

Europeanization of Migration and the Effects on Non-State Actors: The Turkish case

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Abstract

During the last ten years, Turkish state and the Turkish society have undergone a series of changes in the quest for complying with European standards, in order to become a member of the European community. One of the most pertinent areas that were influenced by this candidacy process has been and will be on the matter of migration and asylum in Turkey. The European Union's restrictive legislative and administrative measures against irregular migration and its pursue to externalize migration control creates new preventive measures against migration flows that pass from Turkey. However, Turkey's long-standing reluctance against granting refugee status to people from non-European countries and its geostrategic position which makes it the most used transit country constitute challenges for the harmonization to a common immigration policy. Considering the Europeanization as an interactive concept, it can be argued that a considerable amount of change would be effective also on the actors outside of the Turkish state that deal with the issue of migration, such as UNHCR, INGOs and NGOs. In this article I aim to trace the effects of the policy changes that occur due to the Europeanization in the Turkish legislature on migration and asylum in order to comprehend the direct and indirect outcomes of the change on the non state actors. I argue that (a) even though the major trigger of reform is the Europeanization, the outcome of the process is expected to bring the state back in, especially for the processes of the reception, determination, processing mechanisms (b) the international organizations are in fact becoming complementary partners to the process of Europeanization and (c) there is an evident intensification of non state actors' role in the matter of integration and social support.

Introduction

During the last ten years, Turkish state and the Turkish society have undergone a series of changes in the quest for complying with European standards, in order to become a full member of the European community. A "new frame of reference on Europeanization" (Bayraktar 2009) has been transfused Turkish public and collective actions by a series of rules, procedure, paradigms, styles, ways of doing and shared beliefs and norms (Radaeilli 2006). One of the most pertinent areas that were influenced by this candidacy process has been and will be on the matter of migration and asylum in Turkey. Since the Helsinki Summit of 1999, new programs, negotiations, twinning projects or roadmaps and national action plans are being implemented by both European and Turkish officials.

Turkey's harmonization process in the matter of asylum and irregular migration has been critical due to several reasons. Being considered as a country of emigration until 1990s (Erder 2000), Turkey's becoming of an immigration country is not mature, and the policy making on the issue has been mostly shaped by disregarding policies. Up until the 1990s, the Turkish policies on migration and asylum were mostly based on the Settlement Law of 1934 and United Nations' Geneva Conditions of 1951¹. The 1994 Migration Bylaw has been a considerable step towards more systematized regulations for asylum and migration due to the fact that the Turkish authorities have taken the responsibility of granting refugee status- which was previously managed solely by the UNHCR (İçduygu 2007). However as argued by the specialists working in the field, the implementation of the bylaw has not been sufficient. In addition, Turkey still continues to apply the geographical restriction of the 1951 Geneva Convention² which means that Turkish state's legal obligation concerning refugees is applied only to persons who seek asylum as a result of events in Europe. Therefore, the non-European do not have any opportunity to demand for asylum and refuge in Turkey. On the contrary, Turkey's geopolitical position that is located at the crossroads of migration routes to the European Union generates an increasing burden on Turkey, especially with regarding irregular migration and human trafficking. The outcome of this situation is a prerequisite for the side of the Turkish governments to manage and regulate the issue which is becoming a national problem in time and at the same time a constant demand from the part of the EU for the limitation of possible future flows. Nevertheless, as it can be observed in most of the harmonization processes, several subjects on migration seem to cause difficulties for the alignment with the *acquis communautaire* on the way to European membership. One of the major subjects on the matter of migration policies is the geographical limitation of Turkish legislation for accepting the refugees. The elimination of this article has been mentioned in the National Action Plan of 2005 as a possibility after 2012, if the European side would "[enable] opportunities for the equal sharing of responsibility and equal distribution of Turkey's burden", in order to act against a possible increase in the refugee flow. If Turkish governments' aim is to maintain a harmonized migration policy to the European Union's conditions, such problems are causing inertia in the overall process.

Considering the Europeanization as an interactive concept, it can be argued that a considerable amount of change is effective also on the actors outside of the Turkish state that deal with the issue of migration. As a result of the geographical restriction and the disregarding policies, the United Nations High Commissioner for Refugees (UNHCR), has for long been one of the key institutions that managed the refugee reception, status determination and processing in Turkey. Hence, after the entry to Turkey, an immigrant is obliged to make two demands of asylum: the first one has to be in relation to the Ministry of Interior for

¹ Until the adoption of the 1951 Convention on Refugees, Turkey did not have asylum legislation. According to the Law on Settlement adopted in 1934 (Law 2510), only individuals of 'Turkish descent and culture' could obtain the refugee status. According to Article 4 of this law, 'those who are not attached to Turkish culture, anarchists, spies, nomads and gypsies may not be accepted to settle in Turkey' (Kirişçi 2000; Daniş and Bayraktar 2010).

² For the full text of 1951 UN Convention relating to the Status of Refugees see http://www.unhcr.ch/html/menu3/b/o_c_ref.htm

temporary asylum in the country and the second to UNHCR³ for a longer process of asylum and refuge, which in the end would result to immigrant's resettlement in a third country. In addition to UNHCR, there are a good number of international as well as national organizations and NGOs which work for service provision and advocacy.

As it will be argued in the next section, the impact of the EU immigration and asylum policy has been diverged among different perspectives set by different core questions (Lavenex 2007a). With an effect to bring together some aspects of these perspectives, I focus on the Turkish case and try to understand the outcomes of the whole Europeanization process of the immigration and asylum on the non state actors. I believe that Turkish case represents the two sides of the coin. On the one hand, Turkey very closely linked to the whole issue of harmonization with the European Union's common immigration and asylum policies due to its possible future membership and therefore the conditionality. This situation renders critical the measures taken for the sake of harmonization with the EU *acquis* on the topic of immigration. On the other hand, Turkey's current status as a long-lasting candidate and the European Union's decreasing lack of credibility about the membership entails the adoption of a more statist perspective, which is somehow supported by the process of Europeanization. I try to adopt a constructivist focus with an institutionalist touch to take hold of the changes at the macro and micro national levels, so as to identify the new forms of interactions between the Turkish state, the non state actors and the European Union. I argue that (a) even though the major trigger of reform is the Europeanization, the outcome of the process is expected to bring the state back in, especially for the processes of the reception, determination, processing mechanisms (b) the international organizations are in fact becoming complementary partners to the process of Europeanization and (c) there is an evident intensification of non state actors' role in the matter of integration and social support.

Conceptual Framework

The nomination of Europeanization as a field of study happened in the late 1990s, with the second wave of studies in the European studies after the first intergovernmentalist approach. These studies were dominated by analyzes on "the effects of Europeanization on domestic systems of governance" (Falkner 2005, 15). Claudio Radaelli's (2006) well known definition of Europeanization gave a distinctive explanation of the notion of Europeanization, which included cognitive and bottom-up aspects to the institutional processes:

"process of construction (a), diffusion (b), and institutionalization (c) of rules, procedure, paradigms, styles, ways of doing and shared beliefs and norms, formal and informal, defined and consolidated first in the decision-making process of the EU and then incorporated in the logic discourses, identities, political structure and policies at the domestic level."

³ The immigrants could make their demands in either Ankara or Van. UNHCR also has an office in Istanbul where people considered as "vulnerable" (elderly, pregnant women and minors) can demand for asylum.

Radaelli defined Europeanization the study of the impacts of European Union on policies, politics and policies of national level. Europeanization does not occur through a unique set of vertical transfers between EU politics and national context but also contains horizontal diffusions, imitations and emulations between member states, where the EU has the role of an agent of socialization. So the study of Europeanization interests on the impacts of EU-ization. However the impacts are not limited to member states of European Union. The mechanisms of transfer include other members of the equation that are not literally members of the European Union, who have strong relations and integrate without participating (Radaelli 2006, 193-195). Author indicated that there are two principle approaches to Europeanization: first one consisting of top down analysis, where EU has to exercise some form of pressure in order to create a change and the second from bottom up, including a vast number of dependents on the national level such as actors, problems, resources, styles and discourses (Radaelli 2006, 196-198). Hence, Europeanization is not only about normative measures and its cognitive dimensions demonstrate the diffusion of representations, orientations, reasoning, action principles, arguments, practices and instruments in a non compelling way. This is a series of actions that may happen either on a vertical scheme, by the initiatives of EU institutions or a horizontal one, through infranational or national interactions. Soft laws are an example of cognitive dimensions of Europeanization that can be explained by texts such as resolutions, declarations, communications, opinions, recommendations, White Papers and Green Papers proposed to member and non member states that imply changes without imposing them. Apart from vertical forms of cognitive Europeanization, horizontal forms aid to the change in national contexts. These are through European spaces that unite members (Hassenteufel 2008). In the case of Turkey, a country which is not a member of European Union the vertical dimension of cognitive Europeanization is more pertinent. The accession negotiations of Turkey occur via a benchmarking process, where the country is evaluated and compared to EU member examples with a result of soft laws. However, the isolation from a social EU network limits the possibilities of interaction to other European actors. And this situation gets sorted out on some level by non statist actors in Turkey, through alternative instruments such as informal contacts, which will be discussed in the upcoming sections.

Europeanization of migration and asylum

The issue of irregular migration has been treated in the constructivist migration literature as “a matter of securitization” (Huysmans 2000) since the end of 1980s and especially after the collapse of the Berlin Wall. Before the latter, the Western European countries were welcoming the refugees from the east as a means to strategic benefit from the provision of refugee protection (Loescher 1989). However, the legacy the end of Cold War and the “uncontrolled mass emigration from Eastern Europe” (Castles 1993, 10) that gave birth to new issues challenging the integration such as multiculturalism and xenophobia, served as a reference point for the perception of the migration issue for the institutions and the public opinion in the union. The result was more restrictive legislative and administrative measures at the communitarian level, such as policies regarding the free movement, aspects of

immigration and asylum policy, creation of EU citizenship and anti-discrimination laws (Geddes 2003). Since the Tampere summit in 1999, the European Commission has tended towards “a more expansive European immigration policy” and a common policy that would harmonize the national systems (Shain 2009). These policies would be triggered not only in the Western European member states but also in the countries with direct borders to the rest of the “Fortress Europe” and in the neighborhood of the union (Czaika 2009). Therefore, new multilateral and bilateral readmission agreements were introduced in order to facilitate the return of immigrants to their countries of transit (OECD 2001), or at least their return to the previous countries they have transited in their migration patterns.

Nevertheless, the effectiveness of the European Union’s policies on the national scale has been and is still a matter of discussion among the scholars that work on migration and asylum (Faist and Ette 2007, 10). A first body of researches (Thielemann 2002; Lavenex 2002; Reyneri 2001) concurred that the EU’s policies were a catalyst in the change of national asylum, migration or border systems in the 1990s. At this point Sandra Lavenex and Emek Uçarer emphasized the role of the mechanisms that reinforced the “systems of responsabilization”, such as “first country of asylum”, which attributed responsibility to the state where the applicants first enter, therefore redistributed the asylum procedures amongst member states (Lavenex and Uçarer 2002). A similar perspective has been taken into account by the study of external dimensions of the common migration policy that highlight the European Union’s “ideational impact” (Lavenex 2007a) as a “carrier of ideas and normative power” (Manners 2002). Sandra Lavenex argued that the EU used the strategy to externalize the issue of migration to the immediate neighbors to the Union and also to a more extended geography through trade and association agreements. According to her, the main elements of the strategy were based on a wide range of ideational and mechanical mechanisms that would shift the problem to outside of its periphery, such as:

“the safe country notion; the conclusion of readmission agreements with third countries; the promotion of immigration control facilities in third countries through transfer of know-how, technology and legislation in the framework of association agreements; and finally, the more recent plans uttered by the member governments but also the EU Commission to process requests for protection in the region of origin or in ‘transit procession centers’ outside the EU border, and to admit only successful applicants on the common territory” (Lavenex 2007a, 315).

In addition, Lavenex claimed that such incentives are “promoted through overlapping but not mutually inclusive membership in pertinent international organizations such as the Council of Europe, the International Organization for Migration and the United Nations High Commissioner for Refugees” (Lavenex 2007a, 315). This perspective emphasized the impact of Europeanization on non-EU countries and on international organizations some of which eventually became intermediaries of the harmonization process (Lavenex 2007a; Boxwell 2003; Lavenex and Uçarer 2002).

More institutionalist scholars on the other hand (Vink 2002; Geddes 2003), claimed that the EU's impact constituted only a marginal effect. In line with this perspective, Martin Shain (2009) questioned why there has been so little progress on immigration policy. He answered first that the harmonization of immigration policy at the European level accounted for the legislation of the member state's immigration policies and therefore it was "not a policy that can be easily harmonized or developed into European directives" (Shain 2009, 101). Second and more importantly, he claimed that national representatives have gained certain amount of control over the policy process in the development of immigration policy at the EU level (Shain 2009, 101). The line of thought drew attention to the processes where the state actors strategically make use of the EU level organization through "venue shopping", also used by), in order to pursue controlling and restrictive national policy goals (Guiraudon 2000; Shain 2009, 102). A similar strategy has also been asserted as used by the pro-immigrant NGOs that seek to access European venues, but it has been argued that since the most accessible group of technocrats did not have much executive leverage, the impact remained relatively limited (Geddes 2000; Shain 2009).

In the next section I will try to bring together the different approaches in the literature to sketch a brief outlook to the Turkish case. I will try to illustrate that the European Union in fact acts as a normative power in Turkey, with regarding to the harmonization process in the field of asylum and immigration, and that this power is being supported by the international organizations with in depth knowledge about the field. However, the Europeanization does not bring the predominance of the European Union in Turkey, and rather it assists to the regain of control of the national authorities.

The Turkish Case

The European Union's interest on the issue of immigration and asylum as a communitarian problem is not very deep-rooted even though the since the 1970s the European countries have been effected by the migration waves from "Eastern" countries such as Turkey. Since 1999, there is an increasing trend to harmonize national migration and asylum policies with the European standards in order to control the current and future migration at the borders of the EU and more importantly to externalize the problem. Previously known as an immigrant-sending country, Turkey has become after the 1990s a transit country for the immigrants from countries such as Afghanistan, Iran and Iraq who tried to find their ways to access to European welfare countries. Since the systematic operationalization of migration control in the northern and southern gates to the European Union (such as the formulation of agreements between Spain and Morocco), the migration pattern has gradually shifted towards the south eastern borders of the European Union. The recent researches show that about 90% of the immigrants that enter European Union enter from Greece, especially from Turkey (BBC News, 2010). The situation have even resulted Greece to take extreme measures such as building up a 12 km border fence on its border to Turkey to prevent illegal migrants from crossing (BBC News, 2011). In this section I will present a brief outlook to the issue of migration and asylum in the European Union and how the Europeanization of the issue in

Turkey has brought about transformations in the perceptions and the responses by the state and the non state actors.

Migration and asylum in the EU and its reflections on Turkey

The EU's key references for the asylum policy are mainly based on the 1951 UN Convention on the Status of Refugees and the legal and legislative clauses built around the European Court of Human Rights (ECHR), European Court of Justice (ECJ) and EU Charter of Fundamental Rights. Since 1999 the EU endeavors the development and consolidation of the Common European Asylum System that is foreseen to be set up by 2012. The EU's roadmap basically comprises of higher common standards of international protection (monitoring and revision of the current legislation), practical cooperation (to ensure the legal harmonization via European Asylum Support Office) and promoting responsibility and solidarity (in the internal and the external sphere). The measures of the EU basically comprise of the management of refugees in the EU, protection of refugees in the regions of origin and financial tools such as European Refugee Fund and mainstream geographical instruments such as IPA (JFS Team of the EU Delegation to Turkey, 2010). In addition to this concrete schematization which also relates to the external dimensions of the EU asylum policy, the EU urges positive conditionality linked with intergovernmental negotiations (such as the readmission agreements), policy transfers via transgovernmental networking and the mobilization of international organizations such as IOM or UNHCR (Lavenex 2007b).

Turkey's candidacy to EU membership was accepted after the Helsinki European Council of December 1999, widening the relations between Turkey and the EU, the roots of which can be extended back to the Ankara Association Agreement signed in 1963. Since 1998, the European Commission has been providing an analysis of the progress and overall assessment to the latest trends in the Turkish policies dealing with asylum, migration and border control in its progress reports. The progress reports analyze the political, economic and social criteria for the admission process and the harmonization with the EU's *acquis communautaire*. The reports are, in this sense, significant tools for monitoring policy compatibilities (fits) or non-compatibilities (misfits) between Turkey and the European Union. The Commission started to publish more in depth analyzes after 2001, and since 2008 there is an increasing denotation on the importance of collaboration of MOI with UNHCR for the "decentralization of asylum and migration decision making mechanisms" as well as the need to facilitate Turkish NGOs' and international organizations' cooperation with the public bodies.

In the final report, the European Commission emphasized the recent amendment in the Penal Code on the increased sentences for the smugglers, and several circulars issued by the public bodies: the circular of MOI on the creation of removal centers for irregular migrants, the circular of Prime Minister's Office on the free health services by the Social Solidarity and Assistance Foundation and the preparation of comprehensive revision of the law of foreigners "in close consultation with the IOM and the UNHCR" and finally the circular of DG for Security on the accommodation of illegal migrants in removal centers, with written

permission from the Governor. The report also pointed out to the circular issued by the MOI on the removal of residence permit fees and additional fines to asylum seekers. It stressed the judgments issued by the European Court of Human Rights (ECtHR) for three cases (Abdolkhani and Karimnia v. Turkey, Z.N.S v. Turkey, Charahili v. Turkey) that concluded the absence of clear provisions for ordering and extending detention, the lack of notification of the reasons for detention and the absence of judicial remedy to the decision on detention and torture. The Commission highlighted that “consultation of civil society, international organizations and academia” was crucial. It indicated that it was of key importance to facilitate “the possibility for civil society organizations to cooperate with the administration in providing assistance to refugees and migrants” and denoted the “Turkey Refugee Rights Coordination” founded by a number of civil society organizations.

European Parliament on the other hand did not regard on the issue of asylum and migration in its progress reports as much as the European Commission. In its 2004 report, the EP only called on the Turkish authorities to lift the geographical limitation (European Parliament 2004), and its concerns about the number of asylum-seekers originating from Turkey to industrialized states in its 2006 progress report (European Parliament 2006). European Parliament’s 2007 pointed out that “one of the main immigration routes to Europe from the broader Middle East and South Asia passes through Turkish territory” and noted the limited progress in the field of migration management. It demanded the intensification of the negotiations on the readmission agreement between Turkey and the EC and the member states (European Parliament 2008). In 2008, the EP once again stressed on the inertia on the matter of Turkey’s readmission agreements with the EC. Without giving any specific suggestions, the EP called Turkey “for full respect of the human rights of asylum-seekers and refugees, including open and unrestricted access to all detention centers by the UNHCR” (European Parliament 2009). In its last report up until today, the EP called on the Turkish Government “to take urgent steps to ensure that the international rights to protection and reception of migrants and asylum-seekers are respected”. The 2009 report once again suggested the readmission agreement as a solution to the problem and urged Turkey to cooperate with the EU in working with Frontex (European Parliament 2010).

The unbalanced representation of the asylum and migration issue by the European Parliament and the European Commission may demonstrate the deficiency of Turkish non state actors’ access to the lobbies and networks that are in close relation with the European parliamentarians. A comparison can be formulated with the representation of the issue of women’s rights in Turkey in the European channels. Whereas the very strong lobbying and coalition building capabilities of Turkish women’s associations since the beginning of 1990s has led to the high recognition of the issue in the European Parliament (Bayraktar 2009), the same argument cannot be made about the domestic NGOs working on refugee and migrants’ rights.

Three points can be made about this situation. First, even though it is not possible to trace a long standing cooperation among domestic NGOs, the impact of the European Union’s promotion on civil society dialogue and the enhancement of the civil society in Turkey seem to have had a positive role (this will be elaborated in the upcoming sections). Second, the

comparison with the case of Turkish women's NGOs illustrates the effective role taken by the people who may be called as the gate-keepers (with multiple identities) for the establishment of access to the European lobbies and networks. Hence, the representation and the propagation of the problem via formal and informal contacts emerge as a pertinent tool for the advocacy activities. Yet such activities necessitates both management and funding capabilities and therefore a professionalized body (Bayraktar 2009), which has not been so ostensible among the NGOs working on migration and refugee rights in Turkey. Third, the European Commission's reports illustrate the distinction between strong international actors working at the national level and the domestic actors. While the international actors such as UNHCR, IOM, ICMC or Amnesty International have played the major role for monitoring and addressing the existing issues on asylum and training the domestic actors, the emerging domestic actors are increasingly becoming involved on the matter of integration and advocacy through time.

Turkish Responses

Turkish governments' attitudes towards the field of asylum have passed through a transition towards the inception of international norms, which is since the 2001 is characterized by a major influence from the European Union (İçduygu 2007). İçduygu (2007) argued that it was possible to talk about three major periods of changes in the Turkish immigration and asylum policies. The pre-1994 period was considered as a "time of ignorance", which was led by a transition to international norms from 1994 to 2001. According to İçduygu, the year 2001 (signing of the first Accession Partnership) with the has been a crucial turning point, where a plethora of changes have started occurring in the fields of legislation and the implementation of projects, that complemented the administrative structure and the institutional infrastructure (İçduygu 2007, 210). The Europeanization has been seen as the major trigger of a reform process of the immigration and asylum policies in Turkey (İçduygu 2007; Kirişçi 2007, 2009; Kale 2005). In one of the first scholar works on the Europeanization of Turkish migration and asylum policies in Turkey, Başak Kale (2005) argued that the change has been mostly evident at the legislative level "where the harmonization of Turkish refugee and asylum legislation with EU *acquis* takes place" such as on the adoption of the Asylum Bill. The second pillar of transformation has "encapsulated administrative transformation in the asylum field" with the Turkish National Program on the Adoption of EU *acquis communautaire* and National Action Plan for Asylum and Immigration. The third pillar of cognitive (ideational) transformation explains the changes in the perception of asylum and refugee field and the change at the domestic level with respect to the rights of refugees (Kale 2005). For Kemal Kirişçi, the adaptation to the EU *acquis* in asylum and immigration was one of the major themes of Turkey's Accession Partnership to the EU, and remained an important part of the *acquis* (Kirişçi 2009).

After the first Accession Partnership in 2001, the Turkish state adopted a series of regulations in the Turkish legislature. Turkish government adopted an Action Plan for Asylum and Migration in 2005 that integrated some procedures from the EU asylum laws, such as

“subsidiary protection”, “tolerated aliens” and “residence permits based on humanitarian grounds” (İçduygu 2007, 215). In addition, the principle of *non-refoulement*⁴ became an issue of concern in the asylum procedure in the country (İçduygu 2007, 215). Other reforms that were promoted in 2006 included social policy measures, such as in the field of employment, social security or minority rights. Because of an increase in the deportation and violation of human rights of immigrants, stagnation occurred in the harmonization process in 2007-2008, which resulted to establishment of the Development and Implementation Office on Asylum and Migration Legislation and Administrative Capacity. The office mainly coordinates the implementation of the legislation and it publishes analyzes on the major topics dealt by the MOI such as geographical restriction and the readmission agreements. With an effort to adopt an Asylum Law, the Ministry of Interior published a number of circulars (which are called as the “March Circulars”) in order to introduce administrative regulations on exit fees, employment and residence problems and combating human trafficking (Özgür and Özer 2010, 135-140).

Turkey’s harmonization process has also been supported by twinning projects, funds and bilateral agreements not only about migration and asylum but also regarding border controls. In 2004, “Migration and Asylum” Twinning Project with Denmark and England was implanted in order to begin the framework of alignment of Turkey’s asylum and migration strategy with the EU legislation and in 2005 “National Action Plan on Migration and Asylum” was approved by the Prime Ministry. Accordingly another Twinning Project on Integrated Border Management was implemented with the collaboration between Turkey, France and England that led to “An Action Plan for Implementing Integrated Border Management Strategy”. Turkey has become a member of International Organization for Migration in 2004, an organization that works in order to combat against human trafficking. Two latest Twinning Projects between Turkey and member countries, namely “Support to Turkey’s Capacity in Combating Illegal Migration and Establishment of Removal Centers for Illegal Migrants” and “Establishment of Reception, Screening and Accommodation System (Centers) for Asylum Seekers and Refugees” introduced the designed roadmap of the transformations in Turkish policies on migration and asylum. The agreements signed between Turkish and Greek governments in May 2010 on illegal migration asylum, conducted the Turkish government’s acceptance of 1000 illegal migrants who passed to the Greek side with regarding to the Readmission Agreement with the EU. The recent accord that goes in line with EU’s border cooperation instrument (Frontex) and the reform processes designate the institution of a new era for the management of irregular migration for Turkey and stipulates an increase of burden on the matter of irregular migration and asylum.

Even though the alignment with the *acquis* has occurred very promptly contrary to some other policy areas, several issues have been consistent in the four Accession

⁴ “*Non-refoulement* is a concept which prohibits States from returning a refugee or asylum seeker to territories where there is a risk that his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group, or political opinion”, Cambridge University Press, The Scope and Content of the Principle of *Non-refoulement*: Opinion, June 2003, available at: <http://www.unhcr.org/refworld/docid/470a33af0.html>, accessed 9.12.2010.

Partnerships (2001, 2003, 2006, and 2008) that were signed between Turkey and the EU (Özgür and Özer 2010, Accession Partnership 2008⁵):

1. Adoption and implementation of the *acquis* and reforms for strengthening the public management with a view to preventing illegal immigration;
2. Concluding a readmission agreement with the EU;
3. Strengthening the border controls and the implementation of an integrated border management;
4. Aligning with the *acquis* in the field of asylum, in particular through the lifting of the geographical limitation to the Geneva Convention and through strengthening protection, social support and integration measures for refugees,
5. Implementing the National Action Plan on Asylum and Migration (including through the adoption of a roadmap) and the adoption of a comprehensive Asylum Law in line with the *acquis*.

The consistence of the five issues stressed by Özgür and Özer in time is significant for understanding two characteristics of Turkey's harmonization to the EU *acquis* in the field of immigration and asylum. Firstly, it demonstrates that the field requires long-term prospects since it necessitates a great deal of changes in the legislative, administrative processes in terms of management and implementation. More importantly, the harmonization requires a cognitive change not at the bottom-up or public level, but even at the higher levels of public management and policy making towards a more systematic approach. Second, Turkish governments' reluctance on the development of two statements (conclusion of a readmission agreement and the lifting of the geographical restriction) illustrates the limits of the adoption of common policies for a non-EU country as Turkey. As it will be argued more in detail in the next section, the harmonization process since the 1994 has actually systematically extended the state's dominance in the field of immigration and asylum in Turkey, while at the same time strengthening and intensifying the role of national and international institutions in specific areas

Non State Actors vis-à-vis Europeanization

So far I have focused on a perspective that framed the top-down processes of Europeanization of migration and asylum in Turkey. Recent experiences in Turkey demonstrate that the post-Helsinki process became a catalyst for a better recognition of the immigration and asylum issue by the public action. In this section I will focus on the changes

⁵ 2008/157/EC: Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership with the Republic of Turkey and repealing Decision 2006/35/EC, *Official Journal L 051*, 26/02/2008 P. 0004 – 0018 <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:051:0004:01:EN:HTML>, accessed 24.12.2010

on the functioning and effectiveness of the non state actors in alignment with harmonization process with the EU *acquis*. I choose to use the term of non state actors in order to give a wider picture of international organizations, international NGOs and domestic NGOs, and to be able to provide a cross-validated analysis. In this section I will stress first on the international organizations and then INGOs and domestic NGOs.

Turkey's long history of ignorance in the field of migration and asylum has entailed the emergence of other non state actors which would try to seek solutions to the up-and-coming problems. Kemal Kirişçi (2001) claimed that the UNHCR "tried to fill the gap" and succeeded in developing a temporary arrangement with the Turkish authorities to provide some degree of protection and status determination. Not only becoming the key actor for refugee determination in Turkey, UNHCR also enacted to organize training conferences and seminars on refugee law and status determination for Turkish officials (such as judges, prosecutors and gendarmes) who would be in close contact with the immigrants and asylum seekers (Kirişçi 2001). Two other international organizations have also been a part of the resettlement process of the people determined as refugees. The first of these institutions, International Organization for Migration has over 250 offices worldwide, and aims to give emergency assistance to refugees and support on resettlement, migrant health issues and advocacy for legal migration alternatives. The other institution, International Catholic Migration Committee (ICMC) Turkey functions as the Overseas Processing Entity (OPE) in Istanbul, processing refugees referred for resettlement to the United States, Canada and Australia by UNHCR in Turkey, Lebanon, Yemen, United Arab Emirates, Kuwait and Pakistan.

Hence, not only UNHCR, but also ICMC and IOM have been acting as the bureaucratic hubs in terms of determination, processing and resettlement of the refugees in Turkey. However, the European Union's expectation from the Turkish state for the lifting up of the geographical restriction may signal a transfer of the bureaucratic work from these institutions (that have been filling the gap up until today) to the Ministry of Interior in the future and therefore the redistribution of power balance between the state and the institutions in the field of asylum and immigration⁶. Therefore, the European Union's external Europeanization assumes the statisation of the implementation of the issue, while at the same time making the international organizations a part of the harmonization as argued by Sandra Lavenex (2007b). Lavenex asserted that UNHCR and IOM "played a complex role in the (external) Europeanization of asylum and immigration policies" (Lavenex 2007b, 252) and that as the policy agendas of the institutions have become increasingly influenced by the EU's agenda, they have started redefining their own mandates to align with EU's activities or becoming partners (or even subcontractors) to the EU (2007b, 253). As it can be also sketched through the EC's progress reports, the three institutions have been increasingly active with educative (trainings) and interactive mechanisms (conference and seminars) that went in line with the harmonization with the *acquis*.

⁶ It is claimed by an ex-staff of the ICMC and UNHCR that since the second half of the 2000s the institutions foresee a reduction of a part of their staff.

As I have argued above, the Europeanization in the field of immigration and asylum seems to shift the authority in bureaucratic affairs towards the Turkish state, while at the same time bringing about new forms of management in the area of asylum and border control that is supported by the international organizations. In the next paragraphs, I will try to demonstrate how the new “Europeanized” forms of management are getting into controversy with the (nation) state-centered logic and how the clash of the two creates a new and hybrid form of governance.

Considering the overall view of civil actors working in Turkey, it is possible to trace a distinguished work distribution among a number of organizations. Özgür and Özer (2010, 176) categorize such organizations into three: human rights organizations working for asylum seekers and refugees; NGOs and humanitarian assistance organizations that work for humanitarian assistance and psycho-social support; and social movements united around the idea of opposition and specific political discourses. To name the institutions working on migration and asylum in Turkey: international organizations are Istanbul Inter-Parish Migrants Program (IPMP), Amnesty International, Helsinki Citizens’ Assembly (hCa) Turkey and Caritas; and it is also possible to trace an emerging network of national actors, such as Human Resource Development Foundation (HRDF), Anatolian Development Foundation (ADF), Association for Solidarity with Asylum Seekers and Migrants (ASAM), Human Rights Association and The Association of Human Rights and Solidarity for Oppressed People (Mazlumder), Humanitarian Relief Foundation (IHH), Turkmen associations (such as Iraqi Turks Culture and Solidarity Association) and Chaldean-Assyrian Solidarity Association.

According to the responsables of the organizations I have interviewed, the harmonization to the European Union is perceived as the key trigger for the reform processes in Turkey especially since 2001. The European Union’s influence on non state actors working in this field demonstrates some similar traits with the EU’s influence on civil actors working on other fields (such as women’s rights). The European Union brings about possibilities at the environmental level (in terms of administrative and legislative reforms and funding opportunities) for the civil actors to engage in projects which rely on a certain amount of budget. The European Commission’s focus on the development of civil dialogue in Turkey since 2004 and a number of reforms in the Laws of Associations and Foundations have been effective for the increased dialogue between the state and the civil actors. The funding opportunities have also helped to the strengthening the domestic NGOs, which were open to using external resources for developing projects⁷. In an empirical analysis on such organizations, Balta (2010) stressed on the domestic NGOs’ dependence on material resources, which is tried to be resolved basically by applying for the funds of the European Union, the United Nations and the embassies. ASAM⁸ is an example of such organizations that have benefited from European Union’s

⁷ According to the limited interviews I have realized for this research, immigrant associations do not seem to be much overwhelmed by the Europeanization process.

⁸ ASAM was established in 1995 as the humanitarian NGO to be specialized in working with asylum seekers and refugees in Turkey that acts towards developing public awareness. With its offices in 13 Turkish cities,

funds with the end result of becoming more dispersed and professionalized. In 2005, ASAM undertook Translation Services of Materials and Country of Origin Information for UNHCR, in order to assist government in the process of transferring the Refugee Status Determination (RSD) responsibilities. The project was funded by the European Commission.

The reflections of the Europeanization were not only limited to the increase in the associations' operability or fund receiving. A new "vision of the world" has become a part of this change, where actors acquired new forms of knowledge and practices. Therefore the NGOs were influenced by the cognitive aspects of the Europeanization, which has been strengthened by interactive mechanisms, such as adoption of advocacy as a new tool and participation in the European networks. Even though the branch of an international organization Helsinki Citizens' Assembly Turkish branch introduced advocacy to its framework and became an active member of some European migration and asylum networks. With a very informed attitude towards the interactive mechanisms of the Europeanization on civil actors, the responsible of hCa explained what they have been through:

"Since 2007 we have started working on advocacy, especially with a European dimension. We looked for new partners in the European Union and became members of ECRE (2008) and Migreeurope (2009)⁹. We tried to be more engaged with the European institutions such as European Commission and MEPs." (Interview, 22.11.2010)

As an NGO working on legal support for immigrants and refugees, Helsinki Citizens' Assembly started applying cases to the European Court of Human Rights, after the first involvement with the ECtHR for the case of Abdolkhani and Karimnia vs. Turkey in 2008¹⁰. Since then, hCa has applied about 30 cases to the ECtHR. In the overall, the impacts of the Europeanization have increased the possibility for the hCA to engage in European networks and become a member of a wider community. It can arguably be said that the Europeanization also conducts a perception to form new and formal alliances in the domestic sphere. As an example, Turkey Coordination for Refugee Rights has been founded in March 2010, comprised of seven human rights organizations, namely Amnesty International, Helsinki Citizens' Assemble, Human Rights Association, Mazlum-Der, Human Rights Agenda Association, Mülteci-Der and Human Rights Research Association. In its press release the advocacy role of the initiative has been stressed:

ASAM works in collaboration with the UNHCR, especially working on local projects in order to provide social service and promote integration of the refugees and asylum seekers. ASAM, Activities, <http://www.sgdd.org.tr/en/siginmacilar-ve-gocmenlerle-dayanisma-dernegi/activities.html>, accessed 07.01.2010.

⁹ ECRE (European Council on Refugees and Exiles) is a pan-European network of 69 refugee-assisting non-governmental organizations that promotes a humane and generous European asylum policy. A French organization, Migreurop is comprised of a network of activists and scholars aimed at spreading knowledge about the generalization of retention for undocumented foreigners as well as the increasing number of camps, the latter being at the centre of EU migration policy.

¹⁰ Abdolkhani and Karimnia c. Turquie/v. Turkey, no/no. 30471/08 (Sect. 2), CEDH/ECHR 2009. hCa was not the applicant of the case but kept track of the internal judiciary.

“The initiative represents a shared commitment to working together to promote public awareness and ownership of asylum issues in Turkey and to intervene in the Government’s policy agenda on asylum and migration management from a human rights perspective.”¹¹

Up until 2006, the Turkish Ministry of Interior only accepted UNHCR, IOM and ICMC as partners for its operations and till then it has started accepting other national organizations as well as local administrations (Özgür and Özer 2010). Not only all organizations are granted partnership with the state, but there has been an increasing tendency from the part of the MOI to consult the upcoming legislative reforms and become partners with some of the associations in performing local projects. Nevertheless, Özgür and Özer (2010, 179) allege that the closer relationship built among the state and the human rights organizations stagnated in 2007-2009, since the organizations increased their claims to the European Court of Human Rights and the National Action Plan was principally focused on security concerns rather than human rights of the immigrants. According to the authors, there has been a twofold practice from the part of the state after 2007 with regarding the civil actors. On the one hand, it disregarded human rights organizations that particularly worked for advocacy and juridical action; and on the other, it enhanced its relations with the service providing organizations relying on the 2003 National Action Plan that foresaw the cooperation with the NGOs for the integration and social support of the immigrants (Özgür and Özer 2010, 180). Özgür and Özer (2010, 180-181) also call such organizations as “charity organizations” and argue that they initiate a form of “integration à la turca” of the immigrants in local communities. Hence, even though the dialogue with the civil society has been considered a key issue of the harmonization process, empirically (not by means of the EC’s progress reports) it is possible to trace a differentiated approach in terms of its implementation.

Conclusion

In a nutshell, the Europeanization leads to the redistribution of the work areas and brings about differentiated orientations among non state actors. The international organizations that had the primary purpose of “filling a gap” in the Turkish asylum system have become agents of the Europeanization in line with the harmonization process. While at the same time strengthening the public body through awareness raising and training on the issue of immigration and asylum, such institutions are supporting the shift of bureaucratic responsibility to the state with the help of the EU *acquis*. The international organizations and the European Union have also facilitated the intensification of the domestic collective actors by creating opportunities for cooperation, funding and networking. Nevertheless, the attempts of civil dialogue resulted to a differentiated approach due to its interpretation by the state.

¹¹ Turkey Coordination for Refugee Rights, Joint Press Statement, 15 March 2010, Ankara, <http://www.hyd.org.tr/?pid=788>, accessed 03.01.2010.

Whereas the human rights associations with the primary purpose of advocacy have been pushed aside by the state, the newly emerging domestic service provision NGOs have increasingly become a part of the integration and support system in the immigration and asylum systems.

In their article that dealt with the migration as a significant site for perceiving the processes of globalization on the nation states, İçduygu and Keyman (2000) have underlined the contradiction between the globalization process and “the persistence of an abstract nation-state formation” as an outcome of the emerging new migratory regimes. Authors argued that even though the globalization (and Europeanization for our work) has appeared to be crucial for the decline of territorial constraints, it did not mean the end of the state, but rather a “qualitative change of governance” (İçduygu and Keyman 2000). The European Union took the lead in formulating the Turkish migration and asylum regime after the 1990s in line with Turkey’s position in the international regimes (İçduygu and Keyman 2000) and the EU as well introduced European dilemmas which actually were not so different from the contradiction between the globalized and the national. The case of the Europeanization of the immigration and asylum policies in Turkey with a focus on the transforming relations between the state and non state actors is provided in this research as an illustration of this contradiction. It demonstrates that beyond the European Union’s reinforcement of restrictive policies nourished from nation state perceptions of immigration, Turkey’s status as a long-lasting candidate to the European Union entails the adoption of a more statist perspective, which is somehow supported by the process of Europeanization. Finally, I believe that this research confirms my three hypotheses: that even though the major trigger of reform is the Europeanization, the outcome of the process is expected to bring the state back in, especially for the processes of the reception, determination, processing mechanisms (b) the international organizations are in fact becoming complementary partners to the process of Europeanization and (c) there is an evident intensification of non state actors’ role in the matter of integration and social support.

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