



Europeanization and De-Europeanization of Turkish Asylum and Migration Policies

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14.1 INTRODUCTION

This chapter analyzes Europeanization and de-Europeanization processes in Turkey in its migration and asylum policies since the 1999 Helsinki Summit and, in particular, during the rule of the Justice and Development Party (*Adalet ve Kalkınma Partisi*, AKP) since 2002. The Europeanization of migration and asylum policies and laws corresponds with the internalization of a rights-based approach by state and societal actors in Turkey up until the eruption of the Syrian civil war in 2011. In turn, the de-Europeanization process can be understood as a process by which migration and asylum policies at the national and local levels in Turkey have been framed in cultural and religious terms. This chapter asserts that the AKP leadership redeployed a path dependent, ethno-cultural and religious logic that underlined the Islamic discourses of ‘guesthood’ and the ‘Ansar spirit’ in receiving and welcoming Syrian refugees—a logic based on the quest to become a ‘soft power’ in the Middle East.

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Refugees ‘are people who cannot return to their country of origin because of a well-founded fear of persecution, conflict, violence, or other circumstances that have seriously disturbed public order, and who, as a result, require international protection’ (UNHCR, 2020a). Signatory countries to the 1951 Geneva Convention on the Protection of Refugees are expected to ensure that migration management policies, practices, and debates take into account the particular protection needs of asylum seekers, refugees, and stateless people, and acknowledge the legal framework that exists to meet those needs. Turkey, as a signatory, is bound to adopt migration policies in accordance with the needs of refugees as well as of asylum seekers whose quest for sanctuary has yet to be processed.

A key argument of this analysis is that from the very beginning of the refugee plight caused by the civil war in Syria, Syrians were welcomed by the Turkish government on the basis of allegedly deep-rooted values such as ‘Turkish hospitality’, ‘Muslim fraternity’, ‘Arab hospitality’, and ‘guesthood’ traditions.¹ The reason Turkey has viewed Syrian migrants in this light is its intention to uphold the ‘geographical limitation clause’ of the 1951 Geneva Convention. According to this limitation clause, Turkey is only bound to accept people as *refugees* if they come from European countries.² It has adopted the Temporary Protection Regulation³ (No. 2014/6883) for Syrians in need of sanctuary.

In discussing (de-)Europeanization, this chapter uses a model based on policy transfer, which is helpful in understanding the processes of Europeanization in policy areas where the European Union (EU) pressure is indirect, such as migration and refugees. In this vein, the analysis follows the understanding of Radaelli (2000: 30), who defines Europeanization as

processes of construction, diffusion, and institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’,

¹For a detailed discussion of these traditions in the region see De Bel-Air (2006), Pérouse (2013), Chatty (2013), Erdoğan (2015).

²The Refugee Convention of 1951 was initially interpreted as having a ‘geographical limitation’, meaning that it applied only to refugees from Europe. This was amended by the 1967 Additional Protocol, but Turkey and a few other countries decided to continue following the limitation.

³This regulation sets out the rights, obligations, and procedures for the individuals who are granted temporary protection, a status resembling the subsidiary protection status that exists in the EU.

and shared beliefs and norms, which are first defined and consolidated in the EU policy process and, then, incorporated into the ‘logic of domestic discourse’, identities, political structures, and public policies.

Accordingly, de-Europeanization can be defined as the process of reversing the alignment of formal and informal rules, procedures, policy paradigms, styles, ways of doing things, and shared beliefs and norms (see also Alpan, 2021, Chapter 5).

The chapter benefits from a set of in-depth interviews conducted with state and municipal actors, such as the Directorate General of Migration Management, Yunus Emre Institute, Ministry of Development, and Ministry of Labor and Social Security, as well as some local municipalities in Istanbul. Several migration experts and migrants were also interviewed during this process. The desk research includes the content and discourse analyses of official texts, speeches of political leaders, and the official websites of relevant national and local bodies.

The chapter starts with a brief introduction to the global context in which Turkey’s migration and refugee policies have developed. A short history of Turkey’s migration and asylum laws provides the background for the subsequent analysis of legislative changes during the EU accession process since the Helsinki Summit in 1999. In this context, the chapter scrutinizes the ‘National Programmes for the Adoption of the *Acquis*’, the visa liberalization process, the Readmission Agreement, and the instrumentalization of Syrian refugees, which are of particular importance, as well as Turkey’s Law on Foreigners and International Protection (2013). On this basis, the study continues with an analysis of Turkey’s quest to become a model country and soft power on the one hand, and the discursive framing of ‘migrants’, ‘guests’, and ‘foreigners’ on the other. It closes with an assessment of Turkey’s de-alignment from EU norms in connection with its foreign policy aspirations and the EU–Turkey refugee ‘deal’ of 2016 (European Council, 2016).

14.2 GLOBAL CONTEXT

Many countries have received large numbers of refugees since the Second World War. However, the conflict in Syria, coupled with violence and human rights abuses in other parts of the world, continues to be by far the biggest driver of mass migration in the past decade. With the intensification of violence in Syria and several parts of the Middle East

and Africa, massive numbers of civilians, forcefully uprooted from their communities, have fled and continue to flee conflict zones, seeking shelter both in the region and in the EU. In 2015 alone, more than a million refugees crossed EU borders (UNHCR, 2020b). The EU and its member states were faced with the enormous challenge of coping with this partly unexpected mass migration, which created new divisions and political fissures among member states over how best to deal with resettling these migrants.

One of the most popular migration routes to Europe starts in Egypt and Libya and ends in Malta and Italy (Lampedusa and Sicily, respectively). This route is favored mostly by sub-Saharan African migrants. However, it has also recently been used by Syrians in the aftermath of the EU–Turkey (Refugee) Statement, which came into force on 18 March 2016, when Germany and the Netherlands took the lead to make a deal with Turkey to seal off its borders so as not to let refugees travel to the Greek islands. The statement also included financial terms committed by the EU to help Turkey accommodate and integrate Syrian refugees as well as to relocate them in the EU (European Council, 2016). Prior to the Arab Spring in 2011, the African route was less commonly used than the Eastern Mediterranean route. The Eastern Mediterranean route simply refers to the sea crossing from Turkey to Greece. In 2012, it became the second most popular route by a small margin, only to witness a surge in 2013–2014 due to the civil conflicts in Eritrea and Syria (Frontex, 2015).

Even though migration of refugees to Turkey subsequently slowed, and more than 350,000 Syrians returned to Syria between 2016 and May 2019, Turkey, as host to more than 3.5 million refugees, is still by far the country with the highest number of refugees in the world.⁴

Historically and geographically speaking, Turkey is known to be one of the leading destinations for refugees. Because of its location between two continents, imperial legacy, and tumultuous nation-building process, Turkey has always been exposed to different forms of mass migrations and emigrations (Erdoğan, 2015; Kaya, 2015). Hence, state actors have been engaged in formulating migration and asylum policies and laws since the late Ottoman period (Kale, 2015). These policies and laws will be

⁴As of 18 November 2020, the number of foreigners under temporary protection was 3,635,410. For the latest figures see the official website of the Directorate General of Migration Management, <https://www.goc.gov.tr/gccici-koruma5638>. Accessed 27 November 2020.

briefly examined before detailing the processes of Europeanization and de-Europeanization of Turkey's migration and asylum policies under AKP rule.

14.3 A SHORT HISTORY OF TURKEY'S MIGRATION AND ASYLUM LAWS

Turkey's migration and integration policies have been formulated in response to various challenges originating from regional and global sources. The current policies have been shaped by migration patterns stemming from the dissolution of the USSR; regional developments in the Middle East, the Caucasus, and sub-Saharan and North Africa; growing tension in Afghanistan; the European integration process and growing right-wing populism; Islamophobia and xenophobia following 9/11; the financial crisis, and refugee crises. In addition, domestic forces have been decisive in the formation of migration and integration policies. The most crucial of these factors is probably the high number of internally displaced people who have had to leave their hometowns and villages since the early 1990s (Kaya et al., 2009).

Before the enactment of the Law on Foreigners and International Protection (Law No. 6458) in April 2013 (Resmi Gazete, 2013), there were three main legal texts regarding immigration and related issues: (1) the Law on Settlement adopted in 1934; (2) the 1951 Geneva Convention on the Status of Refugees; and (3) the Regulation on Asylum of November 1994.

Collaboration with other countries and with international, intergovernmental, and non-governmental organizations is important for the management of irregular migration. The United Nations High Commissioner for Refugees (UNHCR) plays a significant role, especially in Turkey's current asylum policy. During the Cold War period, it was the main agency overseeing Turkey's asylum policy and ensuring resettlement of refugees from Turkey. Moreover, it was responsible for providing basic assistance and accommodation for asylum seekers and refugees in Turkey. During the 1980s, UNHCR could continue this practice with respect to the growing number of asylum seekers arriving from non-European countries, especially from Iran and Iraq. However, after the massive entry of refugees into Turkey following the end of the Gulf War in 1991, relations between Turkey and UNHCR gradually worsened. The deteriorating security conditions in Southeast Turkey resulting from the activities of the

Kurdistan Workers' Party (*Partiya Karkerên Kurdistanê*, PKK) adversely influenced Turkish officials' attitude, particularly toward asylum seekers who had entered and were present in Turkey illegally (Kirişci, 2005). The 1994 Asylum Regulation reflected such concerns. The government ceased cooperation with UNHCR, and the initial implementation of the Regulation led to criticism from human rights and refugee advocacy circles. Nevertheless, UNHCR and Turkey's Interior Ministry officials did rebuild their partnership in 1997.

Closer cooperation has since also developed between the Turkish government and intergovernmental organizations such as the International Organization for Migration and the International Labor Organization. A good example of such collaboration was the program to help the return of stranded irregular migrants from Turkey to their homelands, under which over 550 irregular migrants received return assistance between 1995 and 1997 (İçduygu, 2003: 62).

However, the most influential anchor for the development of Turkey's migration and asylum laws during this period was the EU. In fact, since the EU confirmed Turkey's candidate status, the issue of asylum seekers and irregular migrants has become one of the most significant debates between the two sides. To reduce the tensions that had arisen regarding human rights, as well as economic and political implications of irregular migration, Turkey has taken steps to establish an appropriate administrative and legal framework to regulate and combat irregular migration and human trafficking (İçduygu, 2003: 56). Turkish authorities have since tried to strengthen their efforts to establish and enforce laws and regulations for achieving this goal.

14.4 CHANGING LEGISLATION IN THE EU ACCESSION PROCESS

14.4.1 *The National Programmes for the Adoption of the Acquis and Legislative Changes in Migration and Asylum Policy*

The Helsinki Summit of December 1999 officially recognized Turkey's candidacy status and gave impetus to further development of EU–Turkey relations and to a revision of Turkey's migration and asylum policy. The EU adopted an 'Accession Partnership' strategy for Turkey in 2001, followed by the 'National Programmes for the Adoption of the *Acquis*' (NPAA), which were accepted by the Turkish government (Council of

the EU, 2001; Resmi Gazete, 2001).⁵ The NPAA is a detailed, multi-annual plan for the alignment of domestic legislation with EU regulations. It was subsequently renewed in 2003 and 2008. The NPAA details infrastructural tasks, ranging from the establishment of reception and accommodation centers to the construction, or acquisition, of buildings to house specialized administrative units to deal with asylum applications. It also envisages the development of a country-of-origin information database. The NPAA notes that a reassessment of Turkey's interpretation of the geographical limitation clause of the 1951 Geneva Convention will be taken up during accession negotiations (Kirişci, 2005).

The Accession Partnership coordinating Turkey's entry to the EU was prepared by the European Commission (EC) in 2001, and subsequently revised in 2003, 2006, and 2008 (Council of the EU, 2008). It set out the following objectives for migration and asylum policy to eradicate relevant misconceptions between Turkey and the EU:

1. to pursue alignment of visa legislation and practice with the *acquis*;
2. to adopt and implement the *acquis* and best practices on migration (admission, readmission, expulsion) with a view to preventing illegal immigration;
3. to continue alignment with the *acquis* and best practices for border management in preparation of full implementation of the Schengen Treaty; and
4. to start alignment of the *acquis* in the field of asylum, including lifting the geographical limitation of the 1951 Geneva Convention, strengthening the system for hearing and determining applications for asylum, and developing accommodation facilities and social support for asylum seekers and refugees (Tokuzlu, 2007).

The 2003 NPAA promised legislative changes in migration and asylum laws in Turkey, such as establishing reception centers for asylum seekers, strengthening the database that keeps track of refugees' and asylum seekers' countries of origin, and developing social support mechanisms for refugees in the fields of education, health, interpretation services, and

⁵For 'National Programmes of Turkey for the Adoption of the *Acquis*' see also Republic of Turkey Ministry of Foreign Affairs (2019).

employment (Resmi Gazete, 2003). The revisions made in the NPAA in 2008 included the continuation of Turkey's efforts to implement the National Action Plan on Asylum and Migration, such as the adoption of a roadmap for implementing a comprehensive asylum law in line with the EU *acquis* and the establishment of an asylum authority to increase the capacity for combating illegal migration in line with international standards. The revisions also included promises to establish an Asylum and Immigration Unit under the Ministry of Interior, and the employment of experts to work in this field, which later led to the foundation of the Directorate General of Migration Management in 2014. Turkey also promised to establish an Asylum Training Curriculum for the alignment of the treatment of asylum applicants with the EU *acquis* (Resmi Gazete, 2008).

The visa regime governing entry and residence in Turkey is more liberal and flexible in comparison with the EU *acquis* as it currently stands. As such, Turkey has faced the problem of balancing its interest in accession to the EU, which asks Turkey to tighten its entry regime, with the demands of its growing tourism industry for a liberal visa policy. For instance, in 2002, there was a disagreement between Turkey and the EU regarding citizens of third countries in need of visas. There were 21 countries on the EU 'negative visa list' that did not require visas for Turkey. Consequently, Turkey introduced visa requirements in 2002 for six Gulf countries: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates, which are also subject to visa requirements according to the EU regulations. In 2003, an additional group of 13 countries was deemed to require visas: Bahamas, Barbados, Belize, Fiji, Grenada, Indonesia, Jamaica, Kenya, Maldives, Mauritius, Santa Lucia, Seychelles, and South Africa.

In Turkey's 2004 progress report, the Commission assessed that Turkey continued alignment with the EU negative visa list and introduced a visa requirement for citizens of Azerbaijan in November 2003 (European Commission, 2004). Furthermore, in 2005 Turkey introduced visa requirements for the Marshall Islands and Micronesia. By the end of the same year, the discrepancy between the EU's visa obligations list and that of Turkey's was limited to only six countries. In total, the EU managed to persuade Turkey to impose visa requirements on more than 20 countries in its blacklist. However, Turkey's visa regime remained more liberal than that of the EU due to the possibility of obtaining sticker visas at the Turkish borders (Tokuzlu, 2007: 3–4).

In accordance with the accession process, Turkey is required to apply a uniform visa policy toward all EU citizens and to adopt the Schengen negative list. The EU also requires Turkey to tighten its borders with countries such as Armenia, Georgia, Iran, Iraq, and Syria. In 2003, Turkey opened negotiations on a readmission agreement with the EU. Later, in collaboration with the EU, Turkey implemented the Integrated Border Management Strategy in 2006 to comply with the EU *acquis* on tackling irregular migration and trafficking in human beings. In relation to visa requirements, aliens must have an entry visa affixed to their passport or substituting documents to enter Turkish territory. Generally, Turkish consulates and embassies in the country of origin issue visas or permanent residence, and citizens of countries subject to visa requirements must apply to Turkish missions abroad.

Of particular importance is the amendment to the Law of Residence and Travel for Foreigners in Turkey, which was put into force on 1 February 2012 (Law No. 5683). It makes it more difficult for foreigners to continue living and working in Turkey without a residence and work permit. Until then, many foreigners used to travel to the nearest country to officially exit Turkey after their 90-day visa expired and then immediately re-enter with a new 90-day visa. However, the new law only allows foreign citizens entering the country with a tourist visa to stay in Turkey for 90 days, and they are not allowed to re-enter before a 180-day period has elapsed (*Hürriyet Daily News*, 2012; Resmi Gazete, 2011).

Prior to the enactment of the new law, the Turkish state enforced a similar law in 2007 to regulate the entry and exit of Bulgarian and Romanian citizens in Turkey, who used to have strong economic links with Turkey. Following the legal barriers set for them, the nationals of other countries such as those from the Middle East, Armenia, Georgia, Central Asian Turkic Republics, and the South Mediterranean countries started to fill in the gap in the informal market, mainly caretaking, house cleaning, suitcase trading, etc. Such forms of migration are circular in normal circumstances, but the 2012 law is more likely to increase the number of undocumented migrants who cannot afford to have a 90-day break in between their visits to Turkey and therefore have no other choice than staying in Turkey illegally.

Today, the EU's impact is visible in the readmission agreements signed by Turkey with 15 countries: Belarus, Bosnia Herzegovina, Greece, Kosovo, Kyrgyzstan, Moldova, Montenegro, Nigeria, Norway, Pakistan, Romania, Russian Federation, Syria, Ukraine, and Yemen. Turkey has also

drafted and submitted agreements to Algeria, Egypt, Ethiopia, Georgia, Israel, Jordan, Kazakhstan, Lebanon, Libya, Mongolia, Morocco, Nigeria, Sudan, Tunisia, and Uzbekistan (Republic of Turkey Ministry of Foreign Affairs, 2020).

14.4.2 *Readmission Agreement, Visa Liberalization, and the Instrumentalization of Syrian Refugees*

Despite the ongoing asymmetrical character of EU–Turkey relations, Turkey has transformed its migration and asylum system in the last decade and harmonized it with the EU *acquis*. Combating irregular migration has become a part of the EU-based harmonization process. Turkey’s engagement with the EU’s readmission agreement can be seen in the context of the country’s efforts to become a member of the Union; in this way, it is also directly linked to the country’s aim to have a visa-free regime for its citizens visiting the EU member states.

EU readmission agreements are based on reciprocal obligations and are concluded between the EU and non-EU countries to facilitate the return of people residing irregularly in a country to their country of origin or to a country of transit. They are negotiated in a broader context, in which partner countries are usually granted visa facilitation and other incentives such as financial support for implementing the agreement, or special trade conditions in exchange for readmitting people residing without authorization in the EU. The EU–Turkey Readmission Agreement (2013) was signed in parallel with the commencement of the Visa Liberalization Dialogue (VLD). The agreement was meant to be another key driver toward Turkey’s alignment with the EU *acquis* within the context of migration and asylum. Both sides committed themselves to international burden sharing, solidarity, joint responsibility, and common understanding. Accordingly, the EU would start the visa liberalization process six months after the Readmission Agreement was put into force at the end of the next three-year period in 2016.

However, visa liberalization is subject to the condition that the EU will observe Turkey’s implementation of the process for six months to see if Turkey is going to properly operate this visa regime. The two sides also agreed on the removal of Turkey’s geographical derogation in the 1951 Geneva Convention on the Status of Refugees. Turkey accepted the removal of this restriction upon the completion of the accession negotiations to become a full member. The EU–Turkey Statement on migration

(European Council, 2016) reassessed the determination of both sides to make sure that the Readmission Agreement operates successfully and that Turkish citizens will have the right to visa-free travel. However, the failed coup attempt in Turkey on 15 July 2016, followed by the two-year state of emergency, interrupted the visa liberalization process.

Irregular migrants and Syrians residing in Turkey, and the Readmission Agreement, continue to be instrumentalized and used as ‘bargaining chips’ between Turkey and the EU. This was apparent when Syrians under temporary protection in Turkey started to feel threatened during the disagreement between the EU and Turkey over gas drilling on the shores of Cyprus. In the course of rising tensions in summer 2019, Turkish Foreign Minister Mevlüt Çavuşoğlu announced the unilateral suspension of the Readmission Agreement. The crisis resulted in the EU placing sanctions on financial assistance to Turkey. In return, Turkey announced it would suspend the readmission system as part of the EU–Turkey ‘deal’ that had been operating since March 2016 (Kaya, 2020; Euroefe, 2019).

Irregular migrants and Syrians under temporary protection in Turkey have also been instrumentalized on other occasions. When 34 Turkish soldiers were killed in an air strike by Syrian government forces in the province of Idlib in northwest Syria in February 2020, the Turkish army immediately responded with explosive drones targeting the regime forces. One day after the incident, the Turkish Minister of the Interior announced that Turkey had opened its borders with Greece and Bulgaria to allow refugees to head toward the EU via land and sea. As the news spread around the country, buses, taxis, and cars full of refugees made their way to the western borders of Turkey. The situation at the Turkish-Greek border led to the rise of a new refugee crisis in the EU. The foreign ministers of the EU member states discussed the situation, and the EC announced EUR 700 million support for Greece and EUR 500 million for Turkey (Erlanger, 2020). The Commission also announced that it was considering restarting the visa liberalization and visa facilitation talks with Turkey (Deutsche Welle, 2020). The crisis was eventually resolved after the Turkish president asked the security forces to seal off the European borders following his meeting in Brussels with the top EU actors on 17 March 2020 (Wintour & Smith, 2020). It seems that by opening its borders Turkey has made gains in the short run on its foreign policy objectives, while the maneuver caused even more suffering to refugees.

14.4.3 *Turkey's Law on Foreigners and International Protection*

Until the enforcement of the Law on Foreigners and International Protection (Law No. 6458) in 2014, refugee protection in Turkey was regulated by secondary legislation, mainly by administrative circulars. This had led to the informal ad hoc implementation of practices toward asylum seekers by police officers working under the authority of local departments of foreigners, passport, borders and asylum in different cities, since these rules were non-binding. The new law was the first domestic law regulating asylum practices in Turkey. Its adoption represented the first significant step toward the transformation and regulation of asylum and migration for Turkey since the ratification of the 1951 Refugee Convention. As an extension of the NPAA in 2003 and 2008, it regulates the entry, exit, and the stay of migrants in the country, along with providing scope for international protection for those who seek asylum in Turkey.

The Law on Foreigners and International Protection is the most evident illustration of Europeanization in Turkey (Dimitriadi et al., 2018; see also Alpan, 2021, Chapter 5). It completely changed the main body of previous law on the status of foreigners. It brought changes to the Law on Work and Residence Permits for Foreigners and regulated the rules regarding the rights to family union, long-term residence, education, health services, and labor market mobility of regular and irregular migrants. Under the 2014 law, the management of the Turkish asylum system is the task of a civil authority under the Ministry of Interior, ensuring standardized practice across the country. Within the Directorate General of Migration Management a special section called the Harmonization and Communication Department concentrates on the integration of migrants of any kind. However, it does not specifically regulate the rules regarding political participation, access to nationality, and anti-discrimination. And although it addresses matters related to fundamental rights, residence permits, and work permits, it does not include relevant articles on the naturalization of foreigners (Migrant Integration Policy Index, 2015).

Based on Article 91 of the Law on Foreigners and International Protection, a separate regulation sets out the details of the status of temporary protection (Regulation No. 2014/6883). On 8 April 2014, a draft was introduced to 53 public institutions and organizations. Eventually, a Temporary Protection Regulation was issued by the Council of Ministers on 22 October 2014. This regulation aims to resolve the

unclear status of those living under temporary protection, as the law refers only to this status with a vague definition, according to which temporary protection may be provided for foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a ‘mass influx’ situation seeking immediate and temporary protection (Article 91/1). Although this directive does not specify the nationality of refugees, its provisions are applied solely to Syrians as they are currently protected under the Temporary Protection Regime (Gümüş and Eroğlu, 2015). Accordingly, people under temporary protection have the right to remain in Turkey (Article 25) and access free healthcare (Article 27). Among other positive features, the directive also prohibits people from being punished for irregular entry and stay (Article 5); prohibits the forcible return of refugees or asylum seekers to a country where they are liable to be subject to persecution (refoulement) (Article 6); provides an identity card that can be used to access state schools and to apply for work permits (Article 22); makes the work permit process more straightforward (Article 29); and establishes a provision for free translation services (Article 30).

14.5 THE ARAB SPRING AND THE COUPLING OF FOREIGN POLICY AND MIGRATION AFFAIRS

14.5.1 *The Transformation of Turkish Foreign Policy*

The legal framework formed by the AKP government since 2002 with regard to the management of migration and asylum issues in Turkey was successful in aligning with EU legislation. However, one could not argue the same as far as the political and economic framework is concerned. The Turkish state’s political and economic motivations gradually contributed to the de-Europeanization of Turkey, as well as to the growth of religiously motivated foreign policymaking (Özbudun, 2014; Pupcenoks, 2012). In this context, the Syrian refugee crisis and the Arab Spring acted as turning points in Turkish migration and asylum policies (for key milestones in EU–Turkey relations see Turhan & Reiners, Chapter 1).

The first group of Syrian nationals found refuge in Turkey by crossing into the province of Hatay in April 2011. Initially, the AKP government expected that the Assad regime would soon collapse, and it estimated that around 100,000 Syrians at most would stay in Turkey for two or three weeks (Erdoğan, 2014). Following the escalation of the domestic conflicts in Syria, the AKP government declared an open-door policy toward the

Syrian refugees in October 2011. Accordingly, Turkey allowed Syrians with passports to enter the country freely, and treated those who had entered without documents in a similar way. It guaranteed the principle of non-refoulement, offered temporary protection, and committed itself to providing the best possible living conditions and humanitarian assistance for refugees (İçduygu, 2015a). Turkey also immediately responded to the mass migration through the new legal framework of migration laws, which was then in the making, in parallel with the alignment of migration and asylum laws and regulations with the EU. This open-door policy toward Syrian refugees can be interpreted in different ways, ranging from humanitarian and religious to political and ethno-cultural drivers. Critically, it must also be seen in connection with Turkey's foreign policy objectives, seeing that the AKP government has so far conceptualized migration and asylum as intertwined with foreign policy.

When the Arab Spring erupted at the end of 2010, Turkey's foreign policymakers were caught off guard. Then Foreign Minister Ahmet Davutoğlu (2013: 866) considered the process a political 'earthquake' in the Middle East. In accordance with this change, Ankara had to reconsider its 'zero problems with neighbors' strategy (see also Torun, Chapter 13), which entailed a combined approach toward cooperative security relations and economic interdependence (Davutoğlu, 2010). The Arab revolutions forced Turkish foreign policy to take on a new role in the 'new' Middle East, although the country did not have the capabilities to be active beyond its role as a model democracy in Muslim societies (Gonzales, 2015).

The transformation of Turkish foreign policy was marked by a shift from a parochial foreign policy structure to a rather imperial one that harked back to Ottoman times. In this context, the AKP cadres—especially Davutoğlu, former prime minister and foreign minister—deliberately made neo-Ottoman and Islamic references to meet supporters' expectations. This new foreign policy imagined a time when peoples could freely interact culturally, economically, and politically, thereby reintegrating a region (the Middle East) that had been artificially fragmented (Davutoğlu, 2001). As Bill Park (2018) put it, Turkey's Kemalist order had been part of a wider and alien regional order that the AKP and the Arab Spring movements promised to replace with a return to 'normality', in which the traditional norms and values of 'the people' would be decisive.

Ahmet Davutoğlu's school of thought was of particular significance in the neo-Ottoman and pan-Islamist transformation of Turkish foreign policy (Özpek & Yaşar, 2018) that sought to expand across three continents—Asia, Europe, and Africa—and to lead to an imperial revival. Davutoğlu took the Arab Spring as a perfect opportunity to change the Western-imposed order associated with the secret Sykes-Picot Agreement of 1916, consisting of artificial borders and nation states in the Middle East (Çınar, 2018). In his speech as foreign minister addressing the ambassadors serving in Ankara in 2011, he represented his ambitions for Turkey as follows:

The Middle East and the Balkans have not seen peace and prosperity since the collapse of the Ottoman Empire. People in these regions are waiting in great expectation from Turkey as the heir to the Ottoman Empire. Reunification between 2011 and 2023 with our brothers in those territories we have lost between 1911 and 1923, and thereby the establishment of a new Middle East would mean the rise of not only Turkey but also the Middle East. (Davutoğlu, 2011, translated from Turkish)

The statement makes clear that Turkey's foreign policy designers initially perceived the Syrian civil war as an outcome of the Arab Spring, offering Turkey opportunities in the Middle East. Under these circumstances, Turkey developed an ambition to become the actor in the Middle East with the potential to shape the political order of the region and applied a more assertive foreign policy. At the early stages of Syrian migration, it linked its foreign policy objectives to open-door and humanitarian asylum policies. However, the failure of Turkish foreign policy in the region, along with the growing number of refugees, ultimately resulted in the revision of this policy toward one based on 'temporary protection', 'voluntary return', and 'burden sharing'.

This transition becomes visible in the rhetorical framing of the situation. At the beginning of the Syrian migration in 2011, Turkey rejected international assistance for its humanitarian effort, aiming to prove that it could deal with matters politically and economically on its own. On international platforms, the cost of the Syrian refugee flow was used to demonstrate Turkey's strength and its role as a model country in the Middle East helping subordinated peoples. In 2012, Turkey started asking, in mild tones, for financial support (Aljazeera Turk, 2012), avoiding the representation of Syrian refugees as a threat or risk in domestic and international

domains, repeatedly calling them ‘guests’ and ‘brothers’ who would one day return to their homeland (Haber7, 2014a). This approach continued until 2015, when the financial burden of the Syrian refugees severely hit Turkey, and when the EU fell into the so-called ‘refugee crisis’.

14.5.2 *Turkey’s Ambition as a Soft Power*

One further important driver for Turkey’s response to the Arab Spring and the Syrian refugee crisis is Turkey’s quest to become a soft power in the region (see also Torun, Chapter 13). This quest, which implies the use of both hard and soft power to attain foreign policy objectives in the region, has radically changed Turkey’s official discourse on becoming a country of immigration. Nye (2011: 20–21) defines soft power as, ‘the ability to affect others to obtain preferred outcomes by the co-optive means of framing the agenda, persuasion and positive attraction’. In this regard, Nye (2004: 11) suggests that there are three building blocks for a country’s soft power that coexist within a multi-actor environment: culture; political values, and a country’s foreign policy.

Following this understanding, creating a visa-free environment can be regarded as contributing to soft power. In this sense, and in line with Turkey’s changing foreign policy toward the Middle Eastern countries in the second half of the 2000s, Turkey abolished visas with neighboring or regional countries, such as Jordan, Lebanon, Syria, and Saudi Arabia, despite these being on the EU’s blacklist and subject to strict visa regulations. Motivated by economic gains from further integration in the region and its power ambitions, Turkey was prepared to de-align its visa regulations with European legislation and de-Europeanize its foreign policymaking processes. This liberal visa regime even triggered discussions about the construction of a new Schengen-like visa-free area in the Middle East (Elitok & Straubhaab, 2010: 7).

The enforcement of the Law on Foreigners and International Protection (Law No. 6458) in 2014 also signifies the ruling government’s quest to leverage the Turkish state’s soft power by using migration and mobility as an important element of its foreign policy. Originally, the law was partly designed to attract an increasing number of qualified foreigners, including students and qualified, skilled labor, to work in Turkey. However, the Syrian refugee crisis delayed the entry of the law into force, and the humanitarian element was later added to this quest in response to the crisis.

14.6 DISCURSIVE FRAMES OF ALIENS: 'MIGRANTS', 'GUESTS', AND 'FOREIGNERS'

The process of de-aligning Turkey's migration and asylum policies from EU norms is also visible in state actors' religious and de-secularized political discourse with regard to the reception of Syrian refugees (Kaya, 2020). The reception of Syrian refugees in Turkey is mainly based on a discourse of tolerance and benevolence driven by path dependent, ethno-cultural, and religious premises dating back to the Ottoman Empire of the late nineteenth century as well as to the establishment of the Turkish Republic in 1920s. The vocabulary that has been used to identify Syrian refugees represents a kind of continuity with regard to the naming of 'migrants', 'guests', and 'foreigners' since the early days of the Republic.

The Law on Settlement (1934) is one of the foundational legal texts defining the ways in which the Turkish state has identified newcomers. It was adopted with the arrival of ethnic Turks in the early years of Republic (T.C. Cumhurbaşkanlığı Mevzuat Bilgi Sistemi, 2006) and continued to be the main legislative text dealing with immigration, determining who can enter, settle, and/or apply for refugee status in Turkey. It also provides individuals of Turkish descent and culture with the opportunity to be accepted as immigrants and refugees in Turkey (İçduygu, 2015b). For instance, Uzbeks, Turkmen, Bulgarian-Muslims, and Uyghurs migrating to Turkey from different parts of the world are referred to as 'migrants' (*göçmen* in Turkish) in the official documents as well as in everyday life, as they are ethnically of Turkish descent. This differentiates them from non-Turkish people, who are labelled 'guest' (*misafir*) or 'foreigner' (*yabancı*).

In the official literature, the term 'guest' has been hitherto used to refer to refugees with Muslim origin but without Turkish ethnic origin coming from outside the European continent. Kurdish refugees in the 2000s and Syrian refugees in the 2010s were regarded as 'guests', since Turkey does not officially accept refugees coming from anywhere except its western boundaries. Bosniak and Kosovar refugees seeking refuge in Turkey in the 1990s were an exception, as they were coming from the western borders of Turkey and had the right to apply for asylum in Turkey in line with Turkey's interpretation of the Geneva Convention's geographical limitation clause. On the other hand, the term 'foreigner' is often used in official texts as well as by the public to refer to those who are neither Turkish nor Muslim. These groups cannot be incorporated into

the prescribed national identity, which is mainly based on what I call the ‘holy trinity’ of Sunni-Muslim-Turkish elements. Accordingly, not only non-Muslims coming from abroad but also autochthonous groups such as Greeks and Armenians are referred to as ‘foreigners’ or ‘local foreigners’ in legal texts (Çetin, 2002).

To this extent, a more recent metaphor to qualify the role that the Turkish state and the pious Muslim-Turks give to Syrians in Turkey has been the *Ansar spirit* (Arabic for helpers). As a metaphor, *Ansar* refers to the people of Medina, who supported the Prophet Mohammad and the accompanying Muslims (*muhajirun*, or migrants) who migrated there from Mecca, which was under pagan control. The metaphor of *Ansar* originally implied a temporary situation, as the Muslims later returned to Mecca after their forces recaptured the city from the pagans (Haber7, 2014b). Hence, the Turkish government has used Islamic symbolism to legitimize its actions on the Syrian refugee crisis. Framing the arrival of Syrian refugees within the discourse of *Ansar* and *Muhajirun* has elevated public and private efforts to accommodate Syrian refugees from a humanitarian responsibility to a religious and charity-based duty (Erdemir, 2016).

Government leaders have consistently compared Turkey’s role in assisting Syrian refugees to that of the *Ansar*. In his speech in Gaziantep, one of the most popular destinations for the Syrian refugees in the Syrian border, then Prime Minister Davutoğlu publicly stated that the inhabitants of Gaziantep are a city of *Ansar*: ‘Gazi[antep] is an Ansar city now. God, bless you all’ (Akşam, 2014). Similarly, President Recep Tayyip Erdoğan used the same discourse in his speeches in 2014 and afterwards:

In our culture, in our civilization, guest means honor, and blessing. You [Syrian guests] have granted us the honor of being Ansar, but also brought us joy and blessing. As for today, we have more than 1.5 million Syrian and Iraqi guests. (Hürriyet, 2014, translated from Turkish)

Deputy Prime Minister Numan Kurtulmuş used similar rhetoric when he introduced the right to work for Syrian refugees under temporary protection:

The reason why the Syrian refugees are now settled in our country is hospitality and Ansar spirit that our nation has so far adhered to. There are other countries that cannot do anything when encountered with a few

hundred thousands of refugees. But contrary to what the rich and prosperous countries could not do for the refugees, our country did its best for the refugees as a generous host, friend, brother and neighbor. (Sözcü, 2016, translated from Turkish)

The problem is that by framing their efforts on behalf of Syrian refugees as an act of benevolence, Turkey's assistance is based on laws of religious charity rather than on universal laws of human rights. Bureaucrats working in the migration sector have also embraced such a religious-based discourse with regard to the reception of Syrian refugees in Turkey.

14.7 CONCLUSION: DE-ALIGNMENT FROM EU NORMS

This chapter has revealed the development of Turkey's asylum and migration policies under the impact of different influences, including international sources, historical roots, the EU accession process, and recent crisis situations in the Middle East. The Arab Spring coupled with the civil war in Syria directly impacted Turkey's foreign policy aspirations in connection with its migration and asylum regime, and triggered Turkey's quest to become a 'soft power' in the region. In line with its aspirations to become a pivotal power in the region, Turkey's migration policies have become more liberal and humanitarian.

In terms of EU–Turkey relations, there were contradictions in Turkey's migration policies caused by the processes of Europeanization and de-Europeanization. The most prominent result of Europeanization was the formation of the Law on Foreigners and International Protection (Law No. 6458) (2013). However, the Europeanization of management of migration and asylum in Turkey was interrupted by growing pressure from Syrian mass migration. The religious-based and de-secularized discursive frames used by the AKP government and relevant state actors in relation to Syrians residing in Turkey led to the de-Europeanization of migration and asylum processes. It went hand in hand with the processes of Islamization and de-secularization of Turkish foreign and domestic policymaking.

The EU–Turkey Statement (European Council, 2016) confirms the strong impetus toward cooperation between the two sides. However, this chapter has revealed that the source of cooperation between the two sides is not shared values or the process of convergence, but mutual interests (see also Tekin, 2021, Chapter 7; Turhan & Wessels, 2021, Chapter 8).

The EU–Turkey Statement is therefore rather an indication of Turkey’s de-Europeanization process. The incidents that occurred during the opening of European borders by Turkey for the passage of irregular migrants and their push back by the Greek security forces and Frontex showed that the statement has excluded relevant voices, or has only heard them in part. Greece and the Western Balkan countries have been strongly affected by the deal. More importantly, the deal has been indifferent to the concerns of migrants themselves. It harms the needs of the most vulnerable—Syrians and other irregular migrants in Turkey—by subjecting them to the precarious Turkish protection system, or by not helping them to resettle in the EU. In other words, the deal indicates that the ‘principle-based normative EU’ was partly replaced by an ‘interest-based EU’.

The EU–Turkey Statement also shed light on the role of the European institutions in the development of migration and asylum policy in EU–Turkey relations. The statement caused great controversies surrounding its legal nature, and has neglected the role of the European Parliament and the European Court of Justice as guarantors of EU norms and values. The EU institutions originally agreed that the EU–Turkey Statement is not an international agreement and not an EU act either. This position was taken not only by the European Council and the Council, but also by the European Parliament and the Commission. EU institutions and representatives did not always seem convinced of their ultimate position on the legal nature of the statement. Eventually, in a debate held within the European Parliament in 2016, the EU–Turkey Statement was considered an international agreement concluded by the European Council, acting on behalf of the EU (European Parliament, 2016). All these controversies show that the European Council is often more decisive in the formation of migration and asylum policies between the EU and Turkey than the Parliament, the Commission, or the European Court of Justice (see also Reiners & Turhan, 2021, Chapter 16).

Within Turkey, growing animosity and hatred have been observed against the Syrians in the country, which has been politically and socially fragmented, economically weakened, and institutionally destabilized after the inception of the presidential system in April 2017. The growth of socio-economic and political problems in Turkey seems to have increased intolerance among Turkish citizens toward all kinds of refugees and migrants, exacerbating racist, xenophobic, and Arab-phobic sentiments in

the country. Current developments in Turkey with regard to the perception of refugees by the majority of Turkish citizens indicate that Turkey is now on the verge of starting a new chapter called ‘Turkey’s refugee crisis’ (Kaya, 2020).

As of today, the EU and Turkey seem to have lost their trust in each other in the course of time, shifting from peaceful cooperation to conflictual cooperation on various agenda items such as migration, energy, and security (Saatçioğlu et al., 2019). EU member states have shown, and continue to show, reluctance to share the responsibility of refugees not only with other member states such as Greece and Italy, but also with Turkey. Meanwhile, Turkey opted for instrumentalizing refugees in order to reach its foreign and economic policy objectives. This constellation of actors and interests is complex and not easy to resolve. But the joint challenges also demonstrate the potential for common approaches of the EU and Turkey toward the Middle East to improve the situation of refugees and migrants and to address the causes of flight from Syria and beyond.

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