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REFORM IN TURKISH ASYLUM LAW: ADOPTING THE EU ACQUIS?

Ibrahim Kaya

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of immigrants, migration, and the movement
of persons

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Reform in Turkish asylum law: adopting the EU acquis?

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CARIM

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- Mediterranean migration database;
- Research and publications;
- Meetings of academics;
- Meetings between experts and policy makers;
- Early warning system.

The activities of CARIM cover three aspects of international migration in the Region: economic and demographic, legal, and socio-political.

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Abstract

Turkey has been a country of asylum since Ottoman times. Due to recent economic and political turmoil in its near abroad and beyond, the country now receives thousands of asylum applications each year. And, as witnessed in the last years, there is the potential for a massive influx of refugees to Turkey.

Turkey has long lacked a functioning asylum system and corresponding legislation. Although the 1951 Refugee Convention and its Protocol were ratified, with a limitation related to their geographical application, the country adopted a Regulation only in 1994 after facing a massive refugee influx from Iraq. Further there is still no asylum law in force.

As an EU member candidate, Turkey is expected to adapt its asylum system to those of the EU, undertaking, at the same time, to take up the *acquis* in this field. This paper examines what has been done by Turkey and what else is needed.

Résumé

La Turquie est une terre d'asile depuis l'époque ottomane. En raison des troubles économiques et politiques qui ont récemment traversé son voisinage proche et moins proche, des milliers de demandes d'asile y sont déposées chaque année et un scénario de flux massifs ne doit pas être exclu.

Un système d'accueil et de traitement des demandes d'asile et une législation adéquate ont longtemps fait défaut. Bien qu'elle ait ratifié la Convention de Genève de 1951 relative au statut des réfugiés et son Protocole, avec une réserve quant à l'application géographique de ces deux instruments, ce n'est qu'en 1994, suite à l'arrivée massive de réfugiés en provenance d'Irak (1991), que les autorités turques ont adopté une réglementation dans le domaine. Cependant, aucune loi en matière d'asile n'a encore été adoptée par le gouvernement turc.

Or, en sa qualité de candidate à l'accession à l'Union européenne, la Turquie est sensée adapter son système aux exigences de l'acquis communautaire. Cette contribution propose d'aborder le système turc de l'asile sous cet angle : à cette fin qu'a-t-il été fait et que reste-il encore à faire ?

List of Acronyms

EU	European Union
ECHR	European Court of Human Rights
MOI	Ministry of the Interior
NAP	National Action Plan for Asylum and Immigration
NP	National Program on the Adoption of EU <i>Acquis Communautaire</i>
RSD	Refugee Status Determination
UNHCR	United Nations High Commission for Refugees

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Introduction¹

Turkey has a long history of immigration and asylum that dates back to Ottoman times: for example, Jewish migration to the Ottoman Empire from Europe² However, it is the immigration of Muslims, from different ethnic quarters and most notably the immigration of Turks, who sought refuge there in the 19th and 20th centuries that truly characterized immigration to Turkey. This was as a result of the retreat of the Ottoman Empire from the Balkans, Caucasus and the Middle East and the sufferings of hundreds of thousands, if not millions, of Turks, in the process of nationalism and nation state building in the surrendered territories. Immigration and asylum to the new Republic, which was established in 1923, continued in the early republican period.³ 823,208 migrated to Turkey between 1923 and 1939. The total number between 1923 and 1997 was well above 1.6 million.⁴

Turkey is on a major migration route with ever-increasing numbers of irregular migrants from its economically and politically unstable east and south trying to cross its territory towards Europe. Turkey is also in the midst of dramatic economic and social change for, especially after the economic and political crises of 2001, Turkey managed to latch onto an economic development trend. Extremely important political reforms have been made since 2001. In 2005, Turkey started negotiations for full European Union (EU) membership. Being an EU candidate country has meant a significant increase in foreign investment. So much so that Turkey, which was once regarded as a source country for migration to Europe, is now also a transit and destination country. Geographically Turkey is a bridge between east and west, between Asia and Europe. Asian, as well as African immigrants use Turkey as a transit country on their way to Europe. As a destination country Turkey attracts immigrants not only from Asia and Africa, but also from Russia, Ukraine, Moldova as well as such EU states as Romania and Bulgaria. Apart from the immigrant workers of these countries, Turkey is also becoming a destination country for relatively rich western Europeans who choose Turkey as their place of retirement.⁵ Turkey is also better integrated with the rest of the world. In 2000, 10 million people visited Turkey and the figure had tripled within five years.⁶

Currently there is no single body of law comprehensively regulating asylum and related issues. Rather these have been dealt with by a number of pieces of legislation such as the Passport Law, the Law on Residence and Travel of Foreigners and the 1994 Council of Ministers Regulation⁷ which was amended in 1999 and 2006. In 2006, General Directorate of Security, at the Ministry of Interior (MOI) prepared an Implementation Circular to direct the asylum procedure and the rights and obligations of refugees and asylum seekers.⁸

¹ I would like to thank CARIM for giving me the opportunity to write this report and for the support during the process of writing.

² Although one of the most remembered Jewish case is the 1492 immigration from Spain, Jews sought refuge in the Ottoman territory as early as the 14th century from Germany and France. K. KIRISCI, 'Introduction' in UNHCR, *The Collection of Turkish Jurisprudence on Asylum, Refugees and Migration*, second edition, Istanbul: Bogazici University Foundation, 2000, pp. 2-3.

³ D. DANIS, "Integration in Limbo: Iraqi Afghan, Maghrebi and Iranian Migrants in Istanbul", Research Report, MIREKOC, 2006, pp. 10-11.

⁴ K. KIRISCI, *supra* note 1, p. 24.

⁵ H. I BAHAR, et. al, "Resident Foreigners in Turkey", TUBITAK Research Project, 2007.

⁶ See Table 21 below.

⁷ The official title is "The Regulation On The Procedures And The Principles Related To Population Movements And Aliens Arriving In Turkey Either As Individuals Or In Groups Wishing To Seek Asylum Either From Turkey Or Requesting Residence Permission In Order To Seek Asylum From Another Country".

⁸ Circular n°. 57. 22.6.2006.

Turkey conducts accession negotiations to the European Union and Asylum law is one of the most important areas where reform is needed in order for Turkey's legislation to be harmonised with that of the EU *acquis*. Immigration and asylum issues are part of Chapter 24 (Justice, Freedom and Security) within the framework of accession negotiations and Turkey is obliged to undertake the EU *acquis* in the field to become a member. To this end, the General Directorate of Security, at the MOI prepared a National Action Plan (NAP) for Asylum and Immigration which was endorsed by the Prime Minister in 2005.⁹ The Action Plan sets forth how Turkish national legislation should be made compatible with that of the EU and offers a time frame giving priority to certain issues.

This paper examines the current efforts by Turkey to adopt the EU *acquis* in the field of asylum law. To this end, first some empirical data will be provided to give a general picture, and then current Turkish legislation on the subject will be dealt with. The Turkish asylum system, consisting of national and UNHCR procedures, will be explained. The analysis of the NAP is the cornerstone of asylum law reform in Turkey. It will be examined critically. The central issue with regard to Turkish asylum reform is the geographical limitation that the country set regarding its 1951 Geneva Convention ratification. Discussions on lifting the limitation will also be touched upon. Finally the rights of asylum seekers and projects helping the harmonization of the Turkish system with that of the EU will also be dealt with.

Background information on migration and asylum in Turkey

According to the MOI, General Directorate of Security the total number of the people who applied for asylum in Turkey was from 1995 to January 2008 about 50,000. The overwhelming majority of them are recognized as asylum seekers. Almost 9,000 applications were rejected. In addition to that figure nearly 2,500 people lost their status: mostly by withdrawing their applications. The annexed table 4 shows the breakdown of the applicants by nationality between 1995-2007. Almost 25,000 applicants were successful and were recognized as asylum seekers which means *de facto* refugees in the Turkish legal context.¹⁰ It is noteworthy that the recognition rate is almost 50%, which is reasonably high when compared with other countries. Turkey does not recognize non-Europeans as refugees, but only as asylum seekers that is why persons whose application were successful are needed to settle in a third country. The total number of those who left Turkey for resettlement in a third country is 24,741. The remaining 14,000 applications are being processed now: it is thus possible to talk of 14,000 asylum seekers in Turkey today. The highest number of applicants since 1995 are from Iran (28,963 people), Iraq (16,972 people), Somalia (1,494 people), Afghanistan (1,480 people) and Sudan (140 people). The most important countries of origin with regard to the applications currently under process are again: Iran (6,048 people), Iraq (4,707 people), Somalia (1,195 people), Afghanistan (860 people) and Sudan (104 people).¹¹

Iran is by far the country where most nationals are resettled in third countries through Turkey. It is followed by Iraq and Afghanistan and recently by Somalia. The US, Canada and Australia are the most popular destination countries for resettlement.¹²

⁹ See Turkish National Action Plan for Asylum and Migration. The Plan can be obtained from the official website of the General Directorate of Security at www.egm.gov.tr both in Turkish and English Adopted on 17.1.2005.

¹⁰ Due to the geographical limitation Turkey does not recognize refugee status for non-Europeans. Instead of refugees (*mülteci*), they are called asylum seekers (*sığınmacı*). In the European sense an asylum seeker is the person who has applied for asylum, but in Turkey this status is provided after the case is examined and determined. To prevent any misunderstanding between the European and Turkish terminology the author prefers the term *de facto* refugees. *de facto* refugees are provided with almost all rights which are guaranteed under the 1951 Convention with the exception of indefinite leave to stay in Turkey since, they remain in Turkey until, if at all, they are resettled in a third country.

¹¹ See annexed table 5.

¹² See annexed tables 6 and 7.

In Turkey refugees and asylum seekers are required to reside in the provinces determined by the government. Within the province (city) they are free to choose their residence. 80 people live in a single refugee government guest house. One of the interesting points is that almost half of the current asylum applicants are present in the provinces that they are supposed to reside in, whereas the other half is absent (escapee).¹³ It is thought that some of the escapees might have left Turkey illegally. This may also be true for those whose application was rejected.

As will be explained below, it is also worthwhile looking at UNCHR's figures. They more or less correspond to official Turkish statistics. As of the end of 2007, UNCHR statistics are as follows:

Table 1: Refugees and people of concern by UNHCR Turkey (2007)

Population status	Data status	Beginning of year	End of year
1. Refugees	Total refugee population	2.633	6.956
2. Asylum Seekers	Total applications to be determined	6.219	5.189
3. Other people of concern	Other people of concern total	306	306
Total		9.158	12.451

Source: UNHCR Turkey. 'Refugees' are the people determined as such by UNHCR who then wait to be settled in a third country. They are not the people recognized as refugees by Turkey.¹⁴

According to UNHCR statistics the age and gender breakdown of refugee-asylum seekers are as follows:

Table 2: Refugee-Asylum Seekers by Age and Gender

Age/Gender	0-4 years	5-17 years	18-59 years	60 and above	Total
Female	455	1318	3398	132	5303
Male	488	1569	5261	139	7457
Total	943	2887	8659	271	12760

Sources: Adopted from UNHCR data.

Legal framework in Turkey

General Picture:

This is a list of the Turkish legislation which is relevant in an asylum context:

- Implementation Directive (Circular 57), 2006
- Settlement Law No. 5543/2006 (Previous law was No 34/2510 of 14 June 1934)
- Regulation No 94/6169 of 30 November 1994 on the procedures and principles related to population movement and aliens arriving in Turkey either as individuals or in groups wishing to seek asylum either from Turkey or requesting residence permits in order to seek asylum from another country

¹³ See annexed table 8 and 9.

¹⁴ Turkey does not recognize non-Europeans as refugees due to its geographical limitation. See *infra*.

- Regulation No 7473 of 07 November 1995 on Combatant Members of Foreign Armies Seeking Asylum in Turkey
- Law No 4817 of 27 February 2003 on Work Permits of Aliens and Implementation Directive for this law
- Labor Law No 4857, 2003
- Law No 41/4104 of 11 August 1941 on Combatant Members of Foreign Armies Seeking Asylum in Turkey
- Law No 50/5683 of 15 July 1950 on Residence and the Travel of Aliens in Turkey as amended by the Law No 98/4360 of 1998
- Passport Law No 5682 of 15 July 1950
- Turkish Citizenship Act No 64/403 of 11 February 1964 as amended by Law No 2383 of 12 February 1981 and Law No 4866 of 4 June 2003
- Turkish Penal (Criminal) Code, 2005
- Law No 4422 on Combat Against Interest-Oriented Criminal Organizations
- Penal Execution Law
- Regulation on Refugee Guest Houses 1983
- Law on the Protection and Security of Land Borders law no 3497
- Law on the Command of Coastal Guard (Law no 2692)

The legal regulations concerning entry into and exit from Turkey fall under the Turkish Passport Law n°5682 which stipulates that all travelers require a valid passport or travel document whenever they leave or enter the country.¹⁵ Foreigners, as well as Turkish nationals, may only enter and exit Turkey through places determined by the Council of Ministers upon a proposal of the MOI.¹⁶ With some exceptions, a visa is needed to enter Turkey.¹⁷ For the nationals of certain countries, it is possible to obtain visas (sticker visas) at border gates.¹⁸

Residence permits are regulated by the Law on Residence and Travel of Foreigners in Turkey.¹⁹ Article 3 (1) of the Law states that aliens have to make an application to local police authorities within one month of their arrival and, in any case, before taking up employment. Under this law the Council of Ministers is allowed to make amendments to time limits (article 30). In 2004 the “one month” clause was changed by the Council of Ministers to “ninety days”.²⁰ However, the “ninety days” clause is itself subject to visa expiration. If the visa expires before the ninety days, the person is required to apply for a residence permit beforehand. Residence permits are for a maximum of five years.²¹ Those with residence permits who left Turkey and who want to enter again while their permits are still valid need no visa.²² Persons who apply for asylum are required to live in cities chosen by the MOI.²³

Turkey is party to all the important United Nations, ILO and Council of Europe conventions, including the 1951 United Nations Refugees Convention and its 1967 Protocol, the Convention for the

¹⁵ *Official Gazette*, 24.07.1950 no. 7564. Passport Law, Art. 2.

¹⁶ Passport Law, Art. 1.

¹⁷ Passport Law, Art. 5.

¹⁸ See the annexed table 11.

¹⁹ Law n°. 5683. *Official Gazette*, 24.07.1950 no. 7564.

²⁰ *Official Gazette*, 08.01.2004 no. 25340.

²¹ Art. 9(1).

²² Art. 13.

²³ Art. 17.

Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the European Social Charter.²⁴ According to the Turkish Constitution, article 90, international agreements have the power of national laws and are implemented directly by the courts. Moreover, in case of a contradiction between an international agreement and domestic law, the provisions of the international agreement will prevail as long as the subject matter is human rights.²⁵ Therefore, there is nothing to prevent the Turkish authorities from applying the provisions of international agreements dealing with asylum and asylum seekers can demand that their rights should be protected in the courts in accordance with international legislation.

Turkey is party to the Refugee Convention and should effectively recognize the right to asylum as envisaged by article 14 of the Universal Declaration of Human Rights. Yet, the Turkish parliament has not enacted a law comprehensively regulating asylum and related issues, which have been dealt with, instead, by a number of pieces of legislation such as the Passport Law and the Law on Residence and Travel of Foreigners in Turkey. In 1994, the Council of Ministers issued the Regulation entitled officially “The Regulation On the Procedures and the Principles related to Population Movements and Aliens Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum from another Country” which was amended in 1999 and 2006 (hereafter 1994 Asylum Regulation).²⁶ In 2006, the General Directorate of Security, at the MOI prepared an Implementation Circular setting out the asylum procedure and the rights and obligations of refugees and asylum seekers.²⁷ The 1994 Regulation and the 2006 Circular are the main legal documents produced in the field of asylum. However, it should be noted that they are produced by administrative organs not by Parliament. Both lack statutory protection, meaning that they were not enacted as laws and therefore, theoretically speaking, can easily be amended by a counter administrative action. .

Geographical Limitation

Although Turkey is party to the 1951 Refugee Convention and 1967 Protocol, a “geographical limitation” was introduced by Turkey. Turkey's convention obligations are only towards persons uprooted by events in Europe. This considerably limits Turkey's obligations in international refugee law. The geographical limitation was introduced by Turkey due to “challenging experiences in the region” which clearly included a massive refugee influx coming from its eastern and southeastern neighbours, such as did in fact happen with Iraqis in 1988 and again in 1991.²⁸

With regard to such massive influxes, the 1994 Regulation states that “it is essential that population movements be stopped at the border, and that asylum seekers be prevented from crossing over into Turkey...provided that Turkey's obligations under international law are maintained”.²⁹ In the first instance, refugees and asylum seekers shall be disarmed by the military authorities.³⁰ Front-line assembly areas to shelter asylum seekers and refugees will be designated by the MOI in conjunction with the Turkish General Staff and will be established by the Governorates as close as possible to the border.³¹

²⁴ Turkey became party to the 1951 Convention in 1962 and the 1967 Protocol in 1968.

²⁵ New article 90 as amended in 2004.

²⁶ Regulation No. 6169, *Official Gazette* 30.11.1994.

²⁷ Circular No. 57. 22.6.2006.

²⁸ Action Plan para. 4.13.

²⁹ Art. 8.

³⁰ Art. 9.

³¹ Art. 11.

Those who seek asylum in Turkey and take refuge in Turkey are under the protection and supervision of the government authority whilst they remain in Turkey.³² Aliens who are to be sent to in-land assembly areas will be interviewed and their statements taken either in their own language or in a language that they can understand.³³ Camps established in the front-line assembly areas and in-land assembly areas will be administered by the Governorate of the province in which they are located.³⁴

Under current legislation non-Europeans are not recognized as “refugees”.³⁵ However, people coming from non-European countries would be qualified as “asylum-seekers”.³⁶ The only difference between a “refugee” and “asylum seeker” is whether the events causing them to flee took place in Europe or elsewhere. The rights arising from the Geneva Convention such as international protection as well as other types of protection, and the non-*refoulement* principle, are granted by Turkey to asylum-seekers.

Asylum procedure

Asylum procedure begins with police registration. A non-European asylum seeker must register with the police, whether or not Turkey is entered legally. Only after registration, will the police evaluate whether to grant “asylum seeker status” so the applicant can stay legally in Turkey.³⁷ In cases of illegal entrance registration is made in the city of first arrival. Persons who entered legally with valid passports should register with the police in the city where they are present or currently live. According to law, persons are required to register “without delay” though no exact time limit is set.³⁸

During registration, the police ask information concerning personal status (name, age, date and place of birth, marital status etc). Pictures and fingerprints are also taken. An interpreter is provided when needed. Failure to register with the police means illegality, a breach of law, in Turkey and may cause deportation. Delay in registration with the police results in a monetary fine which can be quite high depending on the length of delay. It is observed that some illegal immigrants never register and try to leave Turkey illegally. Some make an application only after they have been apprehended by the police.

When an asylum seeker application is made, two documents are issued by Turkish authorities: an asylum seeker ID card and a residence permit. The former contains a picture and personal details of the applicant and is issued fairly quickly. It is a valid ID card and there is no need to renew or extend it. The residence permit is valid, instead, for six months, but renewable. If the asylum seeker entered legally, the residence permit becomes valid for six months after the expiration of visa. If the asylum seeker entered illegally, the residence permit is valid again for six months, but from the date of arrival in Turkey. It is renewed by the police after six months until the application is evaluated and finally decided. It may take quite some time to get a residence permit. Although the ID card is free of charge,

³² Art. 10.

³³ Art. 12.

³⁴ Art. 14.

³⁵ “Refugee” is defined by Turkish law as “an alien who as a result of events occurring in Europe and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”. The 1994 Regulation.

³⁶ “Asylum seeker” is defined as “an alien who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”. The 1994 Regulation.

³⁷ 2006 Circular.

³⁸ Previously there were five-day and ten-day deadlines in the 1994 Regulation.

the residence permit is costly. In fact, to get a residence permit two types of fees apply: a document fee and a residence fee. Compared to the residence fee, which is set each year by the Ministry of Finance, the document fee is quite low.³⁹ Fees apply to each family member. Fees can be waived in certain circumstances. The original travel document or passport, if any, is taken and held by the police. In case of police inspections both documents need to be produced and both documents are needed in order to access health care, education, work, financial and social assistance.

When the registration is completed, the applicant is assigned to one of twenty six cities. In the assigned city, the applicant is called to the police centre sign-in regularly. After taking into account family ties and the medical conditions of the applicant, the police can assign the applicant to another city upon request. It should be noted that the assignment cities do not include big cities and metropolitan areas like Istanbul where applicants can find jobs. It is also possible to apply to the police for permission to leave the assigned city for a short period. If the application is successful, the police issue a temporary leave permit. Permission can be given for up to 15 days with the possibility of a further renewal of another 15 days by the police in the city where the applicant has gone. If the person travels out of the city without permission, he is regarded as an “escapee”. Escape can result in prosecution (monetary fine and/or imprisonment), only reasonable grounds that satisfy the police prevent prosecution.

Following registration a preliminary interview is conducted by the police. The objective is to give information on the rights and obligations of asylum applicants in Turkey and also to find out why the applicant has left the home country, why the applicant cannot return and how the applicant arrived in Turkey. In the preliminary interview a personal interview appointment slip with the actual date and time of the asylum interview is also given to the applicant. The personal interview is conducted by the police at a future date in a room used only for asylum interviews. In both interviews police officers are not allowed to wear uniforms, but must, instead, don civilian clothing. The official who conducts the interview studies information on the country of origin and examines the personal history of the applicant beforehand. In the interview detailed information is collected about the story of the applicant. When needed an interpreter is provided.

The MOI conducts an archive enquiry and security investigation with regard to the application and at the same time sends registration and interview forms to the Ministry of Foreign Affairs, in particular, and to other government agencies to garner opinions concerning the applicant’s eligibility for asylum-seeker status.⁴⁰

Using the information gathered during the two interviews and according to a prepared country of origin report, status is then determined. The decision to recognize or reject an application is made by the MOI and given in writing to the applicant by the governorate of the city where the applicant lives. If asylum seeker status is granted, the residence of the applicant is permitted until he or she is resettled in a third country. If the application is rejected, the failed applicant has the right to appeal against the first rejection decision within 15 days. If no appeal is made the applicant has 15 days to leave Turkey, otherwise risking deportation. If an appeal is made, the applicant has the right to remain in the city of residence until a final decision is made.

There is no formal form to be filled out in case of appeal, but the applicant can write a letter explaining why the decision of the MOI is wrong or another interview may be demanded by the applicant who will have there another chance to present his or her case. According to the MOI, the appeal case is reviewed by a body superior to that which issues the deportation order.⁴¹ However, no details are provided about the composition of the appeal body and the creation of an efficient and

³⁹ 2008 Fees are as follows: Document fee nearly 40 Euros, Six month-residence fee 130 Euros per person. General Directorate of Security.

⁴⁰ NAP, p. 14.

⁴¹ *Ibid.* p 16.

professional expert body for appeals is definitely needed.⁴² As a result of the final decision asylum seeker status can be given or rejected. In case of rejection, the applicant has 15 days to leave Turkey. The 2006 Circular stipulates that if the application is rejected the relevant authorities have to take into account whether return to the home country would result in serious harm as defined by the framework of the European Convention on Human Rights and whether secondary protection should be given.⁴³ Authorities must also consider whether the applicant should be given a residence permit on grounds of humanitarian considerations such as health, education and family unity.⁴⁴

After a second rejection by the MOI, the applicant can file a case in an administrative Court since the decision taken by the MOI is obviously an ‘administrative’ one which is, if challenged by the applicant, subject to judicial review.⁴⁵ Finally, since Turkey recognized individual applications to the European Court of Human Rights (ECHR),⁴⁶ the applicant can make an application against the Turkish Courts’ decision before the ECHR after exhausting all local remedies.⁴⁷

UNHCR in Turkey

Apart from registration with the Turkish police another registration with UNHCR in Ankara is necessary. Asylum seekers who have not registered with the Turkish police are not interviewed by UNHCR, which evaluates whether they qualify to be “refugees” under the 1951 Convention and helps them resettle outside Turkey.⁴⁸ The Turkish authorities inform UNHCR about the applicants and try to ensure that they are registered with UNHCR as well. The Turkish MOI maintains that while a decision is made on the application, UNHCR’s opinion is also taken into consideration, the information contained in the applicant’s case is mutually shared and the status of the applicant is collectively debated.⁴⁹

At UNHCR, the “RSD (Refugee Status Determination) Application Form” is filled out by the applicant. The form contains information on identity, education, work, travel story to Turkey and obviously the reasons for leaving the home country and the reasons that the applicant cannot go back. UNHCR provides an interpreter when needed, as the Turkish police do. An Asylum Seeker Certificate is issued by UNHCR, possibly on the day of registration, depending on the office’s workload. Pictures are also taken during registration. Those applicants who have not yet been registered with the police are advised by UNHCR to register as soon as possible.

An appointment slip with date for an interview is also given. The interview is to determine whether the applicant qualifies as a refugee according to UN guidelines. A legal representative can be present in the interview. The case is determined on the basis of information provided in the interview. If refugee status is granted, a UNHCR Refugee Certificate will be issued and the case will be referred to “Durable Solutions” department. Those who pass the UNHCR test wait in Turkey for eventual resettlement to a third country since, due to its geographical limitation, Turkey does not accept refugees from non-European countries. Those who are granted refugee status by UNHCR go through an application process with the embassy of the resettlement country in accordance with the criteria set forth by the resettlement country. Final resettlement can take several months, even years in some

⁴² See below.

⁴³ 2006 Circular. Para 12.

⁴⁴ *Ibid.*

⁴⁵ Constitution Art. 125.

⁴⁶ Note that according to two ECHR judgements the Turkish judicial review does not satisfy the standards of Article 13 of the ECHR related to effective remedy. See ECHR, *Jabari v. Turkey*, Judgement on the 11th of January 2000 and *D. Others v. Turkey*, the 22th of June 2006.

⁴⁷ See UNHCR, *The Collection of Turkish Jurisprudence on Asylum, Refugees and Migration*.

⁴⁸ See below.

⁴⁹ NAP, pp. 14-15.

cases. In fact recognition of refugee status by UNHCR does not guarantee final resettlement in a third country. If refugee status is granted, the person may apply for financial aid from UNHCR.

If the application for refugee status is rejected by UNHCR, the applicant has the right to appeal to UNHCR within 30 days, as soon as he or she is informed of the rejection decision. UNHCR must explain why the application is rejected in writing. The applicant fills an “Appeal Application Form” and makes an appeal statement explaining the grounds for making a refugee application, including any new developments which have occurred while the person is in Turkey. An appeal interview date can only be given after a written application is made to UNHCR. An appeal interview is similar to that of the first interview. As a result of the appeal interview refugee status is granted or rejected. When refugee status is granted, resettlement procedure begins as explained above. If rejected, the case is closed. The case can only be re-opened under extraordinary circumstances, where a recent development occurred affecting the case in the home country or where it is shown that the case was not properly decided or examined. Like the appeal application, a request to re-open the application must be made in writing. The applicant may be invited to a re-opening interview where the case will be decided.

Adopting the EU *acquis* and asylum reform

Turkey’s asylum reform is closely connected with its EU membership process.⁵⁰ The Accession Partnership Document incorporates the following objective: in the medium term “alignment in the field of asylum will be ensured, activities striving for lifting the geographical limitation to the 1951 Geneva Convention will commence, the system for evaluating and deciding on the asylum claims will be strengthened and accommodation centers and social assistance will be provided for asylum seekers and refugees”.⁵¹

National Action Plan

In order to comply with the EU *acquis* (legislation) on Justice and Home Affairs in the field of migration and asylum, Turkey has formed a special task force. As a result of activities carried out by the Special Task Force the “Strategy Paper on Activities Foreseen in the Field of Asylum within the Process of Turkey’s Accession to the European Union (Asylum Strategy Paper)” was produced in October 2003.⁵²

In 2003, Turkey put into force its National Program (NP) on the Adoption of EU *acquis Communautaire*,⁵³ under which Turkey undertook “initiation of harmonization process with EU legislation in the field of asylum has been identified as a priority in the Accession Partnership Document of 2003 and it is foreseen that administrative and technical capacity be improved particularly through the maintenance of works in developing accommodation and social support mechanisms for refugees. Following the enactment of the Draft Bill on Asylum, administrative arrangements shall be put into force and the harmonization process with the EU legislation shall continue”.⁵⁴

Turkey prepared a new draft NP in 2008. The new NP has been discussed in the Turkish Parliament and put into force following its publication in the official gazette on the last day of 2008. With regard to asylum, the new NP contains a priority objective which is the “*continuing efforts of Turkey to implement the National Action Plan on Asylum and Migration including the adoption of a roadmap*”

⁵⁰ See B. CICEKLI, “Impact of the EU Membership Process on the Development of the Turkish Immigration Law”, in P. SHAH and W. MENSKI (eds) *Migration, Diasporas and Legal Systems in Europe*, London: Cavendish, 2006, pp. 267-283.

⁵¹ NAP pp. 6-7.

⁵² The task force produced two more strategy papers, which touch on asylum, entitled the “Strategy Paper on the Protection of External Borders in Turkey”, in April 2003 and the “Strategy Paper to Contribute Migration Management Action Plan in Turkey (Migration Strategy Paper)”, in October 2003.

⁵³ *Official Journal*, n° 25178 of 24 July 2003.

⁵⁴ Article 24.1.

and preparations for the adoption of a comprehensive asylum law in line with the EU *acquis* with the establishment of an asylum authority and increased capacity for combating illegal migration in line with international standards".⁵⁵ As rightly pointed out by the new NP this priority has been prepared on the basis of Turkey's National Action Plan (NAP) for Migration and Asylum which was approved and brought into force by the Turkish Prime Ministry, on the 25th of March.2005.⁵⁶ The NAP contains information on what and when to do in order to comply with the EU *acquis* in the field of asylum.

As stated earlier, the Turkish asylum system lacks statutory legislation. The NAP states that an Asylum Law is needed and that it should be enacted by 2012.⁵⁷ The new NP's target is earlier, 2009-2010.⁵⁸ No draft bill on asylum has been submitted to the Parliament so far. Nevertheless, a new deadline is a very positive step, accelerating the realization of the objectives of the NAP. Moreover, the law has to be understood in context. By 2011, it is expected that a Regulation for the implementation of the planned asylum law will be enacted.⁵⁹ This Regulation should replace the fore-mentioned 1994 regulation. To clarify the prospective law and regulation and help immigration personnel to implement the legislation, an implementation circular (directive) might also be needed, though this is not envisaged by the draft NP.

At the core of International Refugee Law is the principle of *non-refoulement* which is also guaranteed by the 1951 Convention, apart from being a customary law obligation. According to the NAP, this will be applied with the same level of sensitivity within the framework of the 1951 Convention, and ECHR (art. 3) and other international legal standards.⁶⁰ The NAP clearly states that "Aliens reaching the Turkish border in person shall be allowed to seek asylum".⁶¹ Although there is no reference either in the NAP or in the NP to the application of the principle of *non-refoulement*, under the Turkish Constitution international agreements are superior to national law with regard to human rights issues.⁶² Furthermore, despite *non-refoulement* not being listed in the ECHR directly, the European Court found Turkey in breach of its ECHR obligations several times in the past.⁶³ As a result, the 2006 Implementation Directive clearly states, in its preamble, that in case of conflict between national law and international law, international law prevails and it also explicitly makes reference to the principle of *non-refoulement*. Therefore, it is expected that the principle of *non-refoulement* will be applied by Turkey whether or not it is explicitly mentioned in the asylum law to be enacted. Though a direct reference would surely help guarantee this international law obligation.

⁵⁵ The official English version of the new NP is not available at the time of writing (January, 2009). All the references made are to draft version as published at www.abgs.gov.tr. Priority 24.2. This priority is divided into nine sub-priorities, namely:

1. Establishment of an Asylum and Immigration Unit under the Ministry of Interior and employment of personnel to work in this field with an expertise status.
2. Establishment of Asylum Training Curriculum.
3. Establishment of Translators Staff Group for Asylum System and Training Translators on the Asylum Law.
4. Establishment of Translators Staff Group for Asylum System and Training Translators on the Asylum Law.
5. Establishment of an "Appeal Evaluation Board" within the Asylum System for First Instance Decisions.
6. Establishment of a "Unit" To Make Policies in Order to follow and Evaluate the Mass Population Movements (Mass Influx).
7. Establishment of Fingerprint Database for Effective Application of the Dublin Convention.
8. Establishment of the Building for the Asylum and Immigration Unit.
9. Migration and Illegal Migration.

⁵⁶ The Asylum and Migration Action Plan can be obtained from the official website of the General Directorate of Security at www.egm.gov.tr both in Turkish and English. (Also available at www.carim.org).

⁵⁷ NAP, p. 55.

⁵⁸ Draft NP, p. 265.

⁵⁹ Draft NP, p. 267.

⁶⁰ NAP, p. 55.

⁶¹ Ibid, p. 38.

⁶² Article 90, see *supra*.

⁶³ See for example European Court of Justice *Jabari v. Turkey* case. Judgment of 11 July 2000 (Application no: 40035/98)

Although not mentioned in the relevant Turkish legislation, various residence permits are issued such as subsidiary protection and the right to residence on humanitarian grounds. The NAP makes it clear that procedures related to “Subsidiary Protection”, “Tolerated Aliens” and “Residence Permits based on Humanitarian Grounds” should be established in the new asylum law in order to guarantee uniformity.⁶⁴ However, different levels of rights will be given to those receiving subsidiary protection and those granted refugee status within the framework of the 1951 Geneva Convention.⁶⁵ Here while the NAP speaks of “refugee” rights it must be understood as “asylum seeker” rights since due to its geographical limitation Turkey has virtually no refugees and only asylum seekers.⁶⁶

Accelerated procedures

One of the inadequacies of the current system in Turkey is the ambiguity with regard to “accelerated procedure” which might truly help prevent unfounded asylum claims thereby reducing the burden on the system. Article 6 of the 1994 Regulation was amended in January 2006 in order to allow some kind of accelerated procedures⁶⁷ According to the amended provision, “An alien whose claim has not been accepted may appeal to the relevant Provincial Directorate within 15 days. The appeal date may be shortened by the MOI, when necessary, in order to accelerate the decision making procedure.” Following this amendment, the 2006 Circular provides more detailed provisions on this issue. According to the Article 13 of this document, an alien who applies for asylum in the following circumstances will not be given residence permit automatically, unlike ordinary asylum applicants, his/her file will be completed within five business days and be given only two days for appeal:

- After being required to leave Turkish territory due to the loss of conditions for legal residence such as the expiration of work permit, completion of education, expiration of residence permit, expiration of the visa exemption period,
- After a deportation order has been issued due to conviction of a crime,
- After being apprehended due to illegal residence in Turkey,
- Who had previously been deported due to involvement in illegal migration or other crime or prohibited from entry,
- Who was apprehended in the course of illegal departure from Turkey,
- While serving a sentence due to conviction of a crime committed in Turkey or having been released thereafter,
- Who had previously applied for asylum,
- For whom the Governorship considers not to grant residence permit upon
- the pre-screening interview.

Taking into account the shortened appeal period, Article 13 of the Circular could be given as an evidence for “accelerated procedures”.

The accelerated procedure must always ensure that the interviewer is also the decision maker. The NAP provides room for the accelerated procedure and maintains that “clear national rules should be governing what kind of applications shall be included in the accelerated procedure”.⁶⁸

However, it should be noted that the accelerated procedure is not a summary execution. On the one hand, asylum applications channeled through the accelerated procedure should be examined and

⁶⁴ NAP, p. 40.

⁶⁵ This will be done in accordance with EU Council Qualifications Directive. *Ibid.*

⁶⁶ See *supra*.

⁶⁷ L. B. TOKUZLU, “Migration Law in Turkey” *CARIM AS (2007/1)*, Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI), European University Institute, 2007, p. 17.

⁶⁸ NAP, p. 38.

determined with priority. But, on the other, all legal guarantees should be safeguarded.⁶⁹ Decisions given by accelerated procedure are not immune from judicial review. Yet, in order to be really speedy, as mentioned by the NAP, actions for negative asylum decisions should be regarded as urgent cases and a time limit should be introduced for both the application procedures and accelerated rulings.⁷⁰ This means that the period during which an applicant may appeal against the decision of the interviewer must be kept short and that the Court must review and deliver its judgment within a specified time limit. As long as enough time is given to the applicant to prepare his or her case to be heard at the administrative Court, a shorter period of appeal does not seem to be a problem. Obviously setting a time frame for the Court may amount to pressure on the judiciary. When the caseload of the Court is high it may jeopardize the rights of the applicant. Therefore, for the accelerated procedure to be efficiently operational specialized courts should be established. Even where the special Court alternative is not deemed possible, judges examining asylum cases should, in any case, be provided with asylum law training and should be able to access country of origin information. It must be noted that the administrative judicial review cannot be replaced by expert panels or similar consisting of officers not judges. This definitely would infringe the rights of the applicant and go against the rule of law which is guaranteed by the Turkish Constitution.

Need for a holistic approach to Asylum and Migration

With regard to legislation and policy implementation the NAP takes into account that asylum and migration, both legal and illegal, are necessarily interconnected and dynamic processes. Therefore, a holistic approach and constant review mechanism is needed to handle asylum and migration policies and legislation. From a legal point of view terms used in legislation should be clearly defined, leaving no doubt as to their meaning. An efficient implementation mechanism can only be based on real and accurate information. Therefore, a systematic approach for the compilation, analysis and publication of credible statistics and data should be guaranteed to serve such purposes as the facilitation of policy making. Although legislation is the responsibility of the state organs, an efficient legal framework and implementation mechanism requires that not only various state agencies but also universities, NGOs and other relevant national and international organizations must work in close cooperation. In addition, the NAP states again and again that Turkey has a unique geographical position which should be taken into account when legislation is drafted. In this light the mass population movement potential of the region deserves special regulation.⁷¹

Institutional reforms

Apart from asylum law and related legislation, the NAP mainly envisages institutional reform and investment projects. In Turkey asylum issues are currently dealt with by the Foreigners, Borders and Asylum Department which is one of 25 departments in the General Directorate of Security.⁷² It is often noted that the department is under staffed and that it lacks adequate resources. Therefore, institutional reform is obviously and urgently needed. Turkey is committed to the establishment of “a single and centralized institution under the MOI specialized in the determination of refugee status and fulfillment of the legislative, administrative and infrastructure needs for developing its operational capacity.”⁷³ According to the NAP existing specialization units will be expanded and strengthened to guarantee that asylum and migration procedures are enforced in harmony with the EU *acquis*.⁷⁴ Although the

⁶⁹ This has to be done in accordance with EU Council Procedures Directive (Asile 33). *Ibid*.

⁷⁰ NAP, p. 38-39.

⁷¹ NAP, p. 38. For mass influx and geographical limitation see *infra*...

⁷² See <http://www.bilgiedinme.egm.gov.tr/kurumsaldosya/kurumsal1.htm#yabancilar>.

⁷³ 2003 NP.

⁷⁴ NAP, p. 33.

NAP speaks of the “existing” specialization unit, the new NP’s objective is the establishment of a “new” asylum unit under the MOI.⁷⁵ The only ambiguity is the status of the unit. It is clear that the unit will be established as a part of the MOI, but it does not mean that it will necessarily be established as part of the General Directorate of Security, i.e. the police. It is also possible that, like many other units within the MOI, such as General Directorate on Population and Citizenship Affairs, it may be “civilian”. Since the new NP talks about the enactment of a new *law* on the establishment of asylum and immigration, the new unit may not be part of the police and might be independent unit.

Similarly, the new unit needs its own premises. Both the NAP and the NP set 2010 as the deadline for the establishment of a building for the asylum unit.⁷⁶ The new unit with its own premises is also expected to have its own independent budget.⁷⁷ The NAP sets out clear guidelines for the qualifications of the personnel to be employed by the unit: individuals chosen should be able to use information technologies, respect different cultures and values, communicate and work in teams, make analysis having analytical thinking skills, take responsibility and reach an outcome, and be competent in oral and written expression with planning skills.⁷⁸ It is natural that the existing personnel of the department will also take important roles in the new institutional structure, since they have been working on asylum issues for a long time, thereby gaining experience and expertise. Furthermore they have had adequate training. A training academy (institute) is also planned in order to ensure continuity in the training of personnel working in the field of asylum.⁷⁹ The proposed deadline for the academy is 2011.⁸⁰ By then training activities and seminars on Asylum Law together with UNHCR will be organized for the gendarmerie⁸¹ and an “Asylum Training Curriculum” will be put together for the police.⁸²

Although, as noted above, the existing system allows appeals against negative decisions,⁸³ a comprehensive and independent board for appeals is needed. Both the NAP and NP make reference to this “Appeal Evaluation Board”.⁸⁴ The board will review the first instance decisions. Persons seeking asylum should be informed immediately of the procedure and should also be informed that if they receive a negative decision they have the right to appeal this decision. However, according to the NP the establishment of the Board is “to be evaluated within the framework of full membership perspective”.⁸⁵ Although this does not necessarily mean that the board will only be established when, and if, Turkey joins the EU. On the other hand, even if the preparation for the board will be completed before 2011, there is no deadline for setting up the board in the NP.

The refugee status determination procedure is closely connected with the country of origin and asylum information system. A twinning and investment project on “Supporting the Development of an Asylum and Country of Origin Information System and the Training of the Personnel of the Future

⁷⁵ Draft NP, p. 264.

⁷⁶ According to draft NP the building will cost 10.000.000 Euro of which three quarter will be provided by the EU funds. p. 277.

⁷⁷ NAP, p. 48.

⁷⁸ Ibid p. 34.

⁷⁹ This will be established in the framework of the Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (EU Council Procedure Directive).

⁸⁰ The budget is 820,000 Euro. Turkey will provide 128,000 Euro whereas the EU funds will be relied on for the rest. Draft NP, p. 270.

⁸¹ Draft NP, p. 268.

⁸² The curriculum will be formed in the framework of the Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status (EU Council Procedure Directive). Draft NP, p. 271.

⁸³ *Supra*.

⁸⁴ The Board will be established in the framework of the Council Resolution of 20 June 1995 on minimum guarantees for asylum procedures.

⁸⁵ Draft NP, p. 274.

Asylum Authority” was drafted in 2005 by the MOI and submitted to the Representation of the EU Commission in Turkey. The project started in 2006 and is expected to be completed before the end of 2008.⁸⁶ The system enables decision makers to access information in areas that fall under their authority such as information on asylum seekers and countries of origin..

Another category of investment projects is the establishment of reception and accommodation centers for the asylum seekers and refugee guest houses, as well as the establishment of return centers. According to EU Council directives on reception conditions, the receiving country has the duty to provide shelter and physical reception conditions for asylum seekers. The NAP provides that asylum seeker reception and accommodation centers and guest houses for refugees shall be established and made operational.⁸⁷ Seven centers are planned, each with a capacity for the accommodation of approximately 750 people. If needed capacity will be increased and new centers will be built. The centers, it is intended, will be built in the eastern and then the central regions of Turkey. The aim of building these centers is, according to the NAP: “to implement the asylum strategy and to provide effective and fair international protection to genuine refugees.”⁸⁸ The language used here is surprising, to say the least. The centers are intended to help refugees, but Turkey has virtually no refugees due to its geographical limitation. It is also very well known that Turkey is determined to keep the geographical limitation at least until full EU membership has been granted.⁸⁹ Then at least the name of the centers would suggest that some centers have to be for asylum seekers, not for only refugees. It would be absurd to think that only refugees and not asylum seekers are involved. It must be remembered that asylum seekers are given *de facto* refugee status by Turkey and provided with protection. Applicants who have applied for asylum and who have not yet been granted the status and those, who have been granted the status as a refugee or an asylum seeker, but who are unable to reside freely in Turkey or whose free residence is not deemed appropriate by the authorities will be given priority in the centers. Also, return centers are planned for those awaiting relevant procedures for return.⁹⁰ Although reception and accommodation centers were originally planned for 2010, there was no exact deadline for the establishment of return centers in the NAP. The new NP states, instead, that all will be established before 2011.⁹¹

Lifting the geographical limitation and burden sharing

It will be clear from what has gone before that Turkey has committed itself to make many changes, reforming its asylum legislation and policy in the process. However, the only truly revolutionary step would be to lift its geographic limitation. Turkey is one of the very few countries which still maintain geographical limitations to the 1951 Convention and its 1967 Protocol. As stated earlier, though the limitation is not applied in practice and *de facto* refugee status is given, non-Europeans are not recognized as refugees and are not granted permanent residency in Turkey.

In principle, Turkey agrees with the lifting of its geographical limitation and is fully aware that this is an obstacle in EU membership negotiations. Turkey maintains that the

⁸⁶ NAP, p. 55.

⁸⁷ They will be built as laid down in the Hague Programme and in the EU Council Reception Conditions Directive

⁸⁸ NAP, p. 37.

⁸⁹ See below.

⁹⁰ NAP, p. 37.

⁹¹ Draft NP, p. 272, 273, 278. NP calls return centres “removal centres” where illegal immigrant will also be held until deportation and centres are financed by the project titled “Support to Turkey’s Capacity in Combating Illegal Migration and Refurbishment of Removal Centers for Illegal Migrants - TR 07.02.16” under Pre-Accession Financial Assistance 2007 Programme.

issue should be resolved without harming Turkey's economic, social and cultural conditions and tries to make a connection between the lifting of the geographical limitation and full membership. In other words, in the absence of EU membership, Turkey does not want to lift the limitation. There are several reasons put forward for maintaining the limitation. With regard to "Turkey's social and cultural conditions", accepting Europeans as refugees but not others seems contradictory. It is, after all, well known that most of the people coming from the East adapt easily to the Turkish way of life. This is especially true for those who have Turkish ethnic origin like the Turkmens of Iraq and Afghanistan, and the Azeris of Iran. On the other hand, theoretically speaking, while Europeans are accepted as refugees their integration into Turkish society may be more problematic.⁹²

Security is sometimes presented as another obstacle to lifting the geographical limitation. However, given the presence of high numbers of illegal migrants in Turkey security concerns are not particularly convincing. It is worth keeping in mind that Turkey and Armenia have had very tense relations but that the number of illegal workers from Armenia has risen from 40.000 to 70.000 in the past three years, despite the absence of diplomatic relations between the two countries.⁹³ A report on illegal migration in Turkey by a think tank specifically mentioned citizens of Armenia as a threat and called for the deportation of all illegal migrant workers.⁹⁴ Similarly, many Iraqi Kurds sought refuge in Turkey escaping internal conflicts in Iraq, though it is well known that the regional Kurdish administration and Turkey do not see eye to eye on many issues.⁹⁵

The real reason for maintaining the geographical limitation may be economic. As the present author has seen, many officials dealing with the asylum system, in both the police and the military, believe that if the geographical limitation was abolished a vast number of refugees would arrive in Turkey, creating a huge financial burden for the country.⁹⁶ This point can also be supported by the fact that whenever EU and Turkish officials talk about asylum system reform, 'burden sharing' is at the top of the agenda.⁹⁷ According to the NAP Turkey "should not be expected to handle issues of asylum...and...irregular migration on its own".⁹⁸ The NAP always makes reference to the notion of burden sharing which "should both include the financial burden and refugees/asylum seekers according to parameters such as [the] national income and population density of countries."⁹⁹ Apparently Turkey is ready to lift the limitation if the EU provides financial help and accepts a certain number of refugees who applied for asylum in Turkey. The EU's financial help is needed not only to help lifting the geographical limitation, but also to implement the NAP and the EU *acquis*. In this regard the following are to be financed by the Pre-Accession Financial Assistance Programs of the EU:

- The establishment and operation of reception and accommodation facilities for asylum seekers and the founding of refugee guest houses,
- The training of personnel to be recruited at these centers,

⁹² As demonstrated by the case of ex-socialist countries. There is a common misperception that women come from ex-socialist countries.

⁹³ Hurriyet, 30.6.2008.

⁹⁴ National Security Strategies Research Center (TUSAM). The report estimates the number of Armenian citizens working in Turkey as 100.000. Available at www.tusam.net

⁹⁵ For an analysis of Iraqi citizens in Turkey see D. DANIS, "Iraqis in Istanbul" in D. DANIS, "Integration in Limbo: Iraqi Afghan and Maghrebi Migrants in Istanbul", . Research Report, MIREKOC, 2006.

⁹⁶ This view is expressed by several officials, who were interviewed by the present author.

⁹⁷ See Turkish National Action Plan for Asylum and Migration. The Plan can be obtained from the official website of the General Directorate of Security at www.egm.gov.tr both in Turkish and English

⁹⁸ NAP, p 49.

⁹⁹ Ibid. The Plan states that the following people will be "shared" between Turkey and the EU country: i. Some of the asylum seekers admitted to the procedure in Turkey, ii. Some of the refugees, iii. Some of the aliens arriving in Turkey during mass population movements and receiving temporary protection.

- The establishment of a country of origin and asylum information system,
- The establishment of a Training Academy (Institute),
- The establishment of a service building for the asylum unit.¹⁰⁰

The NAP envisages the preparation of a study and the establishment of a task force to better take the burden of lifting the geographical limitation. The findings of the task force should be analyzed and arranged with a view to a timeframe and be approved and implemented by Turkey and the EU.¹⁰¹ The following topics should be included within the scope of the study:

- The expected increase in the number of refugees to arrive in Turkey following the lifting of the geographical limitation,
- Locations and costs of those asylum seeker reception and accommodation centers, refugee guest houses, accommodation centers and return centers that need to be established,
- Costs related to the establishment of a permanent training academy for personnel working or about to work in the field of asylum and migration,
- Costs required for the integration of migrants and refugees into Turkish society.¹⁰²

One of the principle issues that makes the lifting of the geographical limitation difficult and that increases the burden on Turkey is the possibility of a mass influx of refugees. In fact, Turkey has experienced such an influx on various occasions in the recent past.¹⁰³ It was also an issue during the invasion of Iraq in 2003.¹⁰⁴ The 2003 NP set forth two conditions for lifting the limitation: (i.) Necessary amendments to legislation and infrastructure should be made in order to prevent the direct influx of refugees to Turkey during the accession phase, and (ii.) EU countries should demonstrate their sensitivity in burden sharing.¹⁰⁵

Turkey has committed itself to take necessary arrangement in line with the EU *acquis* in the case of mass influx.¹⁰⁶ But this will be done only after Turkey has become a full EU member.¹⁰⁷ According to the NAP, a proposal for lifting the geographical limitation may be submitted to Parliament in 2012 in line with the completion of Turkey's negotiations for accession to the EU, following the finalization of the abovementioned projects and the meeting of the abovementioned conditions.

¹⁰⁰ NAP, p. 49.

¹⁰¹ Cicekli, supra note 44.

¹⁰² NAP, p. 50.

¹⁰³ Based on the information provided by the NAP "a total of 934,354 aliens were granted residence permits with the right to work in Turkey". The number includes:

- 51,542 people during the Iran-Iraq war of 1988,
- 20,000 people during the civil war, the disintegration of former Yugoslavia and the events which took place in Bosnia-Herzegovina between 1992 - 1997,
- A total of 345,000 people including 311,000 people deported from Bulgaria and 34,000 people arriving with visas between May and August 1989
- 7,489 people between 2nd August 1990 and 2nd April 1991 before the Gulf Crisis and War, and 460,000 afterwards,
- 17,746 people after the events which took place in Kosovo in 1999,
- 32,577 Ahiska Turks in exile from their countries, who were dispersed over a large geographical area.

¹⁰⁴ "Turkey Prepares for Iraq Refugees" BBC news, 15 January 2003. See also I. Kaya, Turkey and Iraqi Refugee Crisis: Legal Aspects, CARIM AS (2008), Robert Schuman Centre for Advanced Studies, San Domenico di Fiesole (FI): European University Institute, 2008

¹⁰⁵ NP available at www.abgs.gov.tr

¹⁰⁶ Within the framework of EU Council Directive on Temporary Protection.

¹⁰⁷ NAP, p. 50

There is also an issue of perception, or misperception, which creates skepticism about the policy and reform recommendations of the EU. The position and policy suggestions of the EU are seen by the public as attempts to pressurize Turkey. By introducing more difficult visa conditions, such as language exams for family unification, for migrants to Europe and encouraging Turkey to tighten its borders, especially with Greece, the migrants in general and refugees in particular become stranded in Turkey. At the same time, the EU has pushed Turkey to adopt a European style asylum system, which will lead to the lifting of the geographical limitation. In the end, Turkey is deemed to be a 'buffer zone' or 'dumping ground'.¹⁰⁸ The position of the EU is regarded as hypocrisy since, on the one hand, it seriously limits the entrance of foreigners and, yet, on the other, pressurizes Turkey to accept more foreigners. This belief present among the general public has also been seen by the author among officials and politicians.¹⁰⁹

Rights and implementation

The 1951 Convention provides rights for 'refugees'. Due to the geographical limitation Turkey has virtually no refugees, but asylum seekers and people who have applied for asylum. However, Turkey provides rights which have to be provided for refugees under international law to asylum seekers and applicants for asylum.¹¹⁰

Turkey helps applicants and asylum seekers through public agencies, local governments and NGOs. Under the 2006 Circular, help and aid have to be provided until the applicants are able to support themselves. The only difficulty in the legal documents is the term '*as long as the capabilities allow*'.¹¹¹ This may mean that Turkey's responsibility is limited by its economic resources.

Health care

With regard to health care, in principle, care has to be paid for by the asylum seeker. Where the asylum seeker does not have financial ability to pay for it, which is the case most of the time the government, under the 2006 Circular, pays for the cost if the person does not get any help for health care services from UNCHR. To this end even before the 2006 Circular the MOI issued, in 2002, a circular on health care services which stated that persons granted a refugee/asylum seeker status should benefit from free health care service. The 2006 Circular extends the coverage to applicants as well.¹¹² For health care services an important role is played by the Social Solidarity Fund, a fund established by the government to help those in need. The fund is administered by the governor of the provinces, who is also the head of all government agencies there including the police. In practice, an asylum seeker makes an application to the police (foreigners department) where he is assigned to live. Then the police writes to the Fund.¹¹³ The asylum seeker gets a certificate from the Fund stating that expenses will be paid by the government and produces this certificate in the hospital where he or she can be treated free of charge. The procedure is very similar to that employed for those Turkish citizens who do not have any health insurance. Turkish citizens also apply to the Fund for their certificate.

¹⁰⁸ For example see A. BULAC, www.serinselvi.com and I. BUYUKEKEN www.merhabagazetesi.com 10.12.2006.

¹⁰⁹ See for example *Orkun Atalay*, www.ufukotesi.com, 26.10.2008.

¹¹⁰ *Supra*

¹¹¹ 2006 Circular, p. 18.

¹¹² *Ibid.*

¹¹³ Social Solidarity Fund Implementation Principles. 31.01.2005 Number: 1262

Legal access to work

With regard to work permits, a general rule is that foreigners apply for work permits before coming to Turkey. However, under the Law on Work Permits of Foreigners any foreigner who is granted at least a six month residence permit may apply for work permit in Turkey. Under the 1994 Regulation asylum seekers are subject to general provisions like other foreigners.¹¹⁴ Therefore, asylum seekers and applicants can get work permits and work legally in Turkey. One of the obstacles to getting a work permit could be that in Turkey almost half of the employees work unregistered because of the heavy burden of taxes and social service contributions. In practice, though it is known that many asylum seekers work unregistered as if they were Turkish citizens. Another problem with regard to employment is the assignment to certain cities for residence. These cities lack job opportunities and any asylum seeker there is unlikely to find a job. Therefore, many asylum seekers leave their assigned city for bigger cities like İstanbul where they can find jobs more easily. However, as outlined above, when the city is left without prior permission from the police the asylum seeker becomes an ‘escapee’ and may face serious legal consequences, even deportation. Work permits are issued by the Ministry of Labour. The NAP states that work permits for asylum seekers should be issued by the institution which grants status.¹¹⁵ This definitely would make the process easier and faster.

Education

According to the Turkish Constitution primary education in Turkey is compulsory and provided freely by the government.¹¹⁶ Compulsory schooling covers the ages between 6 and 14.¹¹⁷ Under the NAP the education of asylum seekers, refugees and other alien children at the age of mandatory education is necessary and the Ministry of National Education takes measures to ensure that asylum seeker, refugee and other alien children access appropriate education. To this end, pilot schools may be selected in some provinces for the mandatory education of said children.¹¹⁸ The annexed table 10 shows the number of asylum seeker children at school in Turkey by nationality and by city of residence.

The integration issue

Apart from mandatory education, asylum seekers are encouraged to attend Turkish language classes and vocational training courses where available. The NAP makes it clear that language learning and cultural adaptation activities should be encouraged and sees this as a part of the integration process.¹¹⁹ As part of the integration process induction programs are to be organized for asylum seekers. In the centers where introduction programs take place brochures are to be used in order to inform such persons on the laws, and the cultural and social characteristics of Turkey as well as their rights under international law and Turkish law.¹²⁰ However, it is noteworthy that apart from producing a few brochures little has been done: the programs have not been organized, nor have the centers been established. Although the NAP implies that an integration system exists for asylum seekers, it is far from being adequate and sufficient, if, in fact, there is one at all.¹²¹

The NAP acknowledges that a national program should be drafted for the integration of refugees including a schedule, responsibilities and a list of those who are in charge. Under the NAP integration

¹¹⁴ Md. 27.

¹¹⁵ NAP, p. 44.

¹¹⁶ Article 42.

¹¹⁷ Law n° 222. Law on Education and Training. Article 2.

¹¹⁸ NAP, p. 45.

¹¹⁹ NAP, p. 45.

¹²⁰ NAP, p. 45.

¹²¹ NAP reads “There does not exist a system for the integration of aliens except for asylum seekers and refugees”.

activities are to be delegated to an institution by law, whereas the government will only have a regulative and supervisory responsibility in general. The institution which is in charge of integration will establish coordination with other institutions and agencies. The cornerstone of integration is civil society involvement. For this purpose, NGOs and other relevant institutions are to be effectively involved in integration issues; necessary arrangements are to be made on this subject; the role of relevant institutions and NGOs should be clearly defined in the newly drafted bill on asylum. The following steps are envisaged:

- The state may allow institutions which carry out (or contribute to) integration activities to play a role in implementation in order to allow them to benefit from tax deduction. The legislation related to tax deduction should be examined and arrangements should be made accordingly.
- Friendly family groups are to be formed by NGOs for certain asylum seeker groups.
- The State should promote integration programs through the press and the media in order to ensure the full exercise of social and cultural rights; infrastructure and legal arrangements should be prepared for this purpose.
- Consultancy services to facilitate integration should be provided. A system similar to *au pair* may be considered for aliens to make adaptation to cultural life easier, and so encourage self sufficiency.
- The communication of aliens with NGOs may be strengthened and the integration of aliens into Turkish society encouraged.
- Financial funds should be provided to parties, which shall carry out integration activities, obtained directly from the government budget and from official international institutions, UN, EU, UNHCR, IOM and cooperating NGOs.¹²²

Currently NGOs are very active in providing help and assistance to asylum seekers in Turkey. But obviously most of them lack professional skills and better coordination is needed. The government agencies, local authorities and NGOs help asylum seekers. Aid provided to asylum seekers is shown in the table below:

¹²² NAP, p. 44.

Table 3: Aid Given to Asylum Seekers

Year	Number of Family Members	Number of Individuals	
2001	242	751	6.679,00
2002	349	1223	29.614,00
2003	22	144	6.207,00
2004	200	2519	54.100,00
2005	313	1131	50.300,00
2006	790	2781	167.212,63
2007	1379	7903	669.715,51
Total (in YTL)¹²³	4828	21422	1.060.796,14

Source: Adopted from General Directorate of Security data.

It should be noted that in 2006 aid to asylum seekers from Turkey was ten times greater than that of UNHCR. Although the UNHCR figures for 2007 is not yet available, aid by Turkey in 2007 is four times higher than that of the previous year.¹²⁴ It also needs to be pointed out that there are several types of help – neighbours or aid in kind – which cannot be counted. It can safely be said that a considerable amount of help and aid is provided to asylum seekers in Turkey.

Turkish legislation takes into account the needs of vulnerable groups such as single women and unaccompanied children, but further improvement seems essential. There is a special protection procedure for unaccompanied minor children. In case of their application, the authority to which the application is made is under an obligation to notify the MOI verbally and in writing urgently. Minor children have to be placed in protection centers by the social services department. In cases where there is doubt about the age of the children, children can be referred to a medical examination. In any interview with children a social worker and psychologist must be present.¹²⁵ The NAP provides that accommodation and social services for unaccompanied children may be carried out by Child Protection Agency (SHÇEK), that the needs of vulnerable groups including single women and unaccompanied minors should be considered while establishing the reception centers and that systems should be set up for family reunification and the investigation of disappeared persons.¹²⁶ Furthermore, psychological-social support services should be provided to vulnerable groups, after their special needs have been taken into account.¹²⁷

Legal aid is another important matter with regard to asylum seekers' right. When they present their cases they may get help from various NGOs. However free legal aid should be provided by bar associations when asylum seekers appeal against negative decisions according to the NAP and costs for legal aid should be borne by the government.¹²⁸

¹²³ 1 YTL is approximately 0,5 Euro.

¹²⁴ *Supra* D.I.4.

¹²⁵ 2006 Circular, Para 6.

¹²⁶ NAP, p. 45.

¹²⁷ *Ibid*, p. 46.

¹²⁸ NAP, p. 40.

As explained above the assignment of asylum seekers to certain cities produces many problems ranging from unemployment to family unification. Therefore, as part of the right to travel and freely choose residence it is suggested by the NAP that asylum seekers and people who are found to be eligible for subsidiary or temporary protection, and have completed essential integration programs, should be allowed to decide where to reside in order to ensure their full integration with the Turkish society. or this purpose article 17 of Law No. 5683 on Aliens needs to be amended.

The EU *acquis* and projects on asylum

Since the enactment of the 1994 Regulation Turkey cooperates with international organizations as well as other countries, mainly European ones, in the field of asylum. In order to put the 1994 Asylum Regulation into action the MOI has supported such efforts since 1997 through a series of seminars, workshops and working programs jointly organized with UNHCR under the “Project for Developing an Asylum System in Turkey”. The topics addressed during training activities have focused on the international protection of refugees and the principles of refugee status determination. An important number of personnel working at both central and provincial organizations of the MOI underwent training. Besides, it also needs to be mentioned that UNHCR has provided training for judges, public prosecutors and district governors on the international protection of asylum seekers.¹²⁹

Another comprehensive training Project is initiated by the Representation of International Catholic Migration Commission (ICMC) in Turkey. “Training Project for Increasing Police Capacity in the Fields Pertaining to Refugees/Asylum Seekers” was jointly commenced by the ICMC, the British Embassy in Ankara and the Turkish MOI in 2004. The Project provided central and provincial personnel of the MOI working in the field of asylum with expertise training for one year. The overall long-term objective of the training project was to build and increase the capacity of MOI personnel working in the field of asylum, bringing it into line with international standards. During the training activities a special emphasis on the EU *acquis* was made.¹³⁰

Three important projects supported by the EU need mentioning:

- Supporting Turkish Authorities Responsible for Migration in the Field of Asylum
- Asylum-Migration Twinning Project
- Project for Supporting the Development of an Asylum and Country of Origin Information System and the Training of Personnel for the Future Asylum Authority

Turkey initiated the implementation phase of the 2001/HLWG/115 project entitled “Supporting Turkish Authorities Responsible for Migration in the Field of Asylum” on 7 April 2003, a project which was jointly undertaken by the Turkish and German Interior Ministries and financed under the EU High Level Working Group (HLWG) Iraqi Action Plan, B7-667. The aim of the Project was to align legal, institutional and personnel capacity with the EU *acquis* in order to support institutions working in the field of migration and to contribute to the effective control of migration flows. Several seminars and conferences were organized within the framework of the project. EU legislation, a comparison of best country practices, interviewing and decision making techniques, vulnerable groups, country of origin information, admission and integration, expiration of stay in the territory, return and specific procedures and the principles of the EU *acquis* were among the topics tackled during the seminars in question. The Project was completed in 2004.¹³¹

The following activities have been carried out within the scope of TR02-JH-03, Asylum-Migration Twinning Project:

¹²⁹ NAP, p. 17.

¹³⁰ NAP, p. 18.

¹³¹ NAP, pp. 17-18.

- Seminar on Family Reunification,
- Seminar on Project Management,
- Study Visits to Denmark Czech Republic, Ireland and the UK,
- First Asylum Follow-up Seminar on the EU Asylum Acquis,
- Seminar on Residence and Work Permits in the EU,
- Seminar on Integration within the EU,
- Seminar on Deportation Measures,
- Second Asylum Follow-up Seminar on the EU Asylum Acquis,
- Seminar on Project Funding,
- Seminar on the Identification of Human Resources and Training Needs.

Turkey prepared a twinning and investment project fiche on the “Project for Supporting the Development of an Asylum and Country of Origin Information System and the Training of Personnel for the Future Asylum Authority” and submitted it to the Representation of the EU Commission to Turkey in 2005. The overall objective of the project was to align the Turkish asylum system with the EU *acquis*. The purpose of the Project was to ensure that the MOI establishes and utilizes a Country of Origin information system, has complete knowledge on refugee status determination procedure and develops a training program of its own for the personnel of the future asylum authority.¹³²

¹³² NAP, pp. 18-19.

Conclusion

This paper has examined the current efforts by Turkey to adopt the EU *acquis* in the field of asylum law. As pointed out by the EU “extensive work is underway to improve administrative capacity and streamline asylum procedures.”¹³³

One of the inadequacies of the current situation in Turkey is that there is no asylum law enacted by the Parliament. The current system is based on the 1994 Regulation and 2006 Circular. Both legal instruments lack a statutory base. It is stated by the MOI that in order to bridge the draft bill and the applicable asylum regulation the MOI drafted an internal circular prior to the publication of the draft bill on asylum. This is certainly an awkward situation. The Circular is prepared by the MOI, whereas only Parliament has the power to enact a law. Regulations and circulars have to be prepared in accordance with law, not laws in accordance with circulars. An enactment of an asylum law and the further harmonization of regulations and circulars will be a very important step in reforming the asylum system in Turkey.

UNHCR is presently operational in Turkey and plays an important role in RSD. However, according to Turkish national law status determination must be carried out by the MOI. This creates an ambiguity and complexity in status determination. Theoretically speaking, a person may be accepted by both UNHCR and the MOI. In this case there would not be a problem. But if the person is rejected by the MOI and accepted by UNHCR, he or she may face deportation and this may create a breach of Turkey’s international law obligation if UNHCR’s determination is right. A high level of coordination must be ensured between the two mechanisms, and if possible there has to be a single authority for status determination.

A professional single authority must, as pointed out by the NAP, be established. It has to be supplied with an adequate number of professional personnel and the means necessary to determine status. Also an independent evaluation board is essential for appeals. Judges must be provided with adequate training for the review of administrative actions. The EU considers the asylum management unit “as the first step towards a dedicated authority”, an authority able to manage both reception and integration issues.¹³⁴

EU-Turkish cooperation in reforming the Turkish asylum system is promising. It must be accelerated and intensified. It depends on the speed of the membership negotiation process with the EU. One of the fields where more cooperation is required is the integration of asylum seekers. The mobilization of and cooperation with NGOs and local authorities are the key to the integration of asylum seekers.

Perhaps the most important obstacle in asylum law reform is the lifting of the geographical limitation. This must be studied carefully. Turkey will continue to insist on burden sharing with the EU. Asylum and migration is an important part of the negotiation process for membership and must be handled prior to membership. On the other hand, as Kirisci rightly points out, the Turkish government fears that the EU might withdraw from its commitments to Turkey and leave it outside the union.¹³⁵ Turkey then will try to keep and play the geographical limitation card as its trump, waiting until it becomes a member state to finally give the limitation up. And even if the limitation is lifted before this, Turkey will do its best to postpone implementation until membership is granted. When the limitation is lifted, special exceptions in accordance with the EU *acquis* must be maintained in the case of mass influxes where temporary protection can be a solution.

¹³³ Turkey 2008 Progress Report Brussels, 05.11.2008, SEC(2008) 2699 final.

¹³⁴ Ibid.

¹³⁵ K. KIRISCI, “To Lift or Not to Lift’ the Geographical Limitation to the 1951 Geneva Convention Relating to the Status of Refugees: Turkey’s Pre-accession to the EU and Asylum”, Draft paper prepared for the 4th METU International Relations, Ankara, 30 June – 2 July 2005. Available at www.edam.org

ANNEXES

Table 4: Asylum Applications by Nationality (1995-2007)

Nationality	'95	'96	'97	'98	'99	'00	'01	'02	'03	'04	'05	'06	'07	Total
USA											1	1		2
Afghanistan	13		10	19	85	116	365	25	17	14	150	171	495	1480
Albania			3					1				2	1	7
Algeria			2	9	1	3		3	1	3	3	1	3	29
Azerbaijan		2	13			11	1	2	3		3	1		36
Belgium									1					1
Bangladesh			2	1				2	1					6
Birmania							1							1
Bosnia -Herzegovina		46			1		1					2		50
Bulgaria	5	2	4	3								1	1	16
Burma									1					1
Burundi									10		1	3	1	15
Cameroon												1	2	3
China	5	6		1	1		5	12	8	5	41	12	10	106
Congo				4	1	4	1	5	1		9	15	12	52
Egypt		1		1		1	1	2	1		2		1	10
Eritrea					2	1	2		7	8	14	7	31	72
Ethiopia					9		1	1	1	1	6	7	30	56
Georgia					1				18			1	1	21
Germany										1			1	2
Ghana										3				3
Guinea													7	7
Greece	2							1						3
India								4			1			5
Iran	710	1243	2298	1630	3126	3576	4271	2489	2258	1881	1605	2222	1654	28963
Iraq	1267	1296	1528	2796	2124	1246	976	892	181	1041	764	555	2306	16972
Israel							1							1
Italy							1							1
Ivory Coast												6	10	16
Jordan				1		5		1		2	2	2		13
Kazakhstan							3				2	1	3	9
Kenya											1			1

Reform in Turkish asylum law: adopting the EU *acquis*?

Nationality	'95	'96	'97	'98	'99	'00	'01	'02	'03	'04	'05	'06	'07	Total
Kyrgyzstan			7							4				11
Kuwait				3										3
Lebanon									1		1	2	1	5
Liberia						1						2	4	7
Libya			1	1	2					1		7		12
Macedonia		4										1		5
Malaysia											1			1
Mauritania										2	2	8	6	18
Morocco									2		3	3	9	17
Myanmar													1	1
Niger													3	3
Nigeria											4	1	4	9
Pakistan		1	6		6		2	6			2	3	8	34
Palestine		1		2	4		2	7	1	4	16	35	21	93
Philippines									2		3	1		6
Romania											1		1	2
Russia	2	6	16	11	12				7		15	10	1	80
Rwanda						2	2	8	6	1			3	22
S. Arabia												1		1
Sierra Leone			1			1	6	2				1		11
Somali					3	9	10	4	2	25	187	378	876	1494
Sri Lanka		1					1	5				10	32	49
Sudan	2	1				2	2	1	9	10	19	19	75	140
Switzerland								1						1
Syria			3	1	3	1	3	6	3	4	15	17	12	68
Tajikistan												1		1
Tunis				1	1	1	6	1	1	15	3		7	36
Turkmenistan							1			1	8	7	2	19
Uganda												1		1
Ukraine		2						5				1		8
Uzbekistan	10	2	3	13	8	5	24	33	24	20	30	18	41	231
West Sahara													2	2
Yemen								1			1	1		3
Yugoslavia	3	1					4							8
Zaire		2												2
Total	2019	2617	3897	4497	5390	4985	5693	3520	2567	3046	2916	3539	5678	50364

Source: Adopted on the information provided by General Directorate of Security.

Table 5. Decisions Refugee-Asylum Applications (Details)

Nationality	Pending	Accepted			Rejected						Out Of Status			Application Numbers
	Under Review	Asylum Seeker (Exit)	Asylum Seeker (Resident)	Refugee (Permanent Resident)	Rejected By A Safe Country	Application Rejected	Closed Case	Closed Case (Escapee)	Exit (Hum. Grounds)	Exit (Family Unification)	Exit (Migrant)	Exit (Visa)	Withdrawal	
Afghanistan	860	295	17		38	59	73	110	1				27	1480
Albania						6							1	7
Algeria	6				11	8	2						2	29
Azerbaijan	1			3	3	20	1						8	36
Bangladesh	3					3								6
Belgium													1	1
Birmania													1	1
Bosnia Herzegovina		46				1							3	50
Bulgaria				1		12	2						1	16
Burma		1												1
Burundi	1	2			10	1			1					15
Cameron	3													3
China	39	17			17	20	8						5	106
Congo	28	11			6	2							5	52
Egypt	5	2			1	1							1	10
Eritrea	42	10			11	1	7		1					72
Ethiopia	32	5			6	10	1		2					56
Georgia	1					2	18							21
Germany	1					1								2
Ghana					3									3
Greece				2		1								3
Guinea	7													7

Reform in Turkish asylum law: adopting the EU *acquis*?

Nationality	Pending	Accepted			Rejected						Out Of Status			Application Numbers
	Under Review	Asylum Seeker (Exit)	Asylum Seeker (Resident)	Refugee (Permanent Resident)	Rejected By A Safe Country	Application Rejected	Closed Case	Closed Case (Escapee)	Exit (Hum. Grounds)	Exit (Family Unification)	Exit (Migrant)	Exit (Visa)	With-drawal	
India						4							1	5
Iran	6048	18148	168		221	2301	688	15	37	20	5	212	1100	28963
Iraq	4707	5849	70		306	3672	986	245	157	7	87	32	854	16972
Israel						1								1
Italy						1								1
Ivory Coast	15					1								16
Jordan		2			9								2	13
Kazakhstan	6					3								9
Kenya						1								1
Kyrgyzstan		4				7								11
Kuwait						3								3
Lebanon	3					2								5
Liberia	4				1	2								7
Libya	5	1			1		2						3	12
Macedonia	1					4								5
Maghreb	10	1			1	1	3						1	17
Malaysia						1								1
Mauritania	15					1	2							18
Myanmar	1													1
Niger	3													3
Nigeria	4					1	2			1			1	9
Pakistan	17					12	1						4	34
Palestine	51	11			2	17	2						10	93
Philippines	4				2									6
Romania						1							1	2

Nationality	Pending	Accepted			Rejected						Out Of Status			Application Numbers
	Under Review	Asylum Seeker (Exit)	Asylum Seeker (Resident)	Refugee (Permanent Resident)	Rejected By A Safe Country	Application Rejected	Closed Case	Closed Case (Escapee)	Exit (Hum. Grounds)	Exit (Family Unification)	Exit (Migrant)	Exit (Visa)	Withdrawal	
Rwanda	11				9	2								22
Russia	15			15		29	14						7	80
S. Arabian	1													1
Sierra Leone	3	1			4	2				1				11
Somali	1195	212	3		14	49	3		11	5	1		1	1494
Sri Lanka	36				1	11	1							49
Sudan	104	13	3		7	5	3		3				2	140
Switzerland					1									1
Syria	13	30				15	8						2	68
Tajikistan		1												1
Tunis	6	5			9	1	2						13	36
Turkmenistan	10	3					4						2	19
Uganda							1							1
Ukraine						6	1						1	8
USA							2							2
Uzbekistan	73	70			14	48	14						12	231
West Sahara	2													2
Yemen	1	1											1	3
Yugoslavia				4	2								2	8
Zaire						2								2
Total	13393	24741	261	25	710	6354	1851	370	213	34	93	244	2075	50364
GENERAL TOTAL	13393		25027			9285				2659				50364

Source: Adopted on the information provided by General Directorate of Security.

Table 6. Breakdown of Asylum Seekers by Country of Origin and Resettlement.

Country of Origin/ Resettlement	Afghanistan	Bosnia	Burma	Burundi	China	Eritrea	Ethiopia	Maghreb	Palestine	Iraq	Iran	Kirgizstan	Congo	Libya	Egypt	Uzbekistan	Sierra Leone	Sudan	Syria	Somali	Tajikistan	Tunis	Turkmenista	Jordan	Yemen	Total
Australia	3		1							1060	2643								5							3712
Austria										3																3
Austria										12	6															18
Azerbaijan											2															2
Belgium											3															3
Bosnia Her.											5															5
Canada	106			2	18	7	3	1	5	900	4141	4	3	1	1	37	1	7	20	115	1	2	3	2	1	5381
Denmark										146	297											1				444
Dubai											1															1
Finland	27					1				413	1012		1							40						1494
France										7	5															12
Germany										421	18															439
Holland	7	1								103	60									1						172
Hungary										9																9
Indonesia										2																2

Country of Origin/ Resettlement	Afghanistan	Bosnia	Burma	Burundi	China	Eritrea	Ethiopia	Maghreb	Palestine	Iraq	Iran	Kirgizstan	Congo	Libya	Egypt	Uzbekistan	Sierra Leone	Sudan	Syria	Somali	Tajikistan	Tunis	Turkmenista	Jordan	Yemen	Total
Ireland											3		4													7
Israel										22	3				1											26
Italy										2																2
Luxemburg										24																24
New Zealand										15	28															43
Norway	34								1	481	1202					7										1725
Poland										1																1
Spain										4																4
Sweden	18								5	563	851															1437
Switzerland										34	84								7							125
Syria										3																3
UAE										3	1															4
UK	10									47	41															98
Ukraine											4															4
USA	90	45				1	2			1552	7760		3			26		8		54						9541
Total	295	46	1	2	18	9	5	1	11	5827	18170	4	11	1	2	70	1	15	32	210	1	3	3	2	1	24741

Source: Adopted on the information provided by General Directorate of Security.

Table 7. Breakdown Of Asylum Seekers Resettled Through Turkey By Year And Nationality

Nationality/ Year	Afghanistan	Bosnia Her.	Burma	Burundi	China	Eritrea	Ethiopia	Maghreb	Palestine	Iraq	Iran	Kyrgyzstan	Congo	Libya	Egypt	Uzbekistan	Sierra Leone	Sudan	Syria	Somali	Tajikistan	Tunis	Turkmenistan	Jordan	Yemen	Total
1995										543	447								4							994
1996		45								267	853							1	5							1171
1997										323	582						1									906
1998										700	624				1					1						1326
1999	11					1			5	696	1006		4					1								1724
2000	12									347	1922		1	1		1				6		1				2291
2001	73						1			595	2092		3			4										2768
2002	35	1								547	2334				1	15				1			1			2935
2003	39		1		4		1		1	167	2470					15			5							2703
2004	28				1			1		70	1973					6		3		1						2083
2005	39				10	2				157	1071					9		1	2	74			1			1366
2006	25			2	1	1	1			315	1392	4	2			19		4	11	31	1	3	1	2	1	1816
2007 (December)	33				1	6	2		5	1122	1382		1			1		3	3	98		1				2658
Total	295	46	1	2	17	10	5	1	11	5849	18148	4	11	1	2	70	1	13	30	212	1	5	3	2	1	24741

Source: Adopted on the information provided by General Directorate of Security

Table 8: The Status of Refugees-Asylum Seekers by Country of Origin

Nationality	Present	Escapee	Total
Afghanistan	565	345	910
Algeria	2	3	5
Azerbaijan	3	1	4
Bangladesh	0	4	4
Bulgaria	2	2	4
Burundi	1	24	25
Cameron	3	0	3
China	41	4	45
Congo Rep.	20	13	33
Egypt	4	9	13
Eritrea	21	19	40
Ethiopia	20	28	48
Georgia	2	0	2
Germany	1	0	1
Greece	1	0	1
Guinea	7	1	8
India	0	1	1
Iran	2862	2377	5239
Iraq	2455	3345	5800
Ivory Coast	13	5	18
Kazakhstan	5	0	5
Lebanon	2	3	5
Liberia	3	4	7
Libya	0	6	6
Maghreb	6	4	10
Mauritania	8	12	20
Myanmar	1	0	1
Niger	1	1	2
Nigeria	1	5	6
Pakistan	12	13	25
Palestine	54	24	78
Philippines	1	3	4
Russian Fed.	12	8	20
Rwanda	0	21	21
Saudi Arabia	1	0	1
Senegal	0	1	1
Sierra Leone	1	4	5
Somali	745	358	1103
Sri Lanka	33	20	53
Sudan	63	46	109
Syria	15	7	22
Tunis	3	3	6
Turkmenistan	6	3	9
Uganda	0	1	1
Ukraine	2	0	2
USA	1	0	1
Uzbekistan	51	2	53
Western Sahara	0	2	2
Yemen	0	1	1
TOTAL	7050	6733	13783

Source: Adopted on the information provided by General Directorate of Security.

Table 9. The Status of Refugees-Asylum Seekers by Province Resided

Province Resided	Present	Escapee	Total
ADANA	2	1	3
AFYONKARAHİSAR	182	144	326
AĞRI	15	212	227
AKSARAY	138	33	171
AMASYA	130	234	364
ANKARA	88	1	89
ANTALYA	5	0	5
BALIKESİR	1	0	1
BİLECİK	152	2	154
BURDUR	195	123	318
ÇANKIRI	126	184	310
ÇORUM	130	203	333
EDİRNE	2	0	2
ESKİŞEHİR	205	324	529
G.ANTEP	512	80	592
HAKKARİ	20	0	20
HATAY	23	133	156
ISPARTA	176	238	414
İSTANBUL	1227	317	1544
İZMİR	17	69	86
KARAMAN	40	148	188
KASTAMONU	92	202	294
KAYSERİ	935	96	1031
KIRIKKALE	31	94	125
KARKLARELİ	1	2	3
KIRŞEHİR	140	176	316
KONYA	495	384	879
KÜTAHYA	94	201	295
MANİSA	3	1	4
MERSİN	13	30	43
NEVŞEHİR	331	32	363
NİĞDE	253	177	430
Refugee Guest House	53	27	80
SAKARYA	5	8	13
SİNOP	0	1	1
SİVAS	74	72	146
Ş.URFA	0	1	1
ŞIRNAK	0	168	168
TOKAT	90	166	256
VAN	1037	2433	3470
YOZGAT	17	16	33
TOTAL	7050	6733	13783

Source: Adopted on the information provided by General Directorate of Security.

Table 10: Asylum Seeker Children at School

Province Resided	Type of Education	Nationality	Number of students
Kayseri	Primary education	Uzbekistan	3
		Iran	62
		China	3
		Iraq	4
	High School	Iran	5
Amasya	Primary education	Iran	1
		Iraq	11
	High School	Iraq	1
Nevşehir	Primary education	Iran	26
	High School	Iran	8
Karaman	High School	Iran	1
Kütahya	Primary education	Iraq	3
		Iran	3
		Uzbekistan	1
Niğde	Primary education	Iran	14
		Iraq	3
Isparta	Primary education	Iran	1
	High School	Iraq	1
Kırşehir	High School	Iraq	1
	Primary education	Iraq	4
		Iran	6
Çorum	High School	Iraq	1
	Primary education	Iraq	12
Çankırı	Primary education	Iraq	21
		Iran	5
	High School	Iraq	2
Ağrı	Primary education	Iran	7
		Afghanistan	5
Aksaray	Primary education	Iraq	1
Kırıkkale	Primary education	Iran	2
Tokat	Primary education	Iraq	4
		Afghanistan	2
Burdur	Primary education	Afghanistan	7
		Iran	1
Afyonkarahisar	Primary education	Iran	14
		Iraq	7

Province Resided	Type of Education	Nationality	Number of students
Yozgat	Primary education	Iran	3
		Iraq	3
Kastamonu	Primary education	Iran	8
		Iraq	1
Gaziantep	Primary education	Palestine	2
		Afghanistan	9
		Iraq	8
		Uzbekistan	1
Eskişehir	Primary education	Iraq	1
		Iran	12
		Afghanistan	3
		Iraq	2
		China	2
Hakkari	Primary education	Somali	15
		Iran	1
İzmir	High School	Iraq	1
		Uzbekistan	1
Ankara	Primary education	Uzbekistan	1
		Afghanistan	2
Konya	Primary education	Somali	2
		Iraq	7
		Somali	4
		Afghanistan	5
Bilecik	Primary education	Iran	5
		Syria	2
Sivas	Primary education	Iran	2
		Afghanistan	2
Van	Primary education	Iraq	1
		Afghanistan	9
		Iran	15
		Total	386
		Primary Education Total	361
		High School Total	25

Source: Adopted on the information provided by General Directorate of Security.

Table 11: Visa Regime by Turkey

States (Passport Holders)	No Visa	Visa Needed (Months/Fees)		
	Days	Months	Euros	US\$
Albania (S)		2	€10	\$15
Armenia (S)		1	€10	\$15
Australia (S)		3	€15	\$20
Austria (S)		3	€15	\$20
Azerbaijan	30			
Belarus (S)		2	€15	\$20
Belgium (S)		3	€10	\$15
Bosnia-Herzegovina	60			
Brazil	90			
Bulgaria	90			
Canada (S)		3	€15	\$60
Chile	90			
Cyprus (TRNC)				
Cyprus (Greek) (S)		1	€10	\$15
Croatia	90			
Czech Republic	90			
Denmark	90			
Estonia	90			
Finland	90			
France	90			
Georgia	90			
Germany	90			
Greece	90			
Haiti (S)		3	€15	\$20
Hong Kong (S)		3	€15	\$20
Hungary (S)		1	€20	\$30
Iceland	90			
Iran	90			
Ireland (S)		3	€10	\$15
Israel	90			
Italy	90			
Jamaica (S)		3	€15	\$20
Japan	90			
Jordan (S)		1	€20	\$30
Kazakhstan	30			
Kosovo (S)		3	€15	\$20
Korea (South)	90			
Kuwait (S)		3	€15	\$20
Kyrgyzstan	30			
Latvia	30			
Lithuania (S)		1	€10	\$15
Luxemburg	90			
Macedonia	60			
Malaysia	90			

States (Passport Holders)	No Visa	Visa Needed (Months/Fees)		
	Days	Months	Euros	US\$
Malta (S)		3	Gratis	Gratis
Moldova (S)		1	€20	\$30
Monaco	90			
Mongolia	30			
Montenegro	90			
Morocco	90			
Netherlands (S)		3	€10	\$15
New Zealand	90			
Norway (S)		1	€20	\$30
Poland (S)		1	€10	\$15
Portugal (S)		3	€10	\$15
Qatar (S)		3	€15	\$20
Romania (S)		1	€10	\$12
Russian Federation (S)		2	€15	\$20
Saudi Arabia (S)		3	€15	\$20
Serbia (S)		1	€10	\$15
Singapore	90			
Slovakia (S)		1	€10	\$15
Slovenia (S)		3	€15	\$20
South Africa (S)		1	€10	\$15
Spain (S)		3	€10	\$15
Sweden	90			
Switzerland	90			
Tajikistan	30			
Tunisia	90			
Turkmenistan	30			
Ukraine (S)		3	€20	\$30
UAE (S)		3	€15	\$20
UK (S)		3	£10 €15	\$20
USA (S)		3	€15	\$20
Uruguay	90			
Uzbekistan	30			
Venezuela	90			

(S) Sticker visa at border gates issued, valid for the number of months shown.

No Visa: Just a valid passport to enter Turkey: no visa is needed for the number of days shown.

Iraq: Ordinary and official passport holders are required to have a visa to enter Turkey. -Official passport holders are obliged to get their visas from Turkish diplomatic representations abroad. - Ordinary passport holders, traveling to Turkey with the flights from Baghdad, Erbil, Suleymaniyah or Amman Airports to Istanbul Atatürk Airport or Antalya Airport, can get their visas at the Turkish border gates upon their arrival, provided that they meet certain conditions.

Other Countries: Other countries that are not in the list, such as Afghanistan, Bangladesh, Somalia, Syria, are required to have a visa.

Source: Adopted on the information provided by Ministry of Foreign Affairs. Correct as of 28.10.2008

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