seekers increase the crime rate in the target country, cause economic problems such as unemployment, and decrease the level of education (Aldırmaz, 2017: 93).

EU's common migration policies that are constructed upon the European identity are focused on security. In line with these studies, European identity has also established a concept of "others" and drew the boundary between "the European" and "others" with the Schengen system. This leads to the perception that migration is a threat and the hegemonic discourse at the nation-state level in Europe is directly reflected on the supranational level (Buonfino, 2004: 43).

The process of creating a common migration policy started in the 1990s but in the terrorist attacks in the USA, Madrid, and other regions in Europe became the landmarks that shaped the perspectives on immigration-security relations. These attacks against Europe by terrorist organizations such as Al Qaeda and ISIS fueled xenophobia in the European society and paved the way for the securitization of migration. In this context, increasing number of refugees and asylum seekers in the EU member states and candidate states were evaluated in terms of internal security and a tendency to increase the security of external borders became visible. Accordingly, the foundations of the idea of "Fortress Europe" were formed. The basic motivation of this approach was to ensure that the minimum level of refugees is allowed to enter the member states. This motivation also applied to the EU candidate states such as Turkey (Aldırmaz, 2017: 93). The idea behind Frontex, Schengen Agreement, and other measures taken against migration associated

with terrorism, transnational crime and border control, illustrating the security approach itself (Huysmans, 2000: 755).

The next section will discuss the emergence of the Copenhagen School, which has made significant work in the field after the change in security understanding and perceptions of security threats, and the theory of securitization developed by its leading authors. A strong assessment of the phenomenon of migration and securitization process, which has become a serious security issue today, will be made in this context. In this context, the reference objects they have identified and the acts that play an important role in this process will also be included

1.4.1.Copenhagen School And The Securitization Theory As Main Theory

In this thesis, the securitization theory of Copenhagen School is examined with the assumption that “Turkey developed its migration policy and legal framework under the influences coming from the EU”. Perceptions of security and its foundations are also studied under this theory. The theory is also a good measure to explain the changing characteristics and development of the concept of security. For this reason, the development process of the Copenhagen School should be explained. From the 1980s onwards, criticism of the military security approach, which was based on the state and defined around power and interests, began to increase. Asserting that security should be evaluated in a wider framework, various theorists such as Richard Ashley, Alexander Wendt, Stanley Hoffmann and Barry Buzan focused on critical security studies. The changing world after the Cold War affected the security studies and led to a theoretical transformation. In particular, the fact that the end of the Cold War could not be foreseen by realist theoreticians called the adequacy of the theory into doubt.

While the transformation was on its way, various theorists gave different answers to the questions of “security for whom / what” and “security against what” and so on. Social construction, one of the major theories that offers a different perspective to the security approach, also played a role in the emergence of the Copenhagen School based on the social construction of security.

The Copenhagen School represents a novel approach to the concept of security and this approach can be considered as a combination of the liberal and social constructivist

approaches. This new approach, led to the formation of the security literature. In the 1980s, the shift in the understanding of the concept of security from the traditional to non-military was an impact on the Copenhagen School. At this point, the Copenhagen School was founded in 1985 by important theorists such as Barry Buzan, Ole Waever, Elzbieta Tromer, Pierre Lemaitre and Jaap de Wilde. The Copenhagen School that was created in the “Peace and Conflict Research Center” of the University of Copenhagen as a result of studies on the “Non-Military Dimensions of European Security” (Açıkmeşe, 2011: 57).

The Copenhagen School developed as a third choice among traditional and expansionist approaches, criticizing the limited definition of the traditional approach. The Copenhagen School argues that security studies should not be reduced to military threats and a state-centered understanding. On the other hand, founders of the Copenhagen School assert that accepting anything that disrupts the welfare of individuals as a security problem will cause the concept of security to lose its meaning and importance (Açıkmeşe, 2011: 58). For the founder of Copenhagen school, security cannot be seen as a positive value because it limits certain rights and freedoms. The Copenhagen school made three main contributions to the security studies. These contributions are sectoral security approach, regional security approach and most importantly securitization approach.

The sectoral security approach is related to the expansion of the concept of security. In the post-Cold War transformation period, the scope of the threats expanded to various areas such as migration, human trafficking, drug trafficking, natural disasters, environmental problems and epidemics. Copenhagen School focuses on the non-military aspect of security. Buzan argued in his book “People, States and Fear” that security was not conceptualized beyond military threats and issues should be examined with a sectoral security approach (Buzan, 2006). In this context, the Copenhagen School examined security by classifying it into five sectors: military, political, economic, social and environmental security sectors (Buzan, 1991: 75-83). According to Buzan, expanding the definition of security into different sectors means examining the holistic security approach with different tools (Buzan, 1991: 75-83). According to him, this review allows for a close, specific and detailed examination of certain parts of the current subject. Among the five sectors, the social sector encompasses issues related to collective identity such as migration, integration and culture. The environmental sector, on the other hand, focuses on the relationship between human activity and the environment, considering the environment as a reference object. The economic sector is

focused on increasing the welfare level of the state and is related to trade, finance and production. The political sector includes the continuity of states as a whole, governance relations, and government systems. In the military sector there are issues such as separatist movements, terrorism or external threats involving force-based repression relations (Buzan, Waever and de Wilde, 1998: 7-27; Waever, 2008: 153- 158). Utilizing the sectoral analysis while explaining the security is important in understanding the threats directed towards the reference object (e.g. the state).

While analyzing the security concept within the framework of these 5 sectors of analysis, The Copenhagen School updated its other approaches like sectoral security and regional security complex upon the basis of the securitization theory. The regional security complex is focused on reinventing the regional dynamics of security (Baysal & Lüleci, 2015: 73). According to the Copenhagen School, all states are intertwined with each other in terms of security because security is not against other states, it is a co-operation with other states.

Another fundamental approach of the Copenhagen School is the theory of securitization. This approach often coincides with migration. According to the theories of Copenhagen School, security is related to speech acts. In other words, security threats emerge as a result of the accumulation of discourses. Also, the issues can be referred as a security issue via the use of speech acts and the name of these acts in this case is “securitization”. In this sense, different subjects may turn into a security issue irrespective of whether the subject poses an actual threat or not (Emmers, 2016: 135). The theory of securitization was fundamentally presented by Ole Waever in 1995, in his acknowledged study "Securitization and Desecuritization" and it laid the way open for the works of other theorists. The securitization theory of Copenhagen School and securitization were examined in more detail in later years.

According to the securitization theory, calling a specific issue as security, makes it a security problem and it takes supremacy upon other issues. This provides a justification for main securitizing actors (e.g. governments, states, lobbyists, pressure groups, bureaucracies, political leaders) to take extraordinary measures (Buzan, & De Wilde, 1998: 22). Moreover, in some cases the securitizing actor may label the issue so as to use extraordinary tools and measures. The securitizing actor may claim that there is an

emergency situation by using the term "security".as they want to use all the necessary measures to handle this security threat or issue (O Reilly, 2008). So, when it comes to stages of securitization, first of all, an actor may use speech-act to refer to a specific argument and show to the audience that an actual object of security is threatened (Buzan, Waever & De Wilde, 1998: 24).

In other words, a securitizing actor or a regular state representative takes a certain event into the private space by referring to the concept of security and then asks for right of use all the tools to prevent that specific event. The use of the word "security" for a specific matter makes it a priority in the policy agenda and thus justifies the use of all necessary tools available.

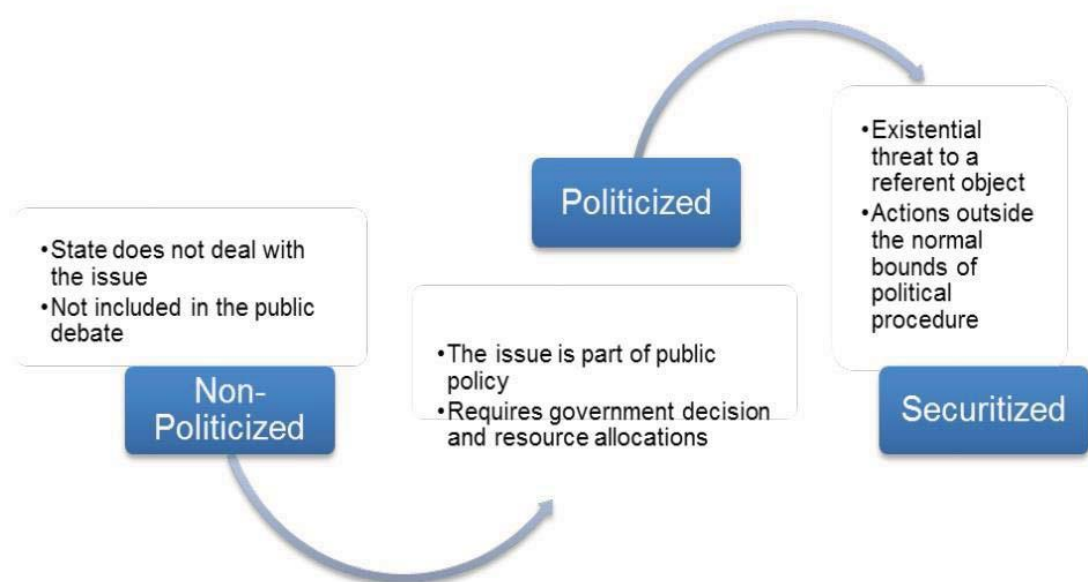


Figure 1 - Securitization moves

Source: Piedade (2016)

According to the scholars of Copenhagen School, securitization can be regarded as an intersubjective process (Williams, 2003). The logic behind this is the construction of security: this process requires not only a securitizing actor but also an audience for securitization.

Securitization is a process including three steps. Firstly, a problem is presented as a threat to existence (Weaver, 1995; 49). Secondly, it is told or implied that the threat should be resolved immediately and extraordinary measures should be taken to eliminate the it. A

threat to existence will justify the use of unusual measures against it. The securitization process is completed when the audience presented with threats accepts the rhetoric of threats that require extraordinary measures (Buzan, 1998: 31). That is, the audience must be persuaded of the existence of the threat presented to them. It is not possible to say that securitization is successful unless audience is convinced.

The concept of securitization was first used by Ole Waever. Barry Buzan also contributed to international security studies with the concept of macro-securitization, which he put forward on the basis of securitization approach. Macro-securitization is basically the same thing as securitization with one difference that it deals with security issues and relations on the basis of the international system. In other words, macro-securitization covers a wide range of securitization issues with the effect of globalization and universal thought. According to Barry Buzan, the Cold War is one of the most important examples of macro-securitization in history, and for decades, it was able to drive interstate security dynamics (Buzan, 1998: 31). Buzan stated that the gap that the Cold War left behind in terms of a security threat was filled with the "War on Terrorism" that was launched after the September 11 events, and cited this issue as an example of macro-securitization (Stone, 2009: 9).

The securitization phenomenon has brought a new understanding to security studies. The main actors, policies and threats of the classical understanding of security are clear. In the classical understanding of security, state authorities do not consciously determine the threat, but try to acknowledge the existence of the threat objectively. According to the Copenhagen School, however, the threat is built consciously and constructed socially. Another difference between the concept of securitization and the classical understanding of security is that for the securitization to happen, masses must be convinced. In the classical understanding of security, there is no such thing as persuasion of the masses. In addition, while the security threat is military-oriented in the classical understanding, the Copenhagen School argues that the threat can be military or constructed by different subjects in different fields. In this context, the Copenhagen School argued that in addition to military security, other subjects which were of secondary importance in the classical understanding of security, such as irregular migration, could also be securitized. The Copenhagen School expanded the concept of security with the security sectors it put

forward, and included issues such as environment, economy and irregular migration, which realist views have thrown into the background, in security analyzes. Inclusion of these concepts in security analysis led to the questioning of the security of the individual, society, and international system, as well as the state, contributing to the deepening and expansion of the security studies.

1.4.2.Securitization Of Migration

As mentioned earlier, after the end of the Cold War, the understanding of security changed and also redefined like many other concepts in the discipline of International Relations. Unlike the traditional security approach, this new broader definition of security included the concept of migration as a threat . The post-Cold War era became a period in which the concept of migration and security were often pronounced together (Mandacı & Özerim, 2013: 106).

Before the 1990s, the concept of security had a narrow point of view, and only the common threats to national security were discussed - migration was only perceived as a problem requiring humanitarian intervention. The concept of security expanded with the works of Buzan, Wilde and Wevaer, the leading figures of the Copenhagen School, and migration was included in the security literature in this period. In the studies conducted at the Copenhagen School, security was defined as a process by which the elites created threats. In this process, the actor who securitizes, specifies an object and tries to convince their listeners that the object is under threat. Today, the main actors performing the securitization activity are governments, pressure groups and political leaders. The definition of securitization of migration is formulated as follows: *“The ‘X community is invaded or weakened by the ‘Y’ community. The X community cannot remain as it is; because others will redesign the society. The identity of X will undergo a modification along with the changes that would occur in the composition of the population”* (Özerim, 2014; 14-15).

The meaning content of the concept of migration matured in the 19th century. In this period, the concept of the sovereign rights of nation-states emerged and were widely accepted. After these developments, the expressions of ‘citizen’ and ‘foreigner’ turned

into individual concepts, creating the phenomenon of migration that we discuss today (Şener, 2017: 2). Together with the impacts of globalization, security of the states and their borders was prioritized. Accordingly, it was aimed to keep the refugees out of the borders certain fundamental rights and freedoms were restricted to that end.

As can be seen in the refugee crisis that came out after the Syrian civil war after 2011, the intensity and irregularity of the international migration led to the emergence of a number of security threats in political, social and cultural areas such as 'fear of foreigners', 'racism' and 'radical violence' in the target countries. In this context, the concept of international migration emerges as a reality in which a state's social stability, demographic security, cultural identity, philosophy of welfare state and internal security are affected within the framework of their national security (Şener, 2017: 2-3).

The relationship between international migration and national security is generally examined in four different time periods. The first period starts at the beginning of the 20th century and ends with the Second World War. This was the period during which the countries accepted people whom they deemed suitable for their ethnic and religious structure into their lands and assimilation was at the forefront. The second period is the period between World War II and mid-1970s. This was the period in which the difficulties of the assimilation process were recognized, certain characteristic features of immigrants were accepted and the integration process began. The third period starts in the mid-1970s and ends at the 1990s. This is the period in which the concept of multiculturalism emerged, and people started to believe that immigrants could live in accordance with their own culture in the country they migrated to. Having started in the late 1990s, the fourth period still continues. In this period, there are two prominent points of view regarding the issue of migration. While one group tends to return to the idea of assimilation and behave more conservatively, the other group favors the idea that migration policies should be reassessed on a more liberal basis (İçduygu et al., 2014: 66-67).

The attacks of September 11, 2001, which occurred in the fourth period mentioned above, are considered as a breaking point for the perception of migration and immigrants. The period that followed September 11 brought about the rise of such ideas that migration

movements pose serious threats for the target country in economic, social and cultural terms. The people who committed the acts of terrorism on September 11 had used the migration routes. In addition, there were migrants among the perpetrators of the terrorist attacks in major European cities. These facts changed the way in which irregular migrants come to these regions, as well as those who come legally (Şener, 2017: 11).

Today, irregular migration is seen as a security threat by target countries because it is associated with crimes such as terrorism and, human and drug trafficking. Social perceptions, racism and xenophobia in the target countries are issues that need to be considered within the context of migration and security (Akçadağ, 2012: 8). The cultural differences that come into focus following the increase in the number of the asylum seekers in the developed countries and the economic burden imposed on the target countries lead to the strengthening of the racist rhetoric among local people and this rhetoric occasionally turns into real actions. These developments create a tendency among the governments in the international arena to cooperate in order to control the migration issue. As a result of the globalization process, policies of the individual countries that prioritize their own interests have lost their function and the need to secure the phenomenon of migration through a common roadmap has emerged (Kolukırık, 2014: 38). It has been understood that the issue of migration is now a global problem and collective efforts of international organizations are needed to solve it. Accordingly, the UN General Assembly International Migration and Development High Level Dialogue Meeting was held for the first time in 2006. In the meeting, the link between migration and development was emphasized and the factors that cause migration were discussed. The meeting also underscored the necessity of ensuring decent living conditions for the persons who entered a country illegally and will continue to live there until the extradition process is completed (BM Türkiye Dergisi, 2017: 4).

There are three steps in the process of securitization of migration . First of all, the issue of migration is extremely politicized with the help of speech-act. In the second step, the securitizing actor may ask to be given the powers to take unlawful measures in order to protect the reference object i.e. the economic, social and cultural structure of the target country. These unlawful measures may include administrative oversight of immigrants,

deportations without due process, unlawful push-backs, use of excessive force on immigrants, and endangering the lives of the immigrants. The third and final step involves the efforts to justify the above-mentioned illegal actions to eliminate migration which is shown as a vital threat within the framework of the securitization process (Aras, 2014: 72-73).

The impact of international migration on national security can be seen on three levels. Firstly, the phenomenon of migration may turn into a security threat by challenging the borders and sovereignty of the countries. Secondly, national identity and public security may be threatened by the change in the demographic structure in the countries exposed to high levels of migration. Finally, the possibility that minority immigrants in target countries are used by other powerful actors as a means of achieving national foreign policy objectives is considered a major security threat for the target country (Erdoğan, 2013: 282). Securitization of international migration is seen by some groups as efforts to justify the use of excessive force by states and these efforts are described as “the most modern form of racism” (Ibrahim, 2005: 163-164). According to Elmas (2016, 165-168), there are mainly different regarding migration and security. Firstly, migration is the result of civil wars, human rights violations and ethnic conflicts. Secondly, migration can be a security threat if the steps to solve the problem are taken. Finally, migration may lead to an increase in xenophobia and racism in the countries exposed to the influx of refugees.

1.4.3. Externalization and Europeanization Mechanisms

Externalization refers to the pressure felt by the members of the regional system to implement a single policy against third countries (Şemşit, 2010: 69). It can be said that externalization has an integrative side because it directs countries to a single policy. Externalization is important in terms of establishing a link between the EU and its external environment. Also, it is a concept expressing the policy applied in EU migration management. According to Geddes, externalization is the control of immigration outside the borders of Europe and refers to the mobilization of the EU's migration borders (Geddes, 2001: 4). It can be described as a continuation of securitization policies. With the visa policies adopted by the EU within the framework of the Schengen Agreements,

it has moved migration management to the borders of third countries. As a complementary tool of externalization policies, "safe third country" policies can be analyzed. Thus, immigrants, asylum seekers and refugees attempted to provide remote control.

Another method of externalization in migration management has emerged with the enlargement of the EU. In this framework, the membership conditions that the EU candidate countries have to comply with have enabled the promotion of strict migration management rules outside the EU borders (ORSAM, 2012:15)

Externalization in migration management is shown as the most decisive reason for adaptation to EU migration policies. On the basis of EU migration policies, it produces solutions by increasing border security and paying attention to border controls. The search for solutions to asylum and immigration issues in third countries outside the European Union and its policies in this direction cause the EU's migration policies to be criticized (Güleç, 2015).

The concept of Europeanization has come to the fore as a concept that examines the impact of the European Union on the member and candidate countries with its new institutional and legal structure that has expanded, transformed and shaped towards Eastern Europe. In relation to this, it explains the changes in the domestic political structures and social transformation processes of the countries. The Europeanization process has a determining effect on the member countries and especially on the political and institutional structures of the EU candidate countries. Europeanization is necessary to understand that Europe and the European Union are a coercive power on the internal change in the political and legal structures of the candidate and member countries. In this respect, Europeanization is a top-down process of change and transformation from EU level to national structures¹. Also, Europeanization refers to change and is a process. What is meant by this change is the institutional transformation expected to occur in the internal structures of the countries in accordance with the European Union standards. Europeanization is the totality of change processes. In order to fully understand what

¹ Tanja Börzel and Thomas Risse, "When Europe Hits Home: Europeanization and Domestic Change" European Integration Online Papers (EIOP) Vol.4 No.15, (2000). <http://eiop.or.at/eiop/texte/2000-015a.htm>. (08.09.2015)

Europeanization is, it is necessary to understand the institutional change mechanism in the relevant country and the dynamics that initiate and sustain change.

When it comes to mechanisms that related with the Europeanization one of this is social learning (Afşar, 2016: 113). Social learning model is built on social constructivism. According to the social learning model, the candidate country is persuaded by an external actor, the EU. If candidate country believes that the rules of the EU are appropriate, it accepts these rules and acts accordingly (Afşar, 2016: 115). According to the social learning model, the basic tool is based on the interaction between different kinds of social factors. These are resonance, identity and legitimacy. These explain various aspects of the EU influence on the domestic change of the candidate country. These factors point out the direct influencing aspects of the European Union as a persuasive force (Afşar, 2016: 116). Treating all candidates equally, without discrimination, according to the concept of legitimacy and the valid rules of the European Union jointly accepted by all members, will increase its legitimacy in the sense of being reliable. The legitimacy of the organization's rules depends on its compliance with the rules it sets within the conditions it sets and thus making it reliable. In this respect, if non-member states see themselves as belonging to the democratic European family, it will be easier for them to comply with the rules set by the EU as a condition for membership (Afşar, 2016: 116).

When it comes to other mechanisms that take place in the Europeanization external incentives model and cost-benefit calculations comes forward (Afşar, 2016: 108). In the rational approach, decision makers shape their decisions by making cost-benefit calculations. Decision makers act to maximize their power. Decision makers act with the aim of maximizing their power. Therefore, rational understanding assumes that rational actors follow logic of consequences. According to the rational approach, actors choose between choices according to the situation they encounter. They use tools appropriate to the situation to maximize their profits. When it is assumed that Rational Institutionalism is acted on “result logic”, actors accept that they act strategically. Thus, they calculate the behavior of other actors and act accordingly (Afşar, 2016: 109).

When the Europeanization approach is examined, the transformative effect of the European Union on the candidate countries in accordance with its own values and acquis is explained theoretically. In this context, states comply with the democratic norms and

conditions determined by European states under the EU institutional structure. The reason for this is rationalist and constructionist theories. Rationalist theories make analyzes by taking into account the cost-benefit calculation in determining policies and making decisions. Unlike realist theories that assume that states act solely with an understanding of interest in international relations, constructive theories explain identities, norms, and values (Karacasulu, 2007: 94).

Since the late 1990s, European integration theories have been expressed with the concept of Europeanization as third generation integration theories. The European Union has mostly affected national policy and governance structures in candidate countries with a top-down effect. According to the Europeanization approach, in addition to the EU *acquis*, the values and norms of the European Union are also transferred to the relevant countries in this process. In this sense, the Europeanization approach offers a good conceptual framework to explain the democratizing effect of the EU on countries. As an international actor, the EU, within the framework of European integration, is effective in the democratic transformation of countries on the basis of cost-benefit. In practice, the European Union uses incentives for candidate countries to adopt the normative code of conduct and implement behavioral policies in accordance with it. In this context, within the framework of the Europeanization approach, there is a top-down process on candidate countries (Afşar, 2016: 110).

The relationship between migration and security in the discipline of international relations has been explained in the previous sections. The following chapter will focus on EU's common migration policies and the relationship between these policies and Turkey.

CHAPTER 2

THE MIGRATION POLICY OF THE EU AND SECURITIZATION

In this chapter of the thesis, migration policies and strategies of the EU are sorted by certain timeframes and then the evaluation of migration policies within the framework of securitization is conducted. In this sense, firstly, the EU's specific summits, treaties, developments and five-year programmes are studied. The concerns and perceptions of the EU regarding migration are also analyzed. In the light of these analyses, this chapter firmly reveals that the EU has securitized migration. Securitization of migration can be seen in the attempts to intensify the border controls and fight against illegal migration.

2.1 Creation of the EU's Common Migration Policy

It is seen in the establishment of migration policies in the EU, that the common policies regarding migration focused mostly on combating illegal migration movements and also on border controls. Furthermore, migration policies of the EU can be seen in a security-oriented way. In this part, the creation of the EU's common migration policies are investigated over the concepts of securitization and Europeanization. By saying that the importance of migration policies in the EU has been emphasized with summits and treaties. This part also includes an assessment of the development of the discourse on migration from the perspective of securitization. In this sense, migration issue is highly seen as a part of security and threat. On the other hand, with the Stockholm Programme in 2009 was emphasizing the removal of security-oriented discourse and also need to develop new multi-dimensional and comprehensive migration policies.

Migration policies of the EU are mainly developed under the concept of justice, freedom and security. The aim of creating a just, free and secure space is clearly visible in the right of free movement of people, which is one of the four main freedoms within the Union. The concept of 'free movement of persons' in the EU integration process has changed over the years. The Paris Treaty (1951), which established the European Coal and Steel Community (the very first step in the establishment of EU), provided the citizens of six member states with the opportunity to work in all member states. After that, the common market policy was established among six members in 1975 with the Treaty of Rome.

According to the Treaty, the workers of the member states would have the right to free movement in other member states as long as there is a job opportunity there. Article 48 of this Treaty aimed at addressing the problem of unemployment. Italian people became the primary beneficiaries of this opportunity and the labor force mobility between member states has remained very limited over the years (Miller & Castles, 2008). The right to free movement which was granted only to workers in the beginning expanded over time and in 1993, the freedom of movement became a general right for all the citizens in the member states with Maastricht Treaty. Now, every single European citizen can exercise this right including students, workers and retirees. (Lavenex & Uçarer, 2004).

Free movement of people may create different kind of problems regarding internal security as the abolition of borders between the member states of the EU deprives countries of a significant national tool: managing the entrance of persons into countries. In this sense, smugglers, drug traffickers and any kind of irregular migration attacks are not allowed to exploit freedom of movement. Accordingly, a standardization process was commenced in the management of migration, asylum and border control to complement the free movement of people. In the end, it became a dire necessity that a cooperation is ensured within the EU on the areas of customs and justice because controls are mostly abolished at the internal borders. The aim of promoting police cooperation was to assure that citizens in the EU could enjoy full freedom of movement in a safe way. The judicial cooperation, on the other hand, was encouraged in order to ensure that the citizens of the member states do not lose their right to free movement due to the legal problems that may arise from differences in the legal systems of the member states. Finally, cooperation on customs procedures was necessary to prevent violations of national laws (Şemşit, 2010: 83).

2.1.1. The long way; Maastricht Treaty and Amsterdam Treaty

Immigration movements, particularly from the Eastern European countries to the Western Europe, increased significantly in the 1990s, as consequence of the ending of the Cold War, German unification and rise of globalization. The increasing rate of unemployment in Europe resulting from the migration flows started to create a caused disturbance in the EU. In this sense, increasing trend of prejudice against immigrants contributed to the anti-immigrant parties coming into power. Along the same line, the rise of terrorism,

globalization and cross-border crime has brought migration policies and security issues closer together (Maas, 2008).

Under these circumstances, one of the most significant and detailed integration initiatives of the EU was embodied under the name of “justice and home affairs” which included the migration policies of the EU. The issue of migration affected the sovereignty of the member states profoundly, especially in the last 30 years. Thus, it is now considered as the most active policy area on the EU agenda. The provision of freedoms such as free movement of people, goods, capital and services with the aim of abolishing internal borders in the EU has implications for the movement of immigrants in the EU territory, too. In this process, it was not possible to treat the migrants uniformly. After the 1980s, southern Europe became a new migration region, creating employment-related problems. As a result, xenophobia increased and migration became a highly politicized concept. This created the need to develop an inclusive migration policy for Europe (Bayburtlu & Lodge, 2002).

The unplanned spread of integration to a policy area may be explained with the “spill-over effect” which is present in the neo-functionalist theory – one of the theories on EU integration. According to neo-functionalism, spill-over effect can be the driving force for integration process. Therefore, in the case of spill-over process, one of the most important feature of the EU was the removal of internal border controls. In 1985, the Schengen Agreement was signed by the five member states, aiming at the gradual abolition of control for internal borders. Moreover, an immigrant who can enter one of the EU countries will be free to enter other countries. Another factor is the enlargement process. As the borders of the EU grow, the struggle against and prevention of irregular migration becomes more difficult. While the EU lifted the borders within itself, it continued to expand. As a result of this, the necessity of spreading the integration to the immigration policies emerged (Niemann, 2006: 17). In short, while freedom of people within the EU were becoming increasingly serious, new countries were brought into the EU through the enlargement process. All these developments led to the rise of the concerns about increasing irregular migration within the EU. Finally, the EU decided to establish a common migration policy. In other words, the EU has given importance to freedom of

movement on the one hand and tried to formulate policies to prevent irregular migration on the other.

A number of ad-hoc groups such as TREVI Group ²(1976) and Schengen Group (1985) claimed some rights over asylum and immigration policies. TREVI Group was established with the aim of establishing coordination in the combat against international terrorism. Later on, its area of interest shifted to include the fields of security, irregular migration and asylum inflows. In 1980's, TREVI Group worked on migration problems in member countries. The group also dealt with the control of external and internal borders and visa policy (Kostakopoulou, 2001: 51).

In 1985 Schengen Agreement was signed as an important step. According to the Schengen Agreement, common decisions were to be taken for the removal of internal borders and controlling of external borders for potential migration movements from different countries to the Europe. After that, Single European Act (SEA) was signed and entered into force in 1987. Until 1992, the ultimate aim of the SEA was to establish a single market. This can be considered as milestone for the cooperation on immigration policies. Removal of internal borders so as to protect freedoms of the EU citizens reaffirmed the need to protect the external borders of member countries. This need led to the establishment of closer relationships between member states with regards to the issue of migration (Elmas, 2016: 32). The first initiative that enabled the cooperation among states on migration was the creation of the Ad Hoc Group on Immigration. This structure was established by the national ministers in charge of immigration. Their works culminated in the creation of two fundamental international treaties on the harmonization of European asylum law. These treaties were 1992 London Resolution and 1990 Dublin Convention. While London Resolution aimed to put external legal barriers to stop asylum claims to EU countries, the Dublin Convention specified which state would be responsible for scrutinizing the applications for asylum (Bozkurt, Özcan and Köktaş, 2008: 335). In the year of 1987, the topic of migration was addressed by the Trevi Group in an ad hoc meeting. The meeting was important as it identified the steps to be taken in the future in

² Trevi is the name of a region in Italy-Rome and it is the first informal meeting of the justice and interior ministers of the 12 member states. The Trevi group brought together the ministers of the member states, leaving supranational institutions such as the European Commission and the Parliament out of the meeting process. In this respect, Trevi Group is a cooperation initiative in which the intergovernmental structure is preserved.

relation to migration. The topics in hand were uniformized visa policy, migration-related problems in member countries, internal and external border controls, seekers of political asylum etc. (Lodge & Bayburtlu, 2002: 23). After that, the Coordinators' Group (also known as the Rhodes Group) worked on the reasons that delayed the abolishment of internal borders and they produced the Palma Document which was adopted in June, 1989. In the Palma Document, obstacles to the free movement of people were listed. In a subsequent report of the Coordinator's Group, establishment of an area with no internal borders was suggested (Cruz, 1993).

Maastricht Treaty was signed in 1992 and an area of home affairs and justice, including immigration issues was established. Before the Maastricht Treaty, international cooperation on migration was based on bilateral and multilateral talks which were known as informal meetings (Wallace, Pollack & Young, 2010). With the treaty, the non-formal cooperation was unified and formalized. In the Maastricht Treaty, nine policy areas regarding internal security were mentioned as "matters of mutual interest". These policy areas were the control of external borders, asylum policies, drug trafficking, fraud, migration regulations for third party nationals, customs and police cooperation, combat against terrorism and any other kind of international crimes. As Didier Bigo (2000; 172) stated, the emphasis in the Treaty on the fight against international crimes has led to securitization in terms of migration. Moreover, a relation between criminal activities and migration was established. In other words, illegal immigration was seen as a threat and international crime and migration was introduced as a security treat that may affect the political identity of the community (Cholewinski, 2000). In short, Maastricht Treaty strengthened the idea of securitization with regards to migration.

The basic principle of the Maastricht Treaty can be summarized as to develop and protect the European Union as an area of freedom by ensuring the free movement of people in justice and secure, and taking appropriate measures for and fighting against crime. After the Cold War, the liberal idea of economic cooperation was associated with the concept of security in the EU. This tendency was reinforced in the Amsterdam Treaty that aimed at strengthening the area of security and freedom within the EU. Amsterdam Treaty was signed in 1997 and became effective in 1999. In this treaty, the shortcomings of the Maastricht Treaty were addressed. It was emphasized that the EU should be protected and developed as a field of security, justice and freedom (Moravcsik & Nicolaïdis, 1999). It

was also underscored in the Treaty that the free movement of persons and external border controls should be ensured simultaneously. The European Communities pillar relates with environmental, economic, regional and social understandings. “The Common Foreign and Security Policy” pillar handled the foreign policy and security issues. The Justice and Home Affairs pillar focused on the need for mutual cooperation and relation between the ministries of customs, police and justice of the member states. Some of the working areas in the third pillar was transferred to the first pillar through Amsterdam Treaty (Randazzo, 2009: 507-508). Also, a brand-new title “Asylum and migration, Free Movement of Persons”, was added to the domain of the first pillar, which refers to a supranational authority. (Lodge & Bayburtlu, 2002: 15)

The EU’s responsibility and authority in the area of migration was clearly stated in the Amsterdam Treaty. Shifting and moving of migration policies into the supra-national area, had an important impact on the policies of the state in this field (Faist & Ette: 2007). As an important issue, a serious step was taken to create political and normative development of freedom and security within the EU. In this way, the gradual creation of security, justice and freedom started to take form (Balzacq, Guild, & Carrera, 2008).

The new Title IV that reflects upon the migration policies was considered as one of the biggest improvements brought by the Amsterdam Treaty. With the Amsterdam Treaty, European Community was granted the authority to take measures regarding the issues of asylum, load sharing, temporary protection, and illegal migration in the member countries (Baldaccini & Toner: 2007). Using a derogative terminology in the spectrum of a security-oriented approach in the treaty had a significant effect in perceiving migrants as people who should not to be trusted and suspected. This title also opened the way for the development of legal regulations to develop a common migration and asylum policy in the Union. According to Clayton, Title IV was referring to the dual purpose of the European Community law on migration. While the member states protected their own borders against the outsiders, they had to open their internal borders to each other. In this sense, strengthened control of external borders can be seen as a result of partially unsteady internal borders. After that migration policies of the EU tightened and this led to the creation of “Fortress Europe” as Clayton pointed out (Clayton, 2008: 144-145).

2.1.2. 2000-2005: Initial Multi-Annual Programme

Amsterdam Treaty opened the way for the development of an area of security, justice and freedom. Migration policy of the EU also became a developing area. In this time period, five-year programs that include the general trends, political agenda and targets were prepared. 2004 Hague Program and the 1999 Tampere Programme were two significant turning points in the development of the migration policies within the EU. These two turning points set the agenda for the creation of an area of security, freedom and justice. During the five important years of this period, a number of strategies were implemented with the policy documents and action plans. These had significant effects on the procedures that regulated the entry of a third country national the EU and their residence and freedom of movement there (Baldaccini & Toner, 2007: 2).

Tampere Programme, which covered the years 2000-2005, can be accepted as the first of the multi-annual programs. The European Council gathered in Tampere in October, 1999 with the aim of implementation of the Amsterdam Treaty. Besides that, transformation of the Union with regards to the issues of security, freedom and justice was also on agenda. The structures affecting the creation of the Tampere Program are specified in the declaration as follows:

"The EU has put in place for its citizens the significant ingredients of a mutual area of prosperity and peace: a unique market, monetary union, and the ability to take on world-wide economic and political challenges. The main challenge of the Amsterdam Treaty is today to ensure that freedom, which includes the right to move freely throughout the Union, can be enjoyed in conditions of security and justice accessible to all." ³

As can be seen from the excerpt above, in the Tampere Programme, freedom is accepted as the starting point and essential basis for the creation of area of security, justice and freedom, and justice and security were seen as complementary features. So, according to the logic behind the AFSJ (area of freedom, security, justice), freedom must be preferred over security if a choice is to be made in any case. The main issues that were addressed in Tampere Programme such as: regulation of migration flows, establishment of a common active policy for visas, closer and increased cooperation between the EU consulates in the third countries, sanctions to be implemented on people involved in

³ European Council, "Towards A Union of Freedom, Security and Justice: The Tampere Milestones", Paragraph 2, Tampere European Council Presidency Conclusions, 15-16 October 1999.

human trafficking and exploitation of people, effective control of the boundaries of the Union, stimulation of voluntary return of the immigrants with the support of transit and source countries and, finally, signing of readmission agreements with the third countries (Baldaccini & Toner, 2007: 3-4). Although it was declared with the Tampere Programme that the EU's migration policy was going to be freed from the security concerns to the greatest extent possible, the migration policies of the EU was once again securitized due to the terrorist attacks on September 2001 in the United States of America (Özgöker & Batı, 2016: 5).

Paragraph 3 of the Tampere Programme showed the how the idea of security, justice and freedom should be understood:

“ This freedom should not, but, be regarded as the exclusive preserve of the Union's own citizens. Its very existence acts as a draw to many others world-wide who cannot enjoy the freedom Union citizens take for granted. It would be in contradiction with Europe's traditions to deny such freedom to those whose circumstances lead them justifiably to seek access to our territory. This in turn requires the Union to develop common policies on asylum and immigration, while taking into account the need for a consistent control of external borders to stop illegal immigration and to combat those who organise it and commit related international crimes. These common policies must be based on principles which are both clear to our own citizens and also offer guarantees to those who seek protection in or access to the European Union.”⁴

As it is understood, Tampere Programme was quite unclear about the issue of migration. On the one hand, European Union defended the idea that, third country nationals were welcome and they were not going to be denied the freedom to reach the territories of the Union. This was also legitimized with references to the humanitarian side of the EU. On the other hand, it was argued that so as to ensure this freedom, it was necessary to conduct non-stop border controls. This reason behind this dilemma was the fact that, in the Tampere Programme, member states sought to find an alternativeway and deflect the criticisms that the EU's migration policies were too rigid. However, the predominant

⁴ European Council, "Towards A Union of Freedom, Security and Justice: The Tampere Milestones", Paragraph 3, Tampere European Council Presidency Conclusions, 15-16 October 1999.

tendency was still towards the prevention of third country nationals from entering the EU despite their good manners and intentions (Van Dijck, 2006: 16). In other words, with the Tampere Programme, security-oriented policies and approaches became more visible and dominant.

At the Summit, the key features of the EU's migration policies were shaped as follows: cooperation with source countries, a commonly-developed asylum systems, fair behaviors towards third country nationals and regulation of migration flows. Most importantly, the common ground of the Amsterdam Treaty and Tampere Summit was that they both addressed migration from the perspective of security. Amsterdam Treaty strengthened the connection between migration, asylum and security . This was legitimized through the references made to the establishment of an area of security, justice and freedom. Within the framework of the idea of AFSJ, illegal migration was accepted as significant threat as it was seen as a factor that undermines the three basic values: justice, security and freedom. First of all, illegal migration was a barrier in the way of ensuring free movement of persons. Secondly, illegal migration was a threat to public order (security). And finally, it also constituted a justice problem because it had close links with human trafficking and organized crime. Consequently, fighting against illegal migrations required cooperation among member states on the implementation of strict policies (Van Dijck, 2006: 15). After those implementations, EU policies have focused on strict controlling of borders and unwanted migration (Geddes, 2007).

In short, the discourse of the area of freedom, security and justice (AFSJ) was created by the Amsterdam Treaty and repeated in the Tampere Programme. In 1999, at the Tampere Summit, it was emphasized that Europe can be called as area an of freedom. However, it was also emphasized that, this area of freedom must be protected and this could only be achieved by keeping the immigrants who commit crime in the union away. To achieve and maintain this order, it was confirmed and agreed that the external borders of the Union should be protected. This was surely necessary for a "secure EU"⁵.

2.1.3. 2005-2010: Multi-Dimensional Approach to Migration

⁵ European Council, "Towards A Union of Freedom, Security and Justice: The Tampere Milestones", Paragraph 3 and 4, Tampere European Council Presidency Conclusions, 15-16 October 1999.

The second and stricter legal framework for the establishment of the area of security, justice and freedom was formed by the Hague Programme and adopted by the Council of Europe in 2004. With the Hague Programme, aim of developing an area of security, justice and development was emphasized (Council of European Union, 2005). Replacing the Tampere Programme, Hague Programme, represented a new course of action and schedule to reach the targets between the years of 2005 and 2010. Unlike Tampere Programme, Hague Programme started with an ideological statement.

"The security of the EU and its members has acquired a new urgency, especially in the light of the terrorist attacks in the United States on 11 September 2001 and in Madrid on 11 March 2004. The citizens of Europe rightly expect the European Union, while guaranteeing respect for fundamental freedoms and rights, to take a more effective, joint approach to cross-border problems such as illegal migration, trafficking in and smuggling of human beings, terrorism and organised crime, as well as the prevention thereof. Notably in the field of security, the coordination and coherence between the internal and the external dimension has been growing in importance and needs to continue to be vigorously pursued."

The strong impacts of the terrorist attacks in 2004 and in 2001 can easily be recognized in these introductory statement of the Hague Programme. Actually, as Buzan said, the document embraced an approach of "macro-securitization", under the impacts of the "war against terrorism" which was initiated after September 11.

The issue of migration has always been a hot topic on the agenda of the EU, especially during the period that followed the enlargement process in 2004. This expansion of the borders caused increased concern about the border security and migration flows. At that point, migration-security and migration-terrorism linkage became more solid mostly due to the terrorist attacks of 2001 and 2004 (Luedtke, 2009).

The Hague Program can be seen as a continuation of the Tampere Program. It called for the monitoring of the practices and evaluation of the measures taken. While formulating the Hague Programme, a balance between the ultimate goals for the area of security, freedom and justice was also observed. The Programme also put forward a

“comprehensive approach” for migration policies which addressed the root causes of migration, integration and all stages of migration. The introduction of such an extensive approach was actually a sign of desecuritization of migration as the Programme was considering the issue of migration issue from a broader perspective. The Programme included certain measures regarding the border controls and migration such as:

- Funds for the regulations of borders, especially external borders,
- Policies that aim for the return of illegal immigrant to the country of source
- Cooperation with third countries to develop asylum systems and more reliable programs that deals with “implementation of re-settlement programs and illegal migration”
- A European structure that is going to ensure the appropriate and successful integration of immigrants within the society.
- Legal regulations for foreigners who are going to work legally in the EU in accordance with the labor market requirements,
- Improvement of the Schengen Information System and the Visa Information System which are also known as SIS and VIS.⁶
- Creation of a common European asylum structure which includes a system of common procedures and unique status for people who are granted asylum or any kind of protection status as of 2010,

The basic concept of the Programme can be summarized as follows:

- There is a tendency towards security and the security of the EU and member states has priority above the freedom and security of individuals. (Balzacq, Guild & Carrera, 2008: 7).

Hague Programme indicated a significant shift in the structure of the AFSJ. With the Programme, the function and meaning of the terms “justice” and “freedom” were

⁶ The Visa Information System (VIS) aims to improve implementation of the common visa policy. In this context, it is aimed to share visa information between member countries, increase cooperation between consulates and exchange of information between visa authorities

interpreted in a way that would push them into the background, bringing “security” to the forefront. Also, the balance metaphor was used for the relationship between security and freedom. In practice, however, security has eventually predominated over the freedom (Balzacq, Guild, & Carrera, 2008: 8).

Just after the Hague Programme, a document was published in 2007 by the European Commission under the title of “Towards a Common Immigration Policy”. It was concluded in the document that the commitment to develop and establish a common policy in the EU regarding the issue of migration needs to be reinforced and that implementation of the policies to be developed necessitates a stronger and more effective cooperation among the member states. In 2008, it was said that the structure of European Migration Network which was established in 2003 should be modified and formalized and that Eurostat should also be improved to ensure a smooth flow of information (OECD, 2008).

In 2008, “European Pact on Immigration and Asylum” was published. The pact outlined the framework for the development of the EU’s common immigration policy for the upcoming years and it provided a basis for the Stockholm Programme that would be adopted in 2009. The pact expressed the dedication of the Union to formulate and implement an “effective, fair and consistent policy” to properly address the challenges and opportunities of migration. Another important issue that was covered in the that pact was the regulation of migration, border controls, asylum policy and the relationship between the EU and the third countries. The final declaration of the Council of Europe laid stress upon the fact that this kind of common policies should benefit both resource countries and target countries, as well as the immigrants themselves. It was apparent that the EU called for the establishment of closer relations and cooperation with the third countries in the return process of illegal-irregular migrants and border controls. Although the pact was nor legally binding, the European Commission (EC) assumed the responsibility to supervise the operation of the structure laid down by the pact (Council of the European Union, 2008).

The EC carried out the first annual assessment of the implementation of the Pact in 2009. The opening statement of the pact was as follows; “the EU does not have the enough

resources to accept all the people who wants to migrate for better conditions and life.” It was also stated in the pact that the migration policies that were not managed properly could hinder social cohesion of the destination country. It was underscored that, while dealing with migration-related issues, the capacity of the Union regarding health and social services, sheltering, education, and labor market must be taken into account and exploitation of migrants by criminal networks must be prevented. One of the most important points that the Pact touched upon about irregular migration was the return of irregular migrants. This topic was addressed by the “The Return Directive”.⁷ The pact called on the member states to develop and increase cooperation for the return of immigrants and also for the improvement of readmission agreements. The pact also decided on the establishment of two independent command centers for the European Union countries in the east and south. The pact also focused on the role of Frontex which was responsible for the security of the EU’s external borders. It was stated that ways for legal migration might be proposed for the third country nationals. Benefits and importance of circular migration was also addressed (Council of the European Union, 2008).

Regular assessments were carried out for the implementation of the Pact. During the Summit of 2010, the European Council evaluated the Commission’s first report on May 2010. The report focused particularly on the fight against irregular migration and the cooperation with the transit and source countries. In the Council, the following issues were emphasized: extension of the border controls, combat against the human trafficking and illegal migration and dedication to ensure the establishment of a common asylum system. These elements of the Pact indicate that the Pact adopted a more comprehensive approach towards legal migration and a security-oriented approach to migration in general. In this sense, the Pact can be seen as a substructure of the Stockholm Programme (Council of the European Union, 2010).

2.1.4. 2010-2015: Desecuritization Trend with the Stockholm Programme

⁷ Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, *Official Journal of the European Union*, 16 December 2008,

The year of 2009 was a year of transition for the area of security, justice and freedom. The Stockholm Programme entered into force, the Hague Programme was concluded and also Lisbon Treaty came into effect. The preparation period of the Stockholm Programme and the slow implementation of the Lisbon Treaty decelerated the development processes in this area (Monar, 2010).

The third stage of the AFSJ and the third five-year plan (2010-2015) were declared by the Swedish presidency in 2009. The Stockholm Programme was drawing a broad framework for the activities of the EU especially in the fields of, security, justice and asylum for the five-year period between 2010 and 2015. The ratification process of the Lisbon Treaty coincided with the launch of Stockholm Programme. During this period, the EU was attempting to deepen the Union and wanted to become a more powerful actor in the area of foreign policy. The Stockholm Programme stated the security of all European citizens is a prerequisite to achieve the aim to establish a strong European identity. In the Lisbon Treaty, the newly established European External Action Service was introduced. This was an indication of the EU's desire to become a strong actor in the global arena with its legal framework. In this sense, the main focus was on the Europe's migration-related position in the world and on increasing mutual cooperation with the third countries in the area of migration. The Lisbon Treaty also reflected the motivation of the EU to cope with the challenges presented by the global soft-security issues such as energy, security, demographic changes and combat against terrorism. This meant that the EU entered a period in which it focused on soft-security matters and considered migration as a security issue. The certain emphasis on the combat irregular migration and the readmission agreements were strong indications of a security-oriented approach to migration policy (Council of the European Union, 2009).

The statements of the Swedish Minister in charge of Justice, Beatrice Ask; and Swedish Minister in charge of Migration, Tobias Billström, reflected the background of the Stockholm Programme that was prepared during the presidency of Sweden: "In our opinion, it is important to stand up for openness in the times of economic recession and

crisis. Europe has prospered via free trade and openness; and also with the free movement of persons”⁸.

As can be seen in the statements above, on the contrary to previous programmes, Stockholm Programme was trying to eliminate the imbalances between the security and freedom, by giving credit to freedom. On the other hand, when closely analyzed, it can be said that the Programme still bears the traces of the security-oriented approach despite the exclusive emphasis put on the concept of freedom. Although irregular migration meets the labor requirements of the EU in many sectors through illegal employment, the principle of openness is not applied in this field. In contrast, the Programme specifically emphasized the fight against irregular migration and laid out the sanctions to be implemented in case of the employment of irregular migrants. This created a wave of protest especially in Italy and Spain where employment of the irregular migrants is relatively high (Council of the European Union, 2003).

In June 2009, the EC published a document during the preparation process of Stockholm Programme which was titled “An Area of Freedom, Security and Justice Serving the Citizen”. In this document, the EU Council clearly declared that the priority of the Union during the upcoming years would be “focusing on the needs of its own citizens while guaranteeing European security and respecting fundamental rights at the same time”. The document laid out four political principles for the Stockholm Programme. In Stockholm, two additional priorities added on top of these four and the final version of the program was shaped in accordance these priorities (European Commission, 2009)

Promoting citizen’s rights – A Europe of rights: European citizenship should be a concrete and solid reality. Also, the Schengen cooperation must be maintained.

Making people’s lives easier – A Europe of law and justice: The main aim in here is to create an area of justice in the European Union. The first priority is facilitating access to the justice, enabling people to demand and claim their rights anywhere in the European Union.

⁸ Beatrice Ask and Tobias Billström, “Stockholm Programme in Focus”, Dagens Nyheter Newspaper

A Europe that protects: It is necessary to develop an internal security strategy to improve security within the European Union. So, protecting the lives of people and the safety of European citizens is crucial in this sense. This strategy aimed to ensure strong cooperation to make the EU more secure in terms of border management, criminal law, disaster management and law enforcement. It was also stated that this kind of cooperation should be maintained with solidarity among the member states. The principle of internal solidarity was stated in the Stockholm Programme but it had not been emphasized in the former five-year programs. Within the scope of this principle, it was also stated that the countries receiving high number of irregular migration would be provided with more support to fight against migration (Council of the European Union, 2009: 4).

Access to Europe in a globalized world: According to the Council of the European Union, it should be rendered easier and more efficient to enter into the EU for the workers, businessmen, scientists and others who have legal reasons to access to the territory of EU. In this sense, the EU responsible for guaranteeing the security of its citizens. So, visa policies and integrated border management were analyzed to serve this purpose. In the concept of integrated border management, the EU wanted to facilitate legal entries into the member states while taking certain measures regarding the prevention of irregular migration and crimes. It was aimed to operate European Asylum Support Office and Frontex hand in hand to accept immigrants at the borders. The Council of Europe made a call for the strengthening of border management and emphasized the role of Frontex to strengthen the capacity to meet changing migration flows in a more efficient way. It was also underscored that the effective protection of external border would be ensured by the cooperation between Frontex and the transit or source country (Council of the European Union, 2009: 55).

As an important point, the Council of Europe stated the necessity to establishment of the Europe Border Surveillance System also known as EUROSUR. This system uses modern technologies on the eastern and southern borders for surveillance and shares the obtained data, creating a strong control mechanism for the external borders. (Council of the European Union, 2009: 56)..The implementation of SIS II and VIS was the main objective of the system. According to the Council, this system would be used to record entries into and exits from the member states and work in coordination with other systems. Therefore,

all member countries were called on to act jointly in data sharing while complying with the protection of data rules (Council of the European Union, 2009: 57).

A special emphasis was placed upon the rapid development of a common visa policy that would help attaining the internal and external foreign policy objectives. In this sense, the Union could sign visa facilitation documents and agreements with third countries.

A Europe of responsibility, solidarity and partnership in migration and asylum matters: Under this principle, five mainstream commitments in the “European Pact for Migration and Asylum” were reiterated:

- to construct a “Europe of Asylum”,
- to make border controls more effective,
- to assess irregular migration by ensuring that these irregular immigrants return to the transit or source countries,
- to organize legal migration by considering needs and priorities determined by each member state,
- to create a detailed partnership with the transit and source countries to promote a harmony between development and migration (Council of the European Union, 2009: 60).

Development of a detailed migration policy that is based on accountability maintained its importance as the key policy objective of the Union. Accepting the challenges and opportunities of increasing human mobility, the council of Europe stated that a well-managed migration can benefit all the parties . A versatile policy that would meet the needs and priorities of the member states and an area where immigrants could use their potential was needed. These versatile migration policies were expected to make a significant and positive impact on the economic performance of the EU by responding the labor force requirements to some extent. The Programme emphasized the importance of the relationship between integration and migration with regards to the core values of the EU and long-range consequences of migration. Accordingly, it was emphasized that illegal migration could and should be controlled, prevented and combated so as to provide “sustainable and convincing” asylum and migration procedures in the EU. From the this

point of view, it can be noted that the rhetoric used in relation with irregular migration mostly included the verbs “to control, prevent and combat”. (Council of the European Union, 2009: 59).

The Council of Europe repeated that migration policies of the EU can be an inseparable part of the EU foreign policy under the title of “implementation and development of the global understanding of the EU to migration”. In the same way, it was stated that this understanding needed to be strengthened and developed with the principles of “balance, solidarity and partnership” with transit and source countries (Council of the European Union, 2009: 59). The main aim here was to create cooperation with peripheral states such as East, Africa and Southeast Europe. It was also aimed to maintain a balance between the three items which are fighting against irregular migration, promoting legal migration and mobility. The initial and more balanced understanding can be seen as a step towards desecuritization of migration. Development and migration, proactive policies regarding immigrants and their rights and the issue of integration were also discussed under the heading of “Creating Comprehensive and Dynamic Migration Policies”. While security-oriented understanding was still strong in practice, the inclusion of these elements can be an indication of desecuritization of migration in the EU (Martin, 2012: 1-7).

2.1.5. A new understanding: Lisbon Treaty

The Lisbon Treaty entered into force in 2009 and declared one of the main aims of the EU that is to create an area AFSJ without any kind of internal borders for the citizens of the EU. The biggest changes brought about by the Lisbon Treaty was regarding AFSJ and AFSJ was shifted to the part of the “ultimate goal of the treaty”. In this sense, Lisbon Treaty provided the legal base required for achieving the aims of the Stockholm Programme (Monar, 2010: 159).

The Lisbon Treaty introduced a number of new measures in the area of home affairs and justice as well as the field of migration policies (Title V: Area of Freedom, Security and Justice -Art. 67-89). This title was penned in the Amsterdam Treaty simply as: “Asylum, visa migration and remaining policies for free movement of persons”. This change in the title in the Lisbon Treaty was an indicator of the intention to institutionalize this issue. The progress that would be made in the development of such a structure could be

considered as a success for the EU integration. Under this Treaty, decision making process was reshaped and restructured, and system of qualified majority was adopted. In this new system, certain changes were brought about in areas such as: residence permits, legal migration, short-term visa regulations and Europol (European Parliament Consultation Procedure).

Changing the process which was based on unanimity into a system of qualified majority simply illustrated the EU's dedication to create a common policy on the legal migration. Moving this issue into the realm of a supra-national authority can be considered as the Europeanization of the issue of migration. So, the common migration policy of the Union focused not only on the border controls but also on legal migration. It also contributed to the desecuritization of migration.

In accordance with the Treaty, the structures of the existing institutions were changed and it was decided to handle the justice-related matters separately from the area of security. In future, this development or consideration would contribute to the desecuritization of migration. This could also be seen in the mission of Directorate-General, the Directorate had two basic priorities: bringing solidarity to the EU regarding the migration policies and ensuring the security of the EU. All these decisions and considerations indicated that the migration policies were considered as a firmly separate issue from security policies (Balzacq, Guild, & Carrera, 2008: 13).

2.2. Migration-Security linkage in the EU and Securitization of Migration

With the developments of the 21st century, security and migration issues gained new and daunting dimensions. In this period, several concepts such as human security, internal security and social security made their way into the international agenda . Among other things, the issue of migration was at the top of the international and national agenda (Guild, 2009).

In today's world, threats to the member states of the EU have changed from major to less predictable and less visible kind of threats. In 2003, EU Council issued a document titled "Security Strategy Document" and in this document, irregular migration was counted among the threats the external dimension of which is important. The pointed out irregular migration can be related with the terrorism and organized criminal activities. The fact that

the issue of migration issue was present in the ESS (European Security Strategy) demonstrated the significance of the migration-security relation. Within the context of ESS, the issue of migration was securitized and politicized on supranational and national levels. With the growing trend of international migration certain rhetoric or discourses have become dominant in the EU with the help of printed and visual media, government policies, public opinion etc. (Buonfino, 2004).

After September 11, the solid boundaries between terrorism, security and migration started to blend into each other. In the 21st century, migration has turned into a security concern. Although there have been other discourses highlighting various dimensions of migration – e.g. economic aspect –, the rhetoric concentrating on the security dimension of migration was resorted the most. Within the EU, securitization and economization has been the most dominant discourses regarding migration because these dimensions emphasized the need for qualified labor and security. While September 11 reinforced the securitization discourse, the increasing need for new and young labor force in the EU was leading to the adoption of the economization discourse. The primary reasons behind the development of the rhetoric of securitization are the intention to prevent the increasing flows of migration and to relieve the public fears regarding migration. As the British Home Secretary, David Blunket, stated during tough times, such as periods of economic trouble, society feels the need to find some kind of a scapegoat, which– in most cases – happens to be the immigrants (Blunkett, 2003:23).

Security can be seen as a concept that is mostly based on the differences between certain groups (others vs. us). So, within the context of the perceptions of security, certain values such as ethics, solidarity and human rights may disappear into the background. This situation mostly threatens the newly arrived irregular migrants and may lead to the stigmatization of local-settled migrants. This may result into the imperilment of the value-related concepts such as peaceful life, human rights, justice and freedom (Buonfino, 2004: 2). On this basis, it is safe to say that the securitization of migration conflicted with the values of the Union itself, considering the idea of AFSJ.

As Bigo asserts, the concept of security entails protecting and ensuring the security of the whole society. Sometimes, however, anxiety or discomfort may unintentionally be stimulated in the society so as to build trust and ensure protection in the society (Bigo, 2002). What lies at the center of migration debates in Europe is this security/insecurity dilemma. In a globalizing world, with the removal of all kinds of borders, migration has become an issue that should be handled and filtered even if cannot be reduced. So, securitization has taken its place among other discourses as a form of national discourse due to the perceived risks and fears about migration. In this sense, the EU seems to be maintaining its existing identity and boundaries because the tendency towards securitization as the most suitable discourse is still persisting.

2.2.1. Perception of Security and Concerns about Migration in the EU

The existence of immigrants from completely different backgrounds may create daunting challenges for a homogeneous society. There are mainly three key concerns in Europe in terms of migration: European identity, internal security and socio-economic factors. One of the biggest fears fueled by the 9/11 attacks on the societies was the presence of imaginary or real dangerous strangers and the threat of terrorism. Indeed, this kind of a fear was not brand new for the world as anti-migration tendencies have always existed. No matter how long it remains implicit, anti-migration tendencies come into the view once again with a new look in times of transformation and political instability (UN Development Programme, 2009).

There were different kinds of viewpoints on irregular migration in Europe before 9/11. In the first stage, uncontrolled entries were a huge concern. In fact, concerns regarding irregular migration has been felt in states such as Italy, France, Belgium and Spain since the 1980's. With the removal of the restrictions on migration flows coming from the Eastern Bloc in the year of 1989, the fear of illegal migration started to haunt people in other parts of Europe. Later on, this kind of concerns were relieved but this time the media and politicians turned to the irregular migrant entries to Spain and Italy by the sea. This can be a good example of securitization in political rhetoric that led to subsequent reactions in forms of security measures. For example, Italian government declared an emergency after a boat with 928 Iraqi people on board approached Sicily. So as to prevent

migration by sea, Spain, Italy, England and Portugal has been carrying out mutual sea patrols in Mediterranean Sea since 2003 (Boswell, 2007).

The link created between migration and crime was led to security concerns. 70% of the people that participated a survey (European Social) reported that they believed immigrants increased the rate of crime in a country. This percentage was even higher in Norway and Germany. These publications revealed that people tended to think that violence is a phenomenon that is mostly committed by immigrants (UN Development Programme, 2009: 89).

On the other hand, the other relevant factor was the economic and social impact of employment and irregular stay. This kind of concerns stemmed from the belief that the immigrants abused social security and welfare state and that irregular workers had the potential to replace local workforce. In European countries such as Germany, UK, France and Netherlands, the concern of exploitation is quite significant. Beginning in 1980's these states have received a serious number of asylum applications. During 1990's, these states created a several measures to control their asylum systems including sanctions for carrying immigrants and accelerated asylum procedures. Anti-immigrant discourse gained strength especially after the global stagnation that started in 2008 when local workers were concerned about the security of their jobs at extreme levels. Indeed, governments were generally under a remarkable pressure. Even in the states where migration was accepted by the general public, such as the UK, the perceptions citizens have of immigrants were changing in a negative way (UN Development Programme, 2009: 90).

The vicious circle generated by security concerns and economic worries triggering each other is so apparent. Under these circumstances, people who are referred to as irregular migrants and who have difficulties in finding a job may resort to committing crime and displaying anti-social behaviors, justifying the concerns of local citizens. This can leads to more discrimination in politics and labor markets. Moreover, while the social cohesion is undermined, the disadvantages in the labor market leads to social exclusion. Moreover, the securitization of migration also reflects the concerns over cultural incompatibility and identity, which are generally denied by the politicians (Faist, 2007).

2.3. EU's approach to Illegal Migration and Securitization

With the transition of the EU to the level of political unity, the process of developing a common migration policy accelerated. As mentioned earlier, the EU's perspective on migration tended to be shaped around the issue of security. The international conjuncture also contributed to the development of this tendency. With the securitization of migration, people began to travel illegally or through their own means. The fight against illegal migration forms the basis of the EU's immigration policy. At this point, the arguments used by the EU to securitize immigration gain importance. When examining why the fight against illegal migration is at the center of the migration policies of the EU, it is necessary to have a look at the identities, internal security and the economic arguments used by the Copenhagen School's securitization of migration theory.

2.3.1. European Identity and Securitization of Migration

Although the European Union was born as a cultural idea, it gradually turned into a conscious process of creating policy and identity. European identity is based on a common history, geography and religion and these values are seen as important factors in completing the Europe's political integration process. European identity is seen as unifying concept over national identities so it can be regarded as supranational identity.

In order to strengthen the European identity, free movement within the common borders, operation of a common market, voting and common currency are of great importance. The most important step in this direction in the EU, which aims to strengthen the European identity in a political sense rather than consolidating it, was the EU Constitution. The Draft Constitution, which was more transparent and more inclusive, met the expectations of citizens and aimed to increase the participation of citizens. It was signed in 2004. In the referendum on the draft constitution, the rejection of France and the Netherlands were overcome by amending the draft constitution (European Commission releases, 2005).

The main reason for the rejection was the issue of national sovereignty. After the amendments to the draft constitution, the content remained the same up to a 95 percent, but the name was changed to the Revised Treaty (Lisbon Treaty, 2007).

The polls were conducted in 2010 and 2013, and just like the results of the referendum, the results of the polls demonstrated once again that the commitment to European identity was not strong enough. In the surveys of 2010, 37 percent of the participants gave negative answers to the question “Do you feel as a European citizen?”. This rate increased to 40 percent in 2013 (European Commission, Eurobarometre, 2014). Low participation rates in parliamentary elections was another proof of the fact that the commitment to European identity was not strong enough. While the rate of participation in the European Parliament elections was 63 percent in 1979, this rate declined dramatically over time and decreased to 43 percent in 2009 (European Parliament, 1979-2014).

After all those years, the EU could not achieved the aim of creating a common identity. One of the driving factors in securitizing the issue of migration was the dedication to protect the European identity and culture. As stated in the first part of the study, one of the most important reasons for the securitization of migration was the threats the societies perceived directed against their own identities. Migrants, asylum seekers and refugees were seen as challenges to the phenomenon of national and cultural homogeneity (Huysmans, 2000: 762). This led directly to an ontological insecurity. Samuel Huntington theorized in "Clash of Civilizations" in 1993 the cultural and religious identities would be the primary source of conflicts in the post-Cold War era (Huntington, 1993; 28). Huntington asserted that in the post-Cold War period, fear policy against everything would be encouraged. In the case of the EU; it can be seen that different cultural or religious identities are perceived as threats. At this point, especially the Muslim identity, Eastern culture and the immigrants who are thought to disrupt the social order in the recent period are seen as a cultural threat for the Union.

The EU's migration policies indirectly promote racism and xenophobia. Policy constraints and emphasis on control refer to a negative portrayal of migrant groups, leading to an increase in racism and xenophobia in the current political context (Huysmans, 2006: 76). According to Huysman European societies are reserved against immigration as they think it creates problems in their social and political stability. On the other hand, they emphasize multiculturalism for the fear that the racism in their history will reappear (Huysmans, 2006:75). The article under the heading of culture in the Maastricht Treaty said: “The Union will contribute to the development of the cultures of the member countries, while respecting national and regional differences, and at the same

time highlighting the common cultural heritage” (Treaty on European Union, 1992: 48). The expression of multiculturalism corresponds to the cultural differences between Christian European countries as the attitude of the society in the European Union towards Islamic culture has been crystal clear for years.

After September 11, Muslims started to be seen as a direct threat. The extreme right, multiculturalism and the discourse that poses a threat to Muslims gained popularity. Shaping its discourse in accordance with current concerns, the extreme right, turned the world economic crisis in 2008 into an opportunity and used the issue of immigration and immigrants as trump cards. Jean-Marie Le Pen, who attracted attention with its anti-immigrant and anti-Islamic rhetoric in France, received 10.44 percent of the votes in the presidential election of 2007, while her daughter, Marie Le Pen, replaced her with 18 percent in the presidential election of 2012 (Bullets are in the hands of rightist, Bloomberg, 2017). In Denmark, the Danish People's Party, representing the right wing voters, became the second largest party in Denmark by increasing its votes from 12.3 percent in 2011 to 21.2 percent in 2015 (Bullets are in the hands of rightist, Bloomberg, 2017).

At this point, Europe, where the commitment to national identities continues to a great extent, has problems in its multicultural project. The issue of migration has positively supported the European identity through the discourse of “us and others”. While the European Identity was an aim that has not been fully achieved within the EU, the issue of migration has made the European identity and “others” more visible. Immigration, which is seen as a factor that weakens national tradition and social homogeneity, has been seen as a cultural threat to be tackled in the European integration process (Huysmans, 2000: 763). The increasing votes of the extreme right show that the securitization of immigration politically and discursively is accepted by the audience, and that is, the success of securitization.

2.3.2. Internal Security and Securitization of Migration

One of the driving factors for securitization of migration issue within the EU is internal security. Ensuring free movement in the internal borders means increasing the external border controls and taking new measures related to asylum and migration (Ultan, 2016: 28). Ensuring security in the construction of the internal security area, linking crime rates

with immigrants and restrictive migration policies in the fight against terrorism have become visible. Migration policies were directly incorporated into the internal security framework after the abolition of the EU internal border control, and the issue of migration was directly securitized (Huysmans, 2000: 770).

Population mobility and increased security concerns brought about by the Cold War peaked with the September 11 attacks. Policies of the European governments, including measures to limit migration flows, have become even more restrictive and selective with the September 11 attacks and immigration policies are intertwined with security policies (Dijstelbloem, 2011: 9). The Action Plan Against Terrorism, adopted in 2001 following the September 11 attacks, was revised following the 2004 terrorist attack in Madrid. The aim of the new Action Plan was to protect the security of international transport in terms of the fight against terrorism and to provide an effective system for border controls (EU Plan of Action, 2004: 55).

The results of the Eurobarometer Public Opinion Report in the European Union, published by the European Commission in 2012, are noteworthy. In the survey, the most popular answers to the question “What do you think are the two most important problems in the EU?” were as follows: economic situation and unemployment, public finance, rising prices, migration (European Commission, Eurobarometer, 2012: 79). It is clear that there is a concern in the European society about the immigrant criminals and a fear that immigrants will increase crime rates in the country by disrupting public order. Immigrants are associated with terrorism and this causes the issue of migration to be prioritized, even over the issues of taxation and terrorism. These facts implicitly promote the idea that that if there is no immigrant, there may be no terrorism.

2.3.3. Economy and Securitization of Migration

Economic security is another driving factor in the securitization of the issue of migration within the EU. Economic security is an integral part of national security (Mesjasz, 2008:130). Economic security is also an element of ontological security and is directly linked to the survival of the state and the living conditions of citizens. The migrant workforce is perceived as a threat to the employment of the local citizens, their economic and social spheres and even the overall security of the economy. Non-EU immigrants represent a significant financial burden for European communities (Huysmans,

2000:767). It is thought that migrants, who are seen as the cause of financial losses through their contribution to informal economies, constitute an obstacle to employment, especially in times of crisis. Economic instability and the fear of unemployment that emerges in times of crisis brings xenophobia. The Euro Debt Crisis in Europe in 2008 is perhaps the best example of this. In today's conditions, where capital is globalized and financial structures are more integrated than ever, the effects of the financial crisis in one of the countries within this integrated body pervades the whole world. The crisis that shook the US finance industry in 2007 also affected the entire global economic system and induced the crises in EU member states. This global crisis brought about the banking crises started in the developed member states of the EU such as Germany, England and France. The economies of most of the EU countries shrank and the EU economy in general contracted by 4.2 percent and the Eurozone economy contracted by 4.3 percent (Akçay, 2014: 38). Growth rates, which were around 3 percent between 2001 and 2008, the year when the Global Financial Crisis hit, followed a negative course in some countries with the global crisis (Ela & Eser, 2015: 213). While the EU was trying to heal the wounds of the global crisis, the state debt crisis that emerged in Greece in 2009 swept the entire Eurozone with the domino effect and turned into a crisis of European integration (Akçay, 2014: 39). The European debt crisis, which began in late 2009, was a process where state debt crises, banking crises, growth and competition crises coexisted (Akçay, 2014: 39). Briefly explained, the debt crisis which was unpredictable by the EU leaders was triggered by the global financial collapse that broke out in 2008. The mismatch between the fiscal policies governed by the countries against the single monetary policy of the Central Bank created problems in the economy. The debt crisis experienced by European countries combined with the banking crisis caused by the problems in the banking system and led to the deepening of the debt crisis (Ela & Eser, 2015: 213).

The claim that immigrants have the capacity to threaten the EU general economy leads to the perception of migration as a security issue. Addressing migration as a security issue politicizes the issue of migration and legitimizes the implementation of restrictive migration policies. In the words of Huysmans, the economic project of the domestic market is transformed to security manner. (Huysmans, 2000: 753). It is clear that the EU's attitude towards migration and immigrants has changed in the process in line with the needs and experiences of the EU. The Europeanization of immigration policy also

introduced a radical political strategy that aimed at the exclusion of certain categories of people as a source of danger (Huysmans, 2000: 772). As migration becomes Europeanized, restrictive practices against migration and the rhetoric of migrants as a threat have been legitimized.

The issue of migration and the immigrants who undermine the stability with regards to the concepts of identity, internal security and economy, have become matters of security. The discourse and fear that migration is the source of economic and social security problems such as unemployment, sheltering problems, organized crime play an important role in the process of the securitization of migration and the classification of immigrants as a potential security threat. The terrorist attacks and the financial crisis Europe faced created the conditions that would convince the audience, that is, the EU citizens, during the process of securitization of migration. Problematic migration and illegal migration, which is seen as the most threatening, have emerged as the area for the EU to fight in. At this point, the practices developed by the EU especially for combating illegal migration are noteworthy.

2.4. Practices of the EU Regarding Illegal Migration

When the programs and agreements related to the migration policies are considered, it can be said that, after preparing the institutional and legal basis on the way to form a common policy on the immigration issue, the EU commenced an implementation process and tried to overcome the deficiencies in the practices within this process. Two of the most important implementations among these are the protection of external borders and the prevention of illegal migration. In this sense, the EU's fight against illegal migration will be examined under two main headings: border security practices and externalization practices.

2.4.1. Implementations Related to Border Security

With the removal of internal borders, external borders gained importance in taking measures against migration. With increasing security concerns, the EU has tried to increase its controls and protect its borders through various practices from past to present.

2.4.1.1 Schengen Agreement

The Schengen Agreement, signed in 1985, ratified in 1990 and entered into force in 1995, was the first step towards abolishing internal border controls. Schengen Area comprises the majority of EU countries and some non-EU countries that signed the agreement. With the Schengen Agreement, the common rules of the Schengen Area, which has a single external border and several internal borders that can be crossed without control, have been established (Schengen Agreement, 1985). Under certain circumstances – e.g. in cases where the same threat lasts more than one year and in cases of extraordinary national measures – member states have the right to carry out border controls in the Schengen Area. (EU Commission, 2017).

According to Geddes, Schengen aims at strengthening external borders as well as increasing immigration restrictions (Geddes, 2001: 24). According to Skalter; the Schengen Agreement which enabled the EU to achieve cross-border unity and helped to form a common policy on migration and asylum, rendered the external borders stronger and was thus called the "European fortress"(Skalter, 2002: 165). When we consider Schengen as a hypocritical medallion, it provides free circulation with one face; while making it hard to enter into the Schengen area with the other.

2.4.1.2 FRONTEX

The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union was established in 2005 in accordance with the Council Regulation which was adopted in 2004 and is one of the key stages in the implementation of migration policies (European Council, 2004). In 2016, the Agency was replaced by the FRONTEX, “the European Border and Coast Guard Agency” (European Council, 2016). The establishment of FRONTEX was based on the idea of ensuring better management of growing migration flows and strengthening border management (European Council, 2016). Frontex's mission is to coordinate and develop European border management in line with the concept of Integrated Border Management. The main tasks of FRONTEX are to organize and coordinate common return operations, joint operations on land, sea and air borders, to assess the capacity and readiness of the member states to face the challenges at its external borders, to monitor migration flows and, to coordinate, develop and support the management of European borders (European

Council, 2016). FRONTEX also focuses on setting common training standards, training national border guards and conducting research on external border control. In addition, Frontex is responsible for assisting member states seeking operational assistance and supporting search and rescue operations at sea. Frontex plays an important role in the return of third-country nationals who do not have the right to stay in countries in the EU region.

Although Frontex defines its task as supporting and improving border management; its actual main task is to prevent irregular migration. The main purpose of the operations is protecting EU borders rather than saving lives. Likewise, the aim of most of the joint maritime operations is to prevent boats and ships carrying migrants from reaching the European borders (European Council, 2016).

Illegal immigration generally involves the use of non-seaworthy boats and each state is obliged to rescue, while reversing their direction by pushing back the boats is contrary to the obligation to rescue (Bilgin, 2017: 80). In this way, not only the lives of immigrants are endangered; but also refugees' asylum applications are prevented. Frontex, which is entrusted with the external borders of the EU and has a focus on supervision and control, is one of the most important means of preventing immigration to the EU while providing the EU's external border coordination.

2.4.1.3 EURODAC

The main objective of EURODAC (European Dactyloscopy), which was established by the Council Decision of 11 December 2000, is to establish the identity of persons entering the Union illegally and to collect fingerprint data on a computerized central database (EC Regulation no 2725/2000). In essence, EURODAC was established for the effective implementation of the Dublin Convention, which aimed to prevent multiple asylum applications from different member states.

The EURODAC system, which was introduced in 2003, is open to the EU countries and two non-member states, Norway and Iceland. The system functions as a database that includes the location, date, gender, reference number and fingerprints of the asylum seekers over the age of 14 . After the refugee crisis in 2015, the Commission in May 2016

proposed a comparison of fingerprints to strengthen the system, as well as minimizing the age of fingerprinting (European Union Commission, COM (2016), 272). The case of EURODAC is a good example of technology being used as an effective tool in securitization of migration.

2.4.1.4 RTP and EES

Under the concept of “smart borders”, the EU announced the Registered Traveler Program RTP and Entry-Exit System EES in 2013. The program aims at identifying illegal immigrants, and suspects of terrorism and organized crime as well as speeding up the procedures at the entry points to Schengen countries. The EU refers to the “Smart Borders” package as a means to create an "open and safe Europe" that will facilitate and strengthen border control procedures outside the EU (FRONTEX, 2013). The Entry / Exit System shall record the entry and exit times and locations of third-country nationals traveling to the EU, electronically calculate the short-term stay and issue a warning to the national authorities when there is no exit registration by the due date (FRONTEX, 2013). Unlike the stamps and seals that can be counterfeited, this system uses inimitable technological data which makes the aim to prevent illegal entry and exit more achievable. The support of border control mechanisms with advanced systems and high-tech devices actually reveals the dimension of the securitization of migration. It is thought that EES and RTP systems will provide the necessary ease for eliminating the slowdown caused by over-tightened audits. With technology, it is aimed to eliminate the problems caused by density that stem from the tightened controls and inspections.

Although there is an emphasis on facilitation and acceleration with technology, the aim of effective immigrant control lies under these technological methods of monitoring. When we look at the EU's border security practices regarding illegal migration; humanitarian approach seems to be of secondary importance. While the emphasis of the implementations and institutions is always on security, illegal migration is handled in the same way as a terrorist threat. The practices that securitize migration and are legitimized by drawing attention to the security of the EU citizens primarily aims to strengthen the security of the Schengen area and the citizens of the Schengen area. The basic European principles of security, justice and human rights seem to be applying merely to the citizens of the EU. The EU's immigration policies have been developed with the motivation to

prevent entry into the EU countries, and they have become more stringent over the years, prioritizing the interests of states over immigrant rights (Öztaş & Kesgin, 2015: 67). Member states tend to take steps to ensure ontological security at any time and in all cases. Practices that include restrictive, discriminatory and exclusionary visa applications, and control and monitoring systems reinforced with advanced technology make it clear that the EU's main attitude towards illegal migration is security-oriented and policies are implemented through securitization.

2.4.1.5 EUROSUR

EUROSUR was introduced in 2013 to improve the management of external borders in the Schengen area and to provide information to the relevant authorities of the member states for border control, facilitating the combat against cross-border crime, illegal migration and protecting the lives of immigrants (EC, MEMO/896).

According to the Commission, cross-border crimes, irregular migration and death of migrants are the main problems at the external borders. EUROSUR was suggested as a system that would provide the necessary infrastructure to avert these problems (EC, MEMO/896). One of the primary aims of EUROSUR is to reduce the number of irregular migrants who have somehow entered the Schengen area and thus contribute to the management of migration movements. Another objective is to prevent migrant fatalities at the seas bordering the EU (EC, MEMO/896).

In another document, EUROSUR is defined as a multipurpose system that is used to detect, prevent and combat illegal migration (EUROSUR Handbook, 2015: 7). The same document also states that EUROSUR will pay effort to rescue and protect migrants trying to cross external borders. However, Hayes (2012: 50) criticizes that there is no information on the procedures for saving immigrants' lives in any document including the Regulation that established EUROSUR itself. Although it is thought that this system, which has the ability to identify small boats carrying illegal migrants, will support the boats in distress, its primary objective is clearly to strengthen the protection of the borders and to increase border controls against asylum seekers. Based on the data and implications we have, it would not be wrong to consider EUROSUR as the EU's anti-immigrant inspection and surveillance technology.

2.4.2 Implementations Related to Externalization and Relations with Turkey

One of the important developments related to migration within the EU in 2005 was the “Global Approach to Migration Document”. Through this document, the EU determined how to cooperate with non-EU countries on issues related to migration. The priorities of this kind of a cooperation are basically managing legal migration, and combating and preventing irregular migration (ec.europa.eu, 2018). Eliminating human trafficking and promoting international protection are secondary purposes. (ec.europa.eu, 2018).

The Global Approach to Migration and Mobility (GAMM), which aims to take measures against migration before it reaches the Union's territory, entails the Union to contribute to the economic and political development of the source and transit countries (Samur, 2008: 3). The GAMM prioritizes political and economic interests and is a preventive migration policy that based on the idea of making it attractive for potential migrants to stay in their own countries.

Strengthening preventive migration policies with foreign policy, the EU externalizes migration by reflecting its migration policies to its foreign relations. In other words, the EU reflects its responsibility of migration control to third countries by means of externalization policies with the purpose of establishing a more comprehensive control and delegating responsibility (Elmas & Yılmaz 2016: 4). The most important instrument used by the EU in externalizing immigration policies is readmission agreements.

2.4.2.1 Readmission Agreements and Turkey

One of the EU’s policy tools in combating illegal migration is the Readmission Agreements. Acting on the idea of cooperating with transit and source countries to prevent illegal migration, the EU signed "Readmission Agreement” with the transit countries. In general terms, readmission agreements are those that regulate procedures for the transfer of persons who have entered a country illegally or whose visa has expired, to the country of origin or transit country (Özsöz, 2014: 146).

The responsibilities imposed on third countries by the readmission agreements are important tools in the fight against irregular migration and the main objective of these agreements is to establish a “preventive policy” in cooperation with source and transit countries (Özcan, 2014: 157). Putting the primary focus on the immigrants from third countries, these agreements place serious burdens on the third countries and create complex problems. The most important of these is the bilateral agreements signed between the transit and origin countries in order to send illegal immigrants from the transit country to the source country. As per these agreements, illegal migrants are sometimes kept in immigration centers until the source countries are identified. Costs incurred during this process are covered by the transit country –a serious financial burden upon the transit country. On top of this financial burden, readmission agreements also bring about political and social burden to the signatory states. The EU tries to eliminate these negative outcomes of the agreements with visa concessions. In other words, the EU uses visa exemption as an encouraging foreign policy instrument within the framework of the conditionality principle (Elitok, 2015).

The EU signed a readmission agreement with Turkey in 2013. The agreement included a provision that entails the EU to provide financial resources for Turkey (Ministry of EU, 2013: 8).

The readmission agreements received criticism over its disregard of the humanitarian concerns. The major criticism directed towards the readmission process was that it violates international laws by making immigrants return (Çorabatır, 2015: 1). Relevant international laws acknowledge a division of responsibility, however, they forbid the dismissal of the immigrants to the countries where they are likely to be persecuted or face life-threatening conditions. On the other hand, there is no provision that prevents countries from exchanging refugees among themselves (Çorabatır, 2015: 1). Another criticism of readmission agreements is that they turn refugees into bargaining chips. Attempting to create buffer zones through readmission agreements, The EU take actions in an effort to isolate the union from migration. It can be seen that the EU uses visa policies for its own interest and security. One of the most important implication of the agreements is that these agreements enable the EU to share the obligation to protect the external borders with third countries and transfer the financial burden of illegal

immigrants to transit countries (Çorabatır, 2015: 1). The card of visa exemption strengthens the EU's hand against the drawbacks of the readmission agreements.

In short, with readmission agreements, states try to control irregular migration. Turkey has also signed bilateral readmission agreements with source, transit and target countries to ensure safe return or safe admission of the irregular migrants. Turkey made its first readmission agreement with Greece and this was followed by several readmission agreements signed with 16 other countries (Turkey Migration Report, 2016). The most important and most controversial agreement was the one which was signed in 2013 with the EU (Özdağ, 2018: 286).

The treaty that was signed with the EU have the potential serve two important functions. Firstly, the agreement contributed to the development of a legal basis for migration management and strengthening of the border control mechanism in Turkey. Secondly, as the process of the readmission agreement was followed together with the negotiations for visa exemption, there was a possibility of getting touristic visa exemption for the citizens of Turkey. Turkey's expectations in this regard encouraged fast and serious implementation of this agreement by Turkey. (Ekinci, 2016: 23). Due to its geographical position, Turkey is one of the most commonly used routes by irregular migrants seeking to reach Europe. Traditionally seen as transit country, Turkey became a country of target due to its borders with European countries. As of 2018, the statistics say, there are approximately 270,000 irregular migrants within the borders of Turkey⁹.

For Turkey, one of the fastest and easiest ways to send irregular migrants to their countries of origin is the readmission agreements (Ekinci, 2016: 23). In this respect, it is easier to understand why and how the visa exemption process was initiated: considering the high number of irregular migrants and their plans about going to the EU makes the visa exemption understandable.

2.4.2.2. EU Facility and Funds for Refugees in Turkey

⁹ .http://www.goc.gov.tr/icerik3/duzensiz-goc_363_378_4710

In 2015, the EU and its members decided to improve their economic joint to develop Turkey for host refugees. A detailed based on mutual commitments and responsibility the EU and Turkey was agreed of the March 2016 EU and Turkey Statement (EC, 2019: 3). On 2015, Turkey initiated the EU-Turkey Joint Action Plan to develop and coordinate Turkey reflects the Syrian conflicts. As a response to the call from EU for funding, Facility for Refugees in Turkey was established. (EC, 2019: 3). This Facility is a structure that coordinates the distribution and mobilisation on resources made available under EU budget. Contributions amount to 6 billion EUR. This amount of fund were separated into two different phase. While 3 billion committed to between 2016 and 2017, the remaining part committed for 2018-2019 (EC, 2019: 4).

The funds are implemented as development assistance and humanitarian assistance. In the first tranche, roughly 1.4 billion EUR and 1.6 billion allocated. In this sense, humanitarian assistance supports the most vulnerable refugees by the provision of detecting basic needs and protection. It also emphasizes gaps in service provision by specialised partners and agencies in education and health emergencies. Development funds supports the long term demands in socio economic development of refugees. Especially, it focuses on vulnerable groups and gender based violence and health care (EC, 2019: 9). Indeed, main attention is paid to non-Syrian asylum seekers and refugees.

The first part of funds have been fully contracted and committed on 2016-2017 and 72 projects rolled out (EC, 2019: 9). On 2018, nearly 2 billion EUR out of the 3 billion EUR had been activated. Also, Facility for 2018 and 2019 for second part has been committed as of February 2019. Facility assistance is mobilised throughout Turkey. In detail, most concentrated in the ten most affected provinces, Gaziantep, Şanlıurfa, İstanbul, Mersin, Adana and Kilis (EC, 2019: 9).

To sum up, of EUR 6 billion, EUR 2.4 billion is allocated to humanitarian aid. The EU's assistance for humanitarian aspect in Turkey, projects are issued in the fields of vulnerable refugees and education. Development projects under FRIT focus on mainly migration, education and economic support (EC, 2019: 9).

Funds and projects in detail, the European Union, which is taking place since 2011 in response to the refugee crisis has been supporting Turkey. Initial support is in the form of

Civil Protection and Humanitarian Aid Projects¹⁰ have been carried out under the Financial Aid Program to support economic and cohesion between host communities and Syrian refugees. The projects aim to address the current problems of Syrian refugees in the Turkish labor market, as well as support host communities, Turkish institutions, local governments and economies. The total value of approximately € 200 million is being implemented under the Financial Assistance Program Facility for Refugees in Turkey, there are 6 projects. These projects are designed to be complementary to each other and to address key issues in the Turkish Labor market (EC, 2019: 9).



¹⁰ <https://www.avrupa.info.tr/tr/pr/10000-suriyeli-multeci-ve-turk-vatandaslari-ab-destekli-mesleki-egitim-projesi-ile-gucu-pazarina>

CHAPTER 3

MIGRATION POLICY OF TURKEY AND LEGAL FRAMEWORK: A TRANSFORMATION PROCESS REGARDING THE PERCEPTIONS OF SECURITY

3.1 Introduction

Turkey is a country of crucial importance for the EU with regards to the issue of immigration in Europe. One reason for this is the geographical location of the country. Located where three continents converge, Turkey almost serves as the meeting point for the immigrants aiming to reach Europe where they believe they will find better living conditions. This position of Turkey in the world map adds one highly important dimension to its relations with the EU: immigration. During the enlargement process, EU emphasized that security problems of candidate countries would harm the security and freedom within the borders the EU. Therefore, candidate countries were expected to achieve full harmonization especially within the areas that are security-related, such as migration, in order to integrate with the EU's internal security area. Indeed, this can be considered as core element and idea of thesis.

3.2. A Process of Change from An Emigrant Country to A Migration-Receiving and Transit Country

In this part, Turkey's partnership with the EU and compliance with the EU policies in relation to migration will be examined and opportunities and challenges in this regard will be presented. In this sense, Turkey's transformation process from an emigrant to a transit and to a migration-receiving country will be analyzed. Then, the EU's expectations from Turkey regarding migration policies will be evaluated. This part will generally focus on the issues of border management, visa policies and combat against irregular migration.

3.2.1. Turkey as an Emigrant Country

The key factor governing the emigration flows from Turkey is the demand for labor force in European countries. After the Second World War, Turkey experienced a rapid population increase, resulting in high unemployment rates. This led to two kinds of human mobility within the country: “rural-urban migration” and “migration abroad”. Migration movements from Turkey to other countries began in the 1950s and has continued until today, changing the destination and method in time. Turkish migration abroad can be studied in 4 different periods (İçduygu, 2005: 335):

1960s: “Increasing Labor Exports” controlled by the state on the basis of bilateral treaties

1970s: Economic Crisis, Cessation of the Employment of Foreign Workers, Granting Legal Status to Illegal Immigrants, Reunification of Families,

1980s: Problems with Children’s Education, Ghetto Life, Association Movements, Increased Asylum Requests, Visa Obligation

1990s: Law on Foreigners, Creation of a Foreigner Identity, Increasing Xenophobia, Spread of Ethnic Businesses, Spread of Ethnic and Religious Associations, Demand for Political Rights (Unat, 2006: 55).

Migration movements from Turkey to Europe began in the 1950s. Until 1961, the migration process was conducted by individual enterprises and private intermediaries. The official migration phenomenon, on the other hand, started in the 1960s as a result of the bilateral agreements signed with European countries, Germany in particular (Arayıcı, 2002: 34). Turkey began to sign labor agreements with European countries in the 1950s to regulate irregular migration movements. As of 1960s, the country started to implement a program of planned economy and the phenomenon of immigration abroad was considered as one of the development strategies. The assumption was that immigration abroad would reduce unemployment within the country and contribute to the balance of payments by facilitating foreign currency inflow. In this way, the labor mobility that started on the individual level in the 1950s was later adopted as a government policy. Consequently, labor migration from Turkey to other countries, which was now organized by the government, turned into a large-scale migration wave (Küçükcalay, 1998: 2).

As of 1961, Turkish citizens began to enjoy the freedom of travel as a constitutional right. During the following years, a number of Turkish citizens headed abroad in the hope of finding jobs that would pay higher. While there were 2700 Turkish workers abroad in 1960, this number increased by 300% to 6700 in the following year (Abadan, 2006: 59). Labor demand of the European countries and the labor agreements signed led to an intense flow of migration in the 1960s and 1970s from Turkey to other countries. However, the oil crisis and economic recession in 1973 created a decrease in the labor demands of the countries the Turkish citizens migrated to (Somuncu, 2006:107).

The global economic events following the economic recession of 1973 radically changed the public policies implemented against the foreign workforce. Having quadrupled the price of crude oil, the 1973-74 oil embargo triggered the economic downturn and serious unemployment in Europe, leading to the *Anwerbestop* (stopping the recruitment of foreign workers) in European countries. After that, recruitment of new foreign workers was terminated and those who previously came the country were prevented from working and advised to return to their countries. During the second half of 1970s and throughout 1980s, Turkish labor migration was directed mostly towards oil-exporting Arab countries and North African states (Gümüş, 1998: 83).

While the crisis in 1973 caused economic stagnation in oil importing countries of the world, it had the opposite effect in oil exporting countries. In this context, Turkey exported labor to Libya as of 1975, and to Middle Eastern countries such as Saudi Arabia, Kuwait and Iraq as of 1977. The number of Turkish workers who went to Europe between 1973-1986 was only 32.461 (Karpas, 2003: 625). Despite this, migration to Europe continued through family reunification, asylum and illegal migration (İçduygu, 2001: 45-46).

The last phase of Turkish migration to abroad began in the early 1990s. Since then, Turkish labor migration to Arab countries continues at a very low level. The legal immigration movements from Turkey towards European countries in the 1990s were mostly related with the processes of family reunification. In addition, there was a considerable increase in asylum-seeking and illegal immigration. The historical picture of Turkish migration abroad shows that the Turkish migration is mostly directed to European countries and it continues with a change in quality and quantity over time.

Migration is an important item on the agenda within the scope of the Turkey's European integration process. There are concerns about Turkey's full membership to the EU due to the fear that Turkish migration to Europe will increase even more. It is claimed by some circles that the Turkish immigrants living in Europe now have not been able to integrate with the society they live in. Therefore, another wave of migration from Turkey to Europe is not desirable for the EU. For this reason, it is predicted that a long period of transition will be needed for free movement of Turkish citizens within the borders of the EU even in the case of full membership (Kirişçi, 2003:58).

3.2.2. Turkey as A Migration-Receiving Country

Turkey has been seen as an emigrant country in Europe for about the last 50 years. Migration movements directed towards Turkey can be analyzed in two separate periods. Immigrants in the country consisted mostly of those that came from neighboring countries until the 1980s. From the beginning of the year 1980, the migration movements to Turkey has become a complex, being affected by the globalization and the end of the Cold War. Turkey became a transit area for increasing numbers of asylum seekers and illegal immigrants. In addition to this, foreigners began to see Turkey also as a destination country (Somuncu, 2006: 132-136).

Turkey has become a country of refuge since the beginning of the 1980s. Political instability in Iraq led a large number of people to take refuge in Turkey during the 1980s (İçduygu, 2000: 361). In fact, thousands of people are known to have entered Turkey illegally during the asylum movements or gained illegal status due to the expiration of their visas. The migrant whose asylum applications were not confirmed stayed in Turkey with the aim of entering Europe. For instance, it is known that the number of Iranians who used Turkey as a transit country to reach Europe was 500.000-1.000.000, and still many of them are estimated to live in the status of irregular migrants in Turkey (İçduygu, 2003: 22).

The migration movements towards Turkey from Middle Eastern and Asian countries were mostly irregular and aimed at crossing illegally to Europe. For the immigrants coming from those countries Turkey was a transit country, functioning as a bridge between their countries and Europe. As European countries have restrictive immigration policies and, accordingly, strict measures taken at sea and land borders, the orientation of

migration flows to Europe has primarily directed to the countries around Europe, such as Turkey. For this reason, Turkey, has become a part of the buffer zone for the wave of migration towards Europe (İçduygu, 2003: 17). Another group of irregular migrants that came to Turkey were those who left the former Soviet Republics and other Eastern Europe countries in 1990s. Liberalization in the visa policies brought along the phenomenon of "suitcase trade", leading to an increased number of irregular migrants in Turkey (İçduygu, 2003: 17).

Turkey is both a transit and a destination country that has been exposed to flows of irregular immigration. Depending on the political and economic developments in the national and international level, quantitative and qualitative aspects of the irregular migration flows directed to Turkey changes over time. The employment rates and flexible visa policy in Turkey are the determining factors in the development of irregular migration flows to the country. Irregular migration flows increase informal employment while the rising informal employment boosts the number of irregular migrants, causing loss of public revenues. Therefore, in this cycle, effective policies aimed at reducing informal employment will indirectly decrease the number of irregular migrants. On the other hand, it can be argued that certain regulations such as the flexible visa policy encourage informal employment by increasing the number of foreigners coming to the country to work for a short period of time. Therefore, while making policies regarding immigrants, their two-way relationship with the informal economy and employment should be taken into account.

With an effective migration policy, Turkey can keep the number and cost of irregular migrants at a low level. The main components of this effective migration policy can be listed as follows;

- Effective border management
- Changes to be made in the current visa policy that facilitates and encourages the flow of irregular migrants
- Establishment of common policies among all target, transit and source countries.

3.2.3. Turkey as A Transit Country

Transit migration is generally considered as a subcategory of irregular migration and do not have a universally accepted definition. According to the United Nations, transit migration is a type of migration which migrants temporarily resort to before accessing the destination country (UNECE, 2012: 4). Within the concept of transit migration, the transit country is geographically located between the source and destination countries, and it is the country that needs to manage the temporary population that is likely to turn into a legal or illegal resident group at any time (De Tapia, 2004: 111). The International Organization for Migration defines the transit country as “the country through which legal or illegal migration flows pass” (IOM, 2009: 56). Transit migration is used as an umbrella term and has a number of dimensions. It can cover many different categories such as refugees and labor migrants. However, it is often used to indicate a mix of different types of migration flows such as regular, irregular or temporary. Transit migration is a politicized concept that is used to refer to the unwanted migration towards the developed regions such as the USA and the EU, and transit countries are also held responsible for this unwanted migration (Düvell, 2008: 2-3; Şemşit, 2010: 284-285).

Immigration acquired an “illegal” dimension after European countries started to refuse accepting migrant workers and tightened border controls. Turkey is a key country in terms of the migration movements due to its geographical position. Despite all the difficulties, Turkey, still struggles with the migrants that want to use the country as "transit country" and also tries to block irregular movements to the EU.

Turkey is a natural bridge between the politically and economically underdeveloped Middle Eastern states and rich European countries. For this reason, it is heavily exposed to irregular migration movements from unstable areas. Besides, the economic development achieved in recent years caused immigrants perceive Turkey as a destination country -as well as a transit country. Syria, Iraq, Afghanistan, Bangladesh, Pakistan, Palestine, Ethiopia, Sudan and Somalia are the countries that source the largest numbers of immigrants. Some of the immigrants coming from these countries pass through Turkey while the others target it as a destination country. According to UN data, Turkey is the country that hosts the highest number of refugees in the world (IOM, 2009: 54).

Turkey is a natural bridge between Asia and Europe and it is located among countries that are radically different from each other in terms of their economic, social, and cultural structure, their approach towards human rights and freedoms, and the quality of life, security and stability. For this reason, Turkey is an important stop for the irregular migration to the EU (Deniz, 2015: 212).

Turkey is being preferred by the immigrants as a transit country due to such factors as ;

- its geographical location
- EU's strict policies regarding the protection its borders
- Legal regulations that shape the immigration policies of Turkey.

Due to the EU's restrictive and challenging border managements, immigrants mostly try to reach Europe not by the Mediterranean Sea but over Turkey. Also, the implementation of 'geographical limitation' by Turkey pushes the immigrants to use Turkey as a transit country because with this limitation Turkey can only accept immigrants who comes from Europe. Turkey aims to prevent asylum seekers from becoming residents of the country with the help of geographical limitation. Therefore, this policy increases the possibility of immigrants from the east and Africa to head towards third countries (Doğan-Sertkaya, 2015: 105).

The improvements in the TR-EU relations, although with some on and off periods, are another reason for the preference of Turkey as a transit country. "Southern and Eastern European countries such as Spain, Italy and Poland was emigrant countries before becoming EU members (especially during 1960s) but then they turned into transit and destination countries with the influence of their geopolitical locations.

A similar transformation was experienced in Turkey after the negotiations for full membership were commenced in 2005. The transformation of Turkey into a transit country is also noteworthy as it caused the combat against irregular migration to become a key subject in TR-EU relations (Şemşit, 2010: 254). Therefore, it is possible to say that, TR-EU relations have been constructed upon the basis of "the threat of illegal migration". Turkey made certain regulations to meet EU's expectations in this regard. However, trying to manage the irregular migration towards EU countries brought about miscellaneous challenges that Turkey has to deal with.

A report was issued by the International Organization for Migration in 1995, defining Turkey as a transit country and calling on it to fight irregular migration (IOM, 1995: 4). Accordingly, Turkey intensified its efforts to cooperate with a number of national and international institutions, among which we can count International Migration Organization, United Nations High Commissioner for Refugees, International Center for Migration Policy Development, to enable more effective and efficient studies on irregular migration. As the combat against irregular migration entails cooperation, Turkey became a member in various bilateral, regional and global working groups. The Budapest process, which is a part of this, is important in this respect. In this process the ultimate aim was the prevention of irregular migration, finding solid solutions to combat irregular migration and developing sustainable policies regarding migration management (DGMM, 2019). Turkey also adopted several legal regulations to sustain its struggle against irregular migration on the legal basis. In 2000, Turkey ratified the “UN Convention on Combating Organized Crime across Borders” and also signed a memorandum of understanding with FRONTEX in 2012 (DGMM, 2019).

With the end of the Cold War period, the concept of immigration changed and become even more serious. Today it is on top of the international agenda. In this picture, Turkey is a key actor as a transit country. Having experienced relatively smooth migration movements until then, Turkey was subjected to intense and continuous migration movements after the end of the Cold War. Turkey was providing opportunities for immigrants on one hand, and dealing with the consequences of immigrants' turning to EU countries on the other. Naturally, migration movements moved to the center of the EU-Turkey relations. The following section will analyze the expectations of the EU from Turkey in terms of legal regulations regarding the issue of migration.

3.3. EU's Expectations from Turkey Within the Concept of Migration Policy

The expectations of the EU on migration policy from candidate countries are generally specified in the Chapter 24 of the EU acquis under the title “Justice, Freedom and Security”. This chapter aims to protect and further develop the Union as a field of freedom, justice and security. Member States are tend to be equipped to implement the growing common rules framework in the areas of border control, visas, out-migration, asylum and civil matters. First of all, this requires a good integrated administrative

potential within institutions and other relevant bodies that are to enforce laws that should meet the required standards. A highly professional and efficient police power is also has important role. In the most detailed part of the policy is the Schengen agreement. It also cover the abolition of internal borders. On the other hand, for the member states, acquis are implemented after accession. As mentioned in this Article, Turkey was required to ensure border security, make a common regulation on visa, cooperate with member states in combating crime and criminals, and to develop qualified police force and administrative capacity that would help in achieving these goals (Özçürümez & Şenses, 2011: 241).

It is stated that the right of free movement within the Union will be redefined with a protocol to be made with the new member state provided that the participation is ensured and the responsibilities specified in the Chapter are fulfilled (Özçürümez & Şenses, 2011: 242)

In the progress report of 1998 on Turkey prepared by the EU, Turkey was identified as a transit country. The report stated that it is important for the process of accession that the legislation of Turkey as a candidate country is completed within the framework of the EU's immigration policy. In the progress report of 2001, Turkey was criticized for not having brought in the necessary regulations regarding human trafficking and other related immigration issues (Özçürümez & Şenses, 2011: 240). In 2002 and 2009 progress reports, Turkey was referred to as a transit and destination country. The reports stated that illegal immigration to the EU had significantly decreased with the measures taken during these periods. Another expectation from Turkey was the development of migration-related human resources and technical capacity. In this context, trainings of the related personnel was completed.

Another important expectation of the EU from Turkey was the signing of a Readmission Agreement. The readmission agreements postulate that in case a citizen of the country concerned migrates to one of the member countries illegally, the Union shall send the migrant back to the country of origin. Those who illegally go to EU countries may either be the citizens of the country that signed the Readmission Agreement or may have used this country as a transit country to enter to the EU.

As the EU is in a position of receiving country, the agreement imposes significant responsibilities and costs on other countries. Against this fact, the EU grants some visa concessions to the countries that sign the agreement. The EU also demands the country to adopt certain legal regulations. Although these legal regulations differ from one country to the other, they are generally concerned with ensuring immigration security. (Özçürümez & Şenses, 2011: 240).

3.3.1. Abolition of Geographical Reservations

First of all, the policy that the EU primarily advocates is to take necessary measures to ensure the fundamental human rights and freedoms of refugees. To ensure this, it was stated that Turkey should abolish the geographical reservation to the Geneva Conventions (Akdağ, 2005: 165). Due to the effect of the problems experienced during the Cold War, many people who were being forced to leave the country demanded protection from Turkey. Turkey signed the 1951 Geneva Convention with a geographical reservation. Drawing a geographical boundary, this reservation indicated that Turkey would grant refugee status to only those originating from Europe while considering others as temporary refugees.

The -geographical reservation made by Turkey to the convention led to certain political and legal consequences (İçduygu, Sert & Karaçay, 2009). There are two different views regarding the removal of geographical reservations. On the one side, abolishing of geographical reservations is a necessity because it is important for the protection of human rights and improvement of TR-EU relations. On the other side, with the abolishment of geographical reservations Turkey may face a challenging migration flow (Kirişiçi, 2003: 87).

The 1951 Geneva Convention and the additional 1967 protocol allowed states to put geographical limitations on their obligations. As mentioned above, Turkey made a geographical reservation to the convention. According to the Article 61 of the Law on Foreigners and International Protection : *“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, shall be granted refugee status upon completion of the refugee status determination process” (Law on Foreigners and International Protection, 2013).

Also, according to Article 62 of the Law on Foreigners and International Protection, “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, shall be granted conditional refugee status upon completion of the refugee status determination process. Conditional refugees shall be allowed to reside in Turkey temporarily until they are resettled to a third country” (Law on Foreigners and International Protection, 2013).

With the Law on Foreigners and International Protection, Turkey guaranteed the principle of non-refoulement in domestic legislations and would not be subject to any criticism with this regard. It should also be noted that making geographical reservations is a right given to the parties of the Geneva conventions. In this context, Turkish legislation is not in violation of international legal documents and it seems that the EU’s attempt to lift the reservation is based on security-oriented concerns.

3.3.2. Visa Policies and Europeanization

Alignment with the visa policies of the EU is among the prerequisites for membership for the candidate countries. Member States are expected to fully implement the Schengen Acquis before joining the Union. Although these countries cannot enter the Schengen Area automatically after membership, they are included in this area after the approval of the Council's decision on their capacity and practices regarding border controls and surveillance (European Commission, 2004: 41).

Turkey has close relationships with countries in the Caucasus and the Middle East region due to its geographical position. It is obvious that Turkey follows flexible visa policies

for its interests. Turkey with close economic environment, aims to establish closer relations in terms of political and social issues. It is thought that this will contribute to the economy by increasing trade and tourism revenues between countries. Turkey is expected to be a role model for the surrounding countries with its relatively high social welfare (Eralp, 2010: 3).

Turkey implements liberal and flexible visa policies for the citizens of countries that are not considered safe by the EU and are on the Schengen blacklist. For this reason, it is thought that the foreigners entering Turkey easily as a result of this policy will try to reach EU through different ways. So, liberal policies imposed by Turkey are criticized on the grounds that they do not conform to the legislations of the EU and the Schengen visa regime. (Nas, 2015: 179).

Another criticism directed towards the visa regime of Turkey is that it does not include a holistic implementation for the EU countries. Within the scope of the roadmap prepared during the visa dialogues between the EU and Turkey, it was demanded from Turkey to adopt visa policies that does not differentiate between the citizens of the EU (Özsöz, 2013: 1-4). So, Turkey is willing to adopt the EU's visa policy only when it is considered as fully member state of the Union (Reçber, 2018: 247).

3.3.3. Integrated Border Management

The Schengen agreement blurred the borders within the EU and opened the way for the citizens of the member countries to move freely within the territories of the Union. However, in order to prevent the internal freedom from effecting the external borders of the EU negatively, it was important that the countries bordering the EU provide effective border controls. There was a need for the establishment of a common border management and development of policies in line with the EU legislation. The issue of external borders was important for Turkey also in terms of a possible membership to the Union. Because of the geographical location of the country, Turkey's application to develop a border security was supported with the EU acquis (Akman & Kılınç 2010: 10). Due to the topography of the region that includes the eastern borders of Turkey, it is difficult to control and dominate the security in these areas, especially under difficult winter conditions. Nevertheless, Turkey has a role in the prevention of irregular migration and

terrorist activities that take place in the eastern border (National Action Plan, 2006: 13-14).

Frontex is the institution responsible for the security of the external borders of the EU. A common border security system was set up to prevent the attacks against the EU with the 1999 Amsterdam Agreement, the 1999 Tampere Summit, the 2001 Leaken Summit, Hague Programme (2005-2010) and Stockholm Programme (2010-2015). It was aimed to establish a mechanism that would prioritize the cooperation between institutions (Köktaş, 2010: 249). In this context, Frontex was established in 2004 for the management of the external borders of the European Union member states. Frontex operates as part of the policies followed to prevent or minimize irregular migration.

In this context, the implementations that Turkey tried to develop with regards to border control and security are grouped under three main categories.

- A civilian border security comprising of experts on the coordination of borders
- Establishment of an integrated border management
- Establishment of the necessary infrastructure to improve the border management capacity by updating the equipment to be used and incorporating the experts who are responsible for border.

In the 1999 Helsinki Summit, Turkey was accepted as an official candidate country for full membership to the EU and as of that date, four accession partnership documents have been prepared for Turkey. The accession partnership documents, which were issued on 8 March 2001, 19 May 2003, 23 January 2006 and 18 February 2008, contained certain criteria regarding border security ,. These included a general strengthening of existing capacity, improving coordination with institutions providing border controls, increasing capacity for international protection, signing and implementing the agreement on the readmission of irregular migration, and establishing a competent and trained civil protection mechanism for integrated border management (Savaşeri, 2014: 133).

In order to fulfill the criteria stated in the documents, Turkey prepared the National programs of 2001, 2003 and 2008 that specified the studies to be conducted for the harmonization with EU acquis and border management policies. It was accepted under the Justice and Home Affairs title of the 2001 national program that the capacity of border

management will be improved, the provisions in the Schengen agreement will be completely fulfilled, cooperation between institutions will be ensured and the EU acquis will be adopted on the subject of visa system and irregular migration (National Programme, 2001). In the 2003 national program, the priority was given to taking the necessary steps to develop the legal regulations regarding border management in line with the EU legislation and to the full implementation of the Schengen acquis.

The Progress Report 2016 acknowledged that Turkey made progress on the issues of Schengen and external borders. In 2016, Regulation on Inter-Agency Cooperation and Coordination in Border Management was adopted.¹¹ This regulation aimed to improve cooperation between institutions responsible for border management. Legislative practices to be carried out to create a professional and civil institution responsible for border security had to be suspended due to the problems in countries surrounding Turkey.

According to UNHCR statistics, compared to 2015 and 2016, there is a remarkable decrease in the number of irregular migrant movements in the Aegean Sea. The highest number of crossings was seen in October, 2015 as 211.663 and this number decreased to 2.970 in 2016 (Şen & Özkorul 2016: 109). In 2015, 885,386 irregular migrants migrated to Greece, making 2015 the year when highest number of irregular migrants tried to cross the Aegean Sea. Within the concept of reconciliation that was signed in 16 March 2016, border security was strengthened and number of irregular migrants decreased to 182.777 by the end of 2016 (FRONTEX, 2017). According to 2017 data, this number is 42.305. Since 2015, most of the immigrants on this route have been Syrians, followed by those from Afghanistan and Somalia.

3.3.4. Updating the Legislation on Migration and Asylum

The first legal document on migration and asylum in Turkey is found the Settlement Law of in 1934¹². In 2006, an amendment was made in the Settlement Law and Law No. 5543 came into force.¹³ This law provided a definition for the term immigrant and it only

¹¹ Regulation on Cooperation and Coordination Between Institutions in the Field of Border Management, Number of Decisions: 2016/8520

¹² İskan Kanunu Kanun Numarası 2510, Resmi Gazete ile ilanı: 21 Haziran 1934, Resmi gazete sayısı: 2733

¹³ İskan Kanunu Kanunun numarası 5543, Resmi gazete ile ilanı: 26 Eylül 2006, resmi gazete sayısı 26301

included the people who come from Turkish ancestry and culture who come to Turkey to settle. . Although the definition specifies different types of immigrants, the precondition of coming from Turkish ancestry and culture for a foreigner to be accepted as an immigrant is considered limiting because it does not contain an inclusive method.

The regulations listed above do not contain common provisions in line with international legal texts. Indeed, considering the legal status of the foreigners, Settlement laws was adopted in 1934, and the passport law was adopted in 1951 but the Geneva Conventions was prepared in 1950 and the Convention on Human Rights and Fundamental Freedoms (European Convention on Human Rights) 1953. According to the Constitution of Turkey, international treaties have the force of law. This means that the international agreements are binding and the rights and freedoms of foreigners can only be restricted by the laws that conform to the international law (Tavas, 2015: 313). Regarding migration, Turkey has experienced various processes, turning it from a source country to a transit and then a destination country. For this reason, Turkey chose to make various legal arrangements. However, the legislation established was far from being comprehensive and Turkey was criticized during the accession negotiations for not having an effective and adequate legislation.

In 2009, the decision of European Court of Human Rights about Abdolkhani and Karimni, was to the detriment of Turkey and it stated that the country violated Articles 3, 5 and 13 of the European Convention on Human Rights (Tokuzlu, 2016: 1067). Based on the decision of Abdolkhani and Karimni, Turkey faced a number of decisions made against it in the following years. This process led Turkey to work on making necessary legal arrangements (Tokuzlu, 2016: 1067).

Migration is an interdisciplinary concept and it entails collaboration between national and international institutions, states and organizations. Migration has impacts on the social structure, population, economy, public order, security and health. It is observed that Turkey needs a professional organization in this regard. Various management policies have been developed by the EU for immigration, a problem that affects the entire world.

3.3.5. Impacts of the EU Progress Report Within the Scope Of Irregular Migration

The European Union prepares progress reports for each candidate country every year, showing the extent to which the country complies with the Copenhagen Criteria in various fields and makes recommendations (Ünal & Turan, 2020: 601). Although these progress reports are not legally binding for the candidate country, they are of great importance for the candidate country to join the union. For Turkey, the first time starting in 1998 and until today, it was published every year. At the Cardiff Summit held in 1998, the European Commission announced that it would present a report based on the results of the Luxembourg Summit. The Commission has published its first report on Turkey in October 1998. Turkey's candidacy was approved in December 1999 with this report. Turkey's EU membership process by the Commission, in order to evaluate the distance that was agreed to be held on these reports. These reports not only evaluate national programs, but also explain the extent to which candidate countries have to do their improvements (Ünal & Turan, 2020: 602). Progress reports are documents that contain detailed information about what the EU candidate countries have achieved annually or failed to comply with the Copenhagen Criteria. Although the reports are not legally binding, they are important documents for the candidate country since they reflect the views of the EU about the candidate country.

When it comes to last decade and progress reports, irregular migration was one of the controversial issue in relations. In the 2006 progress report, it was stated that the Integrated Border Management National Action Plan was adopted in March 2006 and it was considered as a positive step in the scope of harmonization with the EU acquis. As in previous reports, it is stated here that the legislation in the field of human trafficking is in line with the EU acquis. However, it was mentioned that there is an increase in human trafficking cases in the region and there is need to increase the efforts to prevent it (Ünal & Turan, 2020: 607). In 2007 progress report, it was said it is important to make the necessary legal arrangements in the on asylum and migration in Turkey. As in previous reports, a proposal was made to train staff working at the borders, to improve their professional skills and to modernize the equipments (Ünal & Turan, 2020: 607).

It was stated that the fight against human trafficking continues and training activities should be organized in order to make progress on this issue. Unlike the term illegal

immigration, the term irregular migration was used for the first time in the 2008 progress report. In respect of the management of irregular migrants in Turkey stated that limited progress has been recorded. It was mentioned that the detention conditions of irregular migrants should be improved and better social opportunities should be provided. It was stated that the cooperation between police and customs in border management, which is important in preventing irregular migration, is weak. It was expressed that a civilian agency should be formed to carry out border controls (Ünal & Turan, 2020: 607). It was emphasized that border cooperation with neighboring countries is very important. It was stated that there has been progress in the fight against human trafficking, but that there is no statistical system required to monitor this (Ünal & Turan, 2020: 608). The 2010 progress report stated that, an increase in the penalties for those involved in human trafficking. Also, the necessity of being fair and improving the conditions of admission in practices towards irregular migrants was emphasized.

Within the scope of preventing irregular migration, "Coordination Board for Combating Illegal Immigration" was established in February 2010. It was emphasized that the awareness of public administrators about the rights of irregular migrants should be increased (Ünal & Turan, 2020: 608). In the 2011 progress report, it was stated that Turkey is an important target and transit country in the field of irregular migration. It was mentioned that the efforts of the Turkish authorities to formulate legislation on this issue is continuing. In the 2012 progress report, it was stated that, after the creation of YUKK, Turkey will have migration management in accordance with EU standards. Criticisms made in previous reports were repeated again, as it was stated that significant progress was not achieved in the prevention of human trafficking (Ünal & Turan, 2020: 608).

3.4. Europeanization of Turkish Migration Policies in the Context of Security

Before addressing the process of adaptation of migration policies and practices in European legislation, it will be helpful to touch upon some milestones in this area to have a full understanding of the issue. In this context, three periods of change can be mentioned. The period before 1994 can be named as the period of ignoring, while the period between between 1994 and 2001 was the transition period to comply with the international norms and the post-2001 period was the period of Europeanization of changes (İçduygu, 2004: 90-91). As mentioned earlier, the 1994 regulation is considered

as a turning point in policies and practices related to migration and asylum due to the institutionalization of certain rules. Although these new rules and measures related to migration and asylum were considered as a positive development, they did not reflect liberalization. On the contrary, they showed that the authority and power of the state was strengthened in the field of migration and asylum. Criticizing the 1994 Regulation, which caused practices contrary to the principle of non-refoulement in the international arena, Turkish officials decided to take serious steps towards the compliance of policies in the field of immigration and asylum with international norms. The most important turning point in this regard was experienced after 2001 (TGNA & UNHCR, 2005). These changes include the new laws on the subject, implementation of complementary projects that would contribute to the institutional and administrative structure of Turkey regarding asylum and migration, compliance with the EU legislation and accession negotiations. Against the current migration flows to Turkey, "the control and supervision of immigration" carries the same importance for both Turkey and the EU countries. The EU's paying particular attention to the flows of irregular migrants and asylum seekers to Turkey creates direct consequences for all of Europe. It is seen that Turkey, as a candidate country, is forced to legally adapt to the EU acquis. Turkey is expected to harmonize its migration policies and practices with the norms and standards set by the EU. These efforts arise in the field of migration in general, and in irregular migration and asylum issues in particular. Turkey has made several changes in the medium- and long-term plans, also its policies and practices to ensure compliance with these standards and thus, strengthened its position as a long standing candidate. Legal arrangements made between 2002 and 2005 emerged as important indications of the commitment of Turkey to the EU membership. Harmonization of the policies and practices regarding immigration and asylum with the EU constitute only one aspect of the Turkey's Europeanization process. Considering that the EU put forward its expectations regarding - immigration and asylum as a condition for membership, it can be said that these have a very important role in this process (Kubicek, 2005).

When determining the degree of Europeanization, 4 different categories can be mentioned (Radelli, 2003: 35). These categories can be listed as; retrenchment, inertia, absorption and transformation. Although not a real transformation yet, it is clear that there have been remarkable changes in Turkey, regarding the issues of immigration and asylum. Although

the inadequate amendment to the Law on Foreigners is an indication of inertia, direct or indirect implementation of EU directives in domestic policy can be expressed as adoption and limited change. As mentioned, the Europeanization of migration and asylum policies does not emerge as radical changes, but as the gradual embracement of new values and practices, that is, absorption. For example, the implementation of readmission agreements, especially the lack of functionality in readmission agreement signed between Turkey and Greece, is one of the most criticized points and thus represents a change which remains in the absorption stage. In the Law on Work Permit for Foreigners in 2003, changes in internal practice can be described as limited changes, as there are fewer European and more national changes (Radelli, 2003: 35).

Starting from 2001, Europeanization has turned into a process which can create a very serious transformation in Turkey's asylum and immigration policies. Therefore, this process should be handled in a more dimensional and more complex manner - beyond the traditional boundaries of the EU integration approach. Therefore, the link between immigration and asylum policies and Europeanization should be examined in both theoretical and practical areas. This chapter will try to develop a conceptual framework to explain how the relationship between the EU integration process and the migration policies in Turkey affected these policies and practices. This framework takes place in a political area where Europeanization interacts with different national and supranational values and interests, dynamics and mechanisms that are intertwined in the globalized world.

While emphasizing some conclusions about the transformation process of the immigration and asylum policies in Turkey, it is necessary to emphasize two main implications. First, transformation process definitely ignores the positive benefits of the change in the policies and practices. Although this positive effect is not very strong, it is modestly effective and this effect is growing steadily. Candidacy to the EU is generally a positive process, but what has been achieved in this context has always been below expectations. In another words, the case of Turkey represents more of an “adoption” rather than “transformation”.

After being a candidate country in 1999, Turkey have had the harmonization of its immigration policies with the EU *acquis* on top of its agenda. During this period, Turkey

began to take steps towards the institutionalization of migration policy, and the EU had a significant influence in shaping Turkey's immigration policies within the context of security. In this respect, Turkey, has made a number of legal innovations to meet the requirement of complying with the EU acquis.

Crises such as Syrian War made the cooperation between Turkey and the EU on this matter unavoidable. The size and nature of the migration, combined with the internal political dynamics in the EU, led to perception of migration from a more security-oriented perspective. The issue of controlling the migration waves directed to Turkey became the driving force behind the attempts to fill the gap in the migration policies. Immigration waves that require an effective management approach, and this approach is one of the main factors that necessitated Turkey's adaptation to the acquis. Recently, Turkey-EU dialogue on migration is particularly shaped over the issue of irregular migrants. That is, the Turkey-EU relations was taken to another level on the basis of border management and migration.

Turkey's acceptance as a candidate country at the Helsinki Summit in 1999 was very important for the development of an immigration policy. With the 2001 Accession Partnership Document prepared after the summit, a framework was drawn to harmonize Turkey's immigration policy with the EU acquis. So, 2000's is the period when Turkey moved into a new era in terms of its immigration policy. In this period, the unsystematic, flexible and temporary regulations were replaced by a process of creating migration policies and practices that started to be institutionalized with the harmonization process and the cooperation and pressure of the supranational and intergovernmental organizations (Güleç, 2015: 3).

Understanding Turkish migration policy cannot be explained without considering EU acquis. Besides Turkey's compliance with the EU acquis, as indicated in the previous sections, security-based migration policy of EU was also critical for the Turkish migration policies. In this sense, the establishment of an area where the internal borders were abolished and the control of the external borders gained more importance caused the migration policies to be handled with a security-oriented approach in the EU over time. The understanding of the management of the EU external borders has been shaped by the approach of ensuring the internal security of the Union. The EU's security-oriented

approach to the migration phenomenon today deeply affects dialogue in Turkey-EU relations on the issues of migration (Yüksel, 2014: 182).

Although it is possible to summarize the historical development and prominent issues in the EU candidacy process in the field of migration policy as above, it will be appropriate to examine the general development and change under the titles of "legal regulations", "administrative structuring", and "agreements and negotiations".

3.4.1. Regulations on Turkish Migration System

Before the EU accession process of Turkey, despite the various mechanisms related to irregular migration, there was hardly no effective domestic policies on migration. Regarding irregular migration, there were only laws regulating relevant trivial issues (İçduygu, 2003: 61). Since this legal framework was indirect, it was far from regulating all aspects of irregular migration. When viewed with a holistic approach to combating irregular migration, Turkey's migration policy and EU full membership process was mentioned about by the EU. Migration policies implemented by Turkey, together with the recent changing circumstances, it is inevitable to reconsider. One of the factors that accelerated this change was the recommendations made during the EU negotiations. Turkey has tried to make some changes to follow EU progress reports. These will be analyzed sequentially.

Visa policy: Although serious restrictions were imposed on the permanent residence of foreigners, the visa regime was quite liberal before the EU harmonization process. Visa requirements for foreigners are regulated by the Passport Law¹⁴. This law has been flexed with privileges given to citizens of different countries, especially since the 1980s. Accordingly, citizens of some countries are exempt from visa requirement up to three months. In addition, bandrol type visas can be issued at the border gates for citizens of more than 30 countries (Apap, Carrera & Kirişçi, 2004: 26-8).

The EU harmonization process also required changes in visa policy. Compliance with EU visa legislation and practices, either in the "2000 Accession Partnership Document" published on 08 March 2000, or in the "2003 Revised Accession Partnership Document" published on 23 May 2006, it is envisaged to adopt the EU *acquis* and best practices on

¹⁴ 15 Temmuz 1950 tarih ve 5682 Sayılı Pasaport Kanunu.

migration in order to prevent illegal immigration (Turkey: 2000 Accession Partnership, 2001: 21; Turkey: 2003 Accession Partnership, 2003: 54; Turkey: 2005 Accession Partnership, 2005: 49). In the National Program prepared with the 2000 Accession Partnership Document and submitted to the European Commission on 26 March 2001; in the medium term; studies to bring visa legislation and practice closer to the EU acquis have been initiated (Turkish National Programme, 2001: 390).

A visa list in line with EU visa policies was proposed in the 2000 Progress Report. Later on, visa policy and border controls were improved, and a series of measures were taken to deter illegal border violations. In 2002 a working group was created by Turkey. This working group was responsible for creation a special calendar for border management and harmonization with EU acquis . In the 2003 Revised National Program, which came into force on 19 July 2003, some decisions were made for visa legislation and practice(İçduygu & Erder & Gençkaya, 2009: 279). These are;

- Continue to harmonize with the EU
- use of high security visa labels
- slowly starting the harmonization of the visa types applied in the country according to the Schengen visa types
- border gates equipped with necessary equipment to monitor document security
- Launch of the airport transit visa application until 2005,
- All of them performed for the Passport Act and the Foreigners made changes in the Law on Residence and Travels in Turkey has been planned.

Management of external borders: Border management represents particular importance for a country's security. The migration flows to Turkey usually come from neighboring countries. An effective border management is needed to combat irregular migration. The fact that Turkey's geographical position as a bridge between Asia and Europe, making it inevitable for the country to border management.

Border management is one of the subject matters should be emphasized Turkey's EU full membership process. It has been claimed that border management of Turkey was not appropriate for EU acqüuis. In all Accession Partnership Documents, the areas where

compliance is required for border management are specified. In the European Union Accession Partnership Document published on 08 March 2001 and in the Revised Accession Partnership Document published on 19 May 2003, the following are foreseen;

- Compliance with the EU acquis in combating illegal immigration
- Improving administrative capacity to develop effective border management, including detection of counterfeit and falsified documents
- Preparation for the full implementation of the Schengen acquis (Turkey: 2000 Accession Partnership, 2001: 21; Turkey: 2003 Accession Partnership, 2003: 49, 54).

In the light of these predictions, harmonization efforts continue within the scope of the adoption of the EU acquis and best practices. In the Revised Accession Partnership Document published on January 23, 2006 there were also some kind of foreseens such as; acceptance and implementation of Border Management National Action Plan, In this context, it is envisaged to establish a non-military and professional border protection agency and to clear the borders from mines (Turkey: 2005 Accession Partnership, 2006: 43).

In the National Program of 26 March 2001 in the issue of border management a number of measures has been planned. For instance;

- Cooperation between the relevant public institutions
- preparation for the full implementation of the Schengen Convention by strengthening border management
- It has been planned in the medium term, reduction of the number of persons in unlawful entering into Western Europe via Turkey. In order to take all these measures, some laws are foreseen to be revised. (AB Müktesebatının Üstlenilmesine İlişkin Türkiye Ulusal Programı, 2001: 389-391)

In the 2003 Revised National Program, which came into force on 19 July 2003;

- Continue to align with EU legislation and best practices on this issue in the medium term
- Series of studies on education, restructuring and legislation are planned, with preparation for the full implementation of the Schengen acquis. In addition, the most

important of the institutional structures envisaged in this area is the provision of legislation, organization, administrative structure and infrastructure for the establishment of a non-military and professional border guard organization until 2000 (AB Müktesebatının Üstlenilmesine İlişkin 2003 Ulusal Programı-Adalet ve İçişleri Başlığı, 2003: 7-8).

Integrated Border Management Action Plan, approved on 27 March 2006 with the multiple aims as follow; It was created for the purpose of planning reforms and legal arrangements for the fulfillment of the control and surveillance duties of the borders and border gates by a law enforcement unit affiliated with non-military civilian authority. For this purpose, the plan includes the investments required for administrative structuring and completion of the physical infrastructure (Ministry of Interior Affairs, 2006: 9). The most striking aspect of the plan is that it envisages the border police structure to be completed gradually in line with the financial assistance provided from EU sources.

Studies on harmonization with the EU acquis on border management continue in the National Action Plan, which includes measures on administrative, technical and legal issues in this area.

Prevention and punishment of migrant smuggling and human trafficking:

Strengthening the fight against human trafficking organizations is envisaged in the European Union Accession Partnership Document and the Revised Accession Partnership Document, published in March 2001 Turkey: 2000 Accession Partnership, 2001: 21-22; Turkey: 2003 Accession Partnership, 2003: 54; Turkey: 2005 Accession Partnership, 2006: 43).

Regarding these priorities, the National Program which came into force in 2001, The UN Convention on Combating Organized Crime of 2000 and the legislation on this issue is planned to be revised. The 2003 Revised National Program foresees that efforts to adopt and implement EU legislation on combating organized crime, migrant smuggling and trafficking in human beings will continue (National Programme, 2003; 15). Within the framework of all these predictions and plans, significant developments have been recorded in the EU integration process. Turkey also signed by the "UN Convention Against Transnational Organized Crime" Human Trafficking, Especially Women and the

Prevention of Child Trafficking, Suppress and Punish Related to the protocol "was approved in 2003.¹⁵

In accordance with the provisions of this contract, additions were made to the relevant laws later. The most important change in the context of combating irregular migration from these additions is the addition of an article to the Turkish Penal Code (TCK) with a law issued on 9 August 2002.¹⁶ In this context, the definition of “immigrant smuggling” and “human trafficking” has been accepted as a crime. Deterrent fines and prison sentences were imposed on those who attempted with perpetrators.

Prevention and punishment of illegal foreign employment:

In the EU harmonization process, the Law on The Work Permit of Foreigners, which entered into force on 06 March 2003 is important in terms of foreigners' access to the labor market. In other words, the law makes it easier for foreigners to take part in the labor market legally. It also constitutes an important stage in the fight against irregular migration and serves the same purpose in terms of foreseeing preventive measures against illegal foreign labor (İçduygu, 2006b: 11).

Prevention of marriage fraud: Within the scope of the fight against irregular migration, it is aimed to prevent the marriage fraud in June 2003 with the amendments made in the Turkish Citizenship Law. In order to obtain Turkish citizenship, a change has been made that stipulates the condition of “being married for 3 consecutive years” (IOM, 2005: 158). Thus, the possibility of irregular migrants to switch to Turkish citizenship through consensual marriage has been eliminated.

3.4.2. The Law on Foreigners and International Protection

While today migration movements become more complex, Turkey is located as destination, receiving and transit country. For this reason, with a comprehensive perspective, Turkey has carried out transparent and participatory legal reform studies that envisaged radical changes in order to better manage the migration area. In the studies based on the inevitability of migration, a security-oriented approach that respects to rights

¹⁵ Kadın ve Çocuk Ticaretinin Önlenmesine, Durdurulmasına ve Cezalandırılmasına İlişkin Protokolün Onaylanmasının Uygun Bulunduguna Dair 30 Ocak 2003 tarih ve 4804 sayılı Kanun.

¹⁶ Üçüncü Uyum Paketi: 4771 Sayılı Kanun .

of all immigrants, especially vulnerable groups, has been tried to be adopted. A migration management understanding in Turkey was formed the basis for the creation of Law No. 6458 on Foreigners and International Protection, which was accepted on 04.04.2013 and published in the Official Gazette dated 11.04.2013, brought a new legal regime on the subject. This law became the main law in the fields of migration management, international protection and foreigners law after it came into force.

The law on the Foreigners and International Protection No. 6458, dated 04.04.2013 Law [YUKK] was published on 11.04.2013 (YUKK, 2013). When the provisions of the organization were published, other provisions were envisaged to come into force one year later, on 11.04.2014. There are many factors in the preparation of the YUKK, especially in compliance with the EU Acquis and ECHR judgments. However, YUKK, which brings many innovations and changes in Turkish law, is not an arrangement that covers all foreigner matters. Judgments were written under the headings of foreigners, international protection and organization. When the articles are examined one by one, it is seen that the foreigners' entry, residence, expulsion, administrative surveillance, international protection and administrative organization are regulated. There are also provisions on foreigners' right to work.

In regulations regarding foreigners; some rights of foreigners are restricted or prohibited by states for reasons such as public security, public health and public order. Situation is similar in practice in Turkey. However, as stated in Article 16 of the Turkish Constitution, the fundamental rights and obligations of foreigners can be limited in accordance with international law (Erten, 2015: 5). In this context, Turkey entry and exit of foreigners from Turkey Passport Law No. 5682 dated 15.07.1950 and Law on the Residence Permits for Foreigners in Turkey established the general framework of the new YUKK law (Official Gazette, 1950).

During the accession to EU, Turkey made commitment to create modern, compatible with international norms and fair migration management systems (İçduygu & Aksel, 2012: 43). However, the existing legislation is insufficient in the face of the increasing number of foreigners and problems arise due to this insufficiency. In this context, YUKK published 6458 on 11.04.2013 in order to regulate the procedures and principles regarding the scope and implementation of the protection to be provided to foreigners. The question

of whether there is a need for a new legal arrangement about foreigners can be answered that it is too late. There are many internal and external reasons for this that are not independent from each other, which are also mentioned in the general justification of Law No. 6458.

YUKK consists of 5 parts and its sub-parts (126 Articles). The first part gives information about the purpose and scope of the law. In the second part, foreigners arriving in Turkey and their residence permit and deportation is arranged. The third section covers refugee, conditional refugee, secondary protection, application, evaluation, granting refugee or temporary asylum status within the scope of international protection. The fourth part includes foreigners and international issues. In the fifth part, it gives information about the establishment and duties of structures such as migration management, migration policy board (Demirhan & Aslan, 2015: 45). One of the trigger for the establishment of YUKK was due to Turkey's geographic location in the transit country is becoming a destination location (Ergüven & Özturanlı, 2013: 1033).

In the report published by the General Directorate of Migration Management regarding the need for YUKK, the legal factors and the EU harmonization process are presented as two reasons behind YUKK (www.goc.gov.tr, 2013). Besides, in the general justification of YUKK, it is mentioned that the law has many reasons, both internal and external. When examining the way of preparation of YUKK, it can be seen that the law is addressed on three main bases. These are;

- Foreigners entering and exiting the country and their residence in the country
- International protection
- The Directorate General of Migration Management (DGMM)

In Article 3 of Law No. 6458, definitions of some of the concepts mentioned in the text are included. In the 3rd Article migration defined as *“Regular migration whereby foreigners’ legally enter into, stay in or exit from Turkey as well as irregular migration whereby foreigners enter into, stay in or exit from Turkey through illegal channels and work in Turkey without a permit; as well as international protection”* (YUKK, 2013). Accordingly, Law No. 6458 contains the provisions regarding the establishment, duties

and responsibilities of the General Directorate of Migration Management, along with regular and irregular migration.

Foreigners entering and exit the country and their residence in the country:

Judgments about foreigners were mostly included in the second phase of YUKK. This part, entry into Turkey by foreigners, residence and exit from Turkey was arranged. Generally entry into, stay in and exit from Turkey of foreigners was organized in Passport law. In the Passport law, it was including changes for both foreigners and also exits of citizens. Also, the regulations on the citizens were more extensive. Thanks to YUKK, in Article 124, most of Passport Law provisions on foreigners have been repealed. Turkey's position considering the entry of foreigners, generally similar to during the Passport Law period. Nevertheless, it can be said that there are developments in terms of their content compared to before. There are also some of common articles between Passport Law and YUKK such as ; Entry into country must be made through border gates(YUKK, 2013).

One of the main instruments of migration control is the visa issue. It is also important in terms of relations with the EU for Turkey. Turkey's visa policy has been criticized from time to time by the EU in some aspects especially in the case of security (Ariner, 2014). Considering these issues, in the Law No. 6458, detailed provisions on visa for the entry requirements are included. Articles 11 to 17 deal directly with visa issues (YUKK, 2013). Considering these articles, it is seen that the obligation to obtain a visa, the authorities authorized to issue a visa, who are exempt from visa, some types of visa, who will not be given a visa, the visa cancellation and the powers granted to the Council of Ministers regarding the issue are determined.

The Directorate General of Migration Management (DGMM)

According to YUKK, it is emphasized that there was an insufficiency of institution in terms of migration in Turkey. Also, it is said that Turkey needs an authorized institution on migration issues. This is important because migration covers economy, cultural, social structures beside public order.

Because of geographical location of Turkey, it has been considered as transit country but in the recent years it is started to consider as receiving country. So, there is a strong belief for establishment of intuitions that arrange this variation. In order to apply an actual and

useful policies on migration, Turkey enacted YUKK (YUKK, Law no. 6458). In the Article 103 with this law, the DGMM, integrated with Ministry of Interior, was established with the goal of actualize migration policies of Turkey. The general objectives of the DGMM are clarified as carrying out migration policies of Turkey and creation of this policies (YUKK,2013). In general term, the duties of the DGMM was clarified, in Article 104, as implementation and managing the migration policy of Turkey. In this respect, concepts such as human trafficking, irregular migration and harmonization with EU are defined main actions and interest of Turkey. It is clear that the main duty and responsibility in the field of migration will be carried out by the General Directorate. The Directorate General will contribute to the development of legislation on migration and increasing administrative and physical capacity through its activities.

The Migration Policies Board was established with Article 105 of the relevant law (YUKK). The Board is chaired by the Minister of Interior and Ministry of family and social policies also the Board comprised of different kinds of ministries. The main task of the Migration Policies Board was to determine the immigration laws, policies and strategies are listed in the following;

- Preparing strategy documents, implementation documents with regard to migration,
- Measures and methods to be applied in the issue of mass migration flows,
- A solid cooperation with international organizations and foreign countries, for instance EU, in the area of migration,
- To implement decisions to create mutual coordination between organizations and institutions in the area of migration (YUKK, Article 105).

Commission and permanent boards of Migration Management were established with Article 113 of the YUKK. Accordingly, the permanent boards and commissions of the General Directorate are as follows:

- Migration Advisory Board
- International Protection Assessment Committee
- Coordination Board on Combating Irregular Migration.

Migration Advisory Board

The Board meets regularly twice a year. The duties of the board are specified in the relevant law. These duties are; Monitoring immigration practices and making recommendations, to evaluate the new regulations planned to be made in the field of migration, to evaluate migration-related legislation studies and practices and to establish sub-commissions to work in the field of migration, to evaluate the reports that will come out after the commission's work.

International Protection Assessment Committee

The duties of the commission are as follows, to evaluate and decide on the decisions made on international protection applications and the objections made against other decisions about the applicant and international protection status holder and also, Evaluating and deciding objections against the expiration or cancellation of international protection

Coordination Board on Combating Irregular Migration

The Board meets every six months with an agenda. The duties of the board are as follows: To ensure coordination between law enforcement units and relevant public institutions and organizations in order to combat irregular migration effectively, to improve by identifying Illegally entering Turkey and the exit road from Turkey, developing measures for irregular migration with the cooperation to EU, planning and monitoring the implementation of legislation in the field of combating irregular migration.

CONCLUSION

Migration is as old as the existence of humanity and is a constantly changing, developing and increasing process. The instinct of nations to always seek better conditions brought along spatial changes. Although backwardness related to transportation and technology caused the dimensions of migration to be limited in the past, migration started to change dimensions with the concept of globalization. The change in migration has led to the development and diversification of theories on migration over time. International migration has spread everywhere in the world geography and continues to increase gradually.

Migration is a process that requires cooperation. With its cross-border dimension, immigration has ceased to be a problem of a single country, but has gained a structure that affects more than one country. At this point, states have entered into cooperation activities to regulate and control international migration and have sought ways to manage international migration. However, management of international migration is not as easy as it seems. It is necessary to regulate how to act in the face of international migration, to establish rules and to establish organizational structures, in short, to establish migration governance.

The need for cooperation in many areas related to migration has been better understood in the historical process. Changing security perceptions, especially in the 2000s, pushed countries to think about international migration. Considering international migration as a threat has accelerated the cooperation processes. The independent but externally interconnected structure of the world order and the international migration movements made it necessary for international cooperation for economic, security, public order and humanitarian reasons. International cooperation in the field of migration has been attempted at various levels.

Following the end of the Cold War, the discipline of international relations witnessed a bilateral discussion between those who advocated the preservation of the classical meaning of security and those who advocated the evaluation of security from a broad perspective. Those who claim to keep security in the traditional sense; they stated that adding new dimensions to security threats will cause 'security' to lose its intellectual meaning. Those who claim to expand the content of security to cover other issues stated

that the problems in the new world order cannot be explained solely on the basis of military characteristics and effective solutions cannot be produced against these problems. However, the vast majority agreed on an approach that expanded the content of security understanding. Thus, with the end of the Cold War era, the military-based and rigid security understanding of the traditional security approach has been replaced by a non-military-based security approach. Security has expanded both horizontally from military security to human security and vertically to include political responsibilities in resolving security problems. New security conceptualization has begun to take shape according to threat and actor. As a result of the redefinition of security, a series of asymmetric threats have been encountered, ranging from state security to environmental security, migration / refugee problems, demographic problems to water problems.

The securitization approach in which the Copenhagen School theorists contributed to security studies as a third way to include both classical security and the new understanding of security is important after the Cold War. It is important in terms of showing how immigration in the EU is considered a vital problem and a security problem that needs to be taken precautions. The basic approach of the Copenhagen School, which is considered as the main theory of the thesis, is to bring a critical perspective to security theories, including the understanding of constructivism. Focusing largely on the way security issues interact with domestic policy, the approach adopts the idea of 'securitization'. Referring to a process in which certain actors transform domestic policy issues into national security issues; expresses that if something is deemed a security issue, it will constitute a security problem. In order for an issue to pose a security threat, it is necessary to take urgent measures outside the scope of ordinary political processes and procedures in the presence of the threat in question. The securitizing actor brings an issue of daily life to the private sphere through 'speech-act', first presenting it as an existential threat, then turning it into a security problem. In other words, securitization points to the existence of a situation where everything can threaten everything through discourse.

In the second part of the thesis, the basic principles and strategies of the European common migration policy and its development in practice, treaties, summit decisions, five-year programs for the establishment of freedom, security and justice are discussed. It has been observed that there is continuity in the development of the EU common migration policy. The complex nature of the decision-making processes as well as the EU

institutional structuring and the long time taken have affected the development, clarification and success of the EU migration policy. However, despite these difficulties, significant progress has been made in the common migration policy both at EU level and in the literature. These developments include the establishment and expansion of the Schengen area, the establishment of the European Common Asylum System, a series of regulations that advance the issues of immigration and asylum, the establishment of a common policy language on migration within EU institutions, through institutes and think tanks established in the field of migration and supporting scientific studies.

The EU common migration policy has developed in line with the goal of creating an area of freedom, security and justice. The establishment of an area of freedom, security and justice is based on the provision of “people's right to free movement”. However, the free movement of persons brought some problems in terms of internal security, and revealed the need for strengthening external borders. Removing borders between member states has lifted member states' practice of checking the entry and identity of individuals. In this context, security concerns are targeted, in particular not allowing criminals, drug traffickers, smugglers or irregular migration networks to abuse freedom of movement. Thus, it has made the strengthening of external border controls the main and priority strategy. Therefore, it was decided that measures such as strengthening external border controls and adopting common standards on migration, asylum and visa policies should be taken. This assessment highlighted the security dimension of the development of the common immigration policy. Another element that stands out in the EU common immigration policy is the acceptance of the understanding that valid solutions can be found in cooperation with other actors, especially source and transit countries. In this framework, on the basis of the principle of respect for fundamental rights and freedoms, the EU has turned towards developing common policies and practices for transboundary issues such as illegal immigration, human trafficking, terrorism and organized crime. The issue of preventing illegal immigration is the most important goal and strategy within the scope of EU migration management. It has often been stated that the issue of illegal immigration should be addressed effectively in order to develop immigration management on a valid and sustainable basis. It is the most basic determination reached in the study that the studies for the establishment of a common immigration policy of the EU have not been completed and this area is open to continuous improvement. For

example, common asylum system, joint status, joint visa it is seen that the studies / searches are continuing and the targets determined are not reached completely.

There has also been a significant increase in the number of actors involved in the union's common policy making process. In particular, after the 2004 and 2007 enlargements, the number of governments to adopt and implement regulations has increased. However, common policies adopted at EU level greatly shape the development of national systems in these countries.

As a result, it is possible to argue that, with the effect of socio-economic developments, the EU migration policy focuses on combating unwanted migration and strengthening the borders to achieve this, and that migration is “securitized” with a security-oriented approach. Although the securitization approach is evident in the EU common immigration policy documents and in practice, it is also observed that a balanced policy is pursued by emphasizing immigrant rights and anti-discrimination. However, the issue of migration is still handled within the scope of freedom, security and justice together with security issues such as fight against organized crime and drug trafficking. Efforts to strengthen border controls and related institutional structures draw particular attention. On the other hand, there are initiatives and efforts to keep immigrants in place and prevent migration in place, especially for the purpose of increasing cooperation with source and transit countries. These efforts provide insight into the strategy to be followed by the EU. In addition, supporting member states to develop their capacities in migration management draws attention as another important element of the EU strategy. In this context, taking into account the current difficulties at EU level, practices such as attracting qualified workforce, combating irregular migration, developing and implementing a strong and common asylum policy, cooperation with third countries and protection of external borders will be implemented by the EU in the upcoming period. It would be realistic to assume that it will continue to form the basis of its immigration policies and strategies.

Experience of migration laws in the process of Turkey's EU candidacy, administrative restructuring, international treaties and agreements are discussed in the third section of the parallel. In the third section, the policies followed in the historical course of migration are also analyzed.

Turkey is in a dynamic region between West and East. It will continue to be an important migration route in the future, as it has throughout history, as it is a bridge between some Middle East and Asian countries that are in economic bottleneck. Despite the important developments in transportation, technology and communication in our age, it has been observed that geography is an important / determining factor in the migration experiences of both states and individuals. The identity chosen to define the Turkish nation-state came to the fore as the Turkish identity, and the subsequent migration and asylum policies were shaped by being of a Turkish ancestry or culture.

Western European countries, which entered a rapid development process in the 1960-1970s and after the Second World War, chose to meet their own labor shortage from underdeveloped peripheral countries. Turkey in the framework agreement on the issuance of the Federal Republic of Germany in 1960, first as labor in this context of "guest workers" has sent. This process ended with the negative impact of the 1973 oil crisis on European economies. But in a way that did not stop migration from Turkey to Europe, mainly because of continued family reunification.

Turkey in this period was not only seen as a country of emigration but immigration and transit countries. EU, demanded from Turkey to change its immigration policy, both in terms of development and supporting. These demands were, legal regulations and structuring of a civil administration specialized in this field. Turkey's position in the immigration issues, globalization has been mainly determining geographic location as well as emerging economies. Especially, political conflicts and instability in neighboring geographies triggered this process. EU's immigration policies, are thought to be brought to the fore Turkey's "transit" and "destination country" attributes.

Solid attitude towards Turkey's full EU membership for Turkey's paved the way for completely revise policies and laws related to migration processes and new immigration policies have encouraged the development. The issue of migration has become an important and priority agenda item in international platforms, especially in relations with the EU, and within the country. For Turkey, like many countries, it is a new field of migration management in the state administration. Recently, there have been important developments in the field of legal changes, new legal regulations and administrative structuring in this field.

Law No. 6458 on Foreigners and International Protection entered into force on 11.04.2013, abolished the important provisions of the Passport Law, which was the basic regulation in the field of immigration until this date, and a new legal regime was introduced. Within the scope of this development, it has become the basic law in the fields of immigration management, international protection, and foreigners law and the General Directorate of Migration Management has been established under the Ministry of Interior. It has been observed that the law, including the preparation process, content, language and especially the new system it has brought, is a part of the reforms in the field of immigration policy and administrative structure, largely shaped by the EU candidacy process. It is considered that the Law provides the legal basis for an effective migration management with an EU membership perspective and covers basic standards.

Legal and administrative arrangements for the management of migration processes in Turkey, there has been a clear and weighted determination of EU migration policies. In the common migration policy developed by the EU, it has been observed that the most important strategic tool in combating illegal immigration is readmission agreements with the relevant third countries. In the area of migration policy, Turkey-EU relations will continue with Readmission Agreement and the Visa Dialogue.

Regardless of the reason, mass human mobility has now gained a quality that only the source or target country cannot produce solutions alone. Today, there is a process in which mass human mobility is evaluated on the basis of security-threat perception for all actors in the international system. In this context, mass human mobility can be perceived as a human rights issue at the individual level as well as a security problem at the state level.

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