

Justice and Home Affairs Issues in Turkish-EU Relations: Assessing Turkish Asylum and Immigration Policy and Practice

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Introduction:

Turkish-EU relations entered a new era with the decision to declare Turkey a candidate country for membership at the Helsinki summit of December 1999.ⁱ Since then the adoption of the *Accession Partnership Document* (APD) issued by the EU in December 2000ⁱⁱ and the *National Programme* issued in April 2001ⁱⁱⁱ by the Turkish government have set an agenda of issues to be addressed in preparing Turkey's accession. In general, considerable public attention has been given to the reform

s that Turkey must introduce to meet the Copenhagen criteria and to foreign policy issues such as the question of Cyprus. One aspect of both documents that has received little attention is Justice and Home Affairs (JHA) issues. JHA is an area of the European integration process that has not yet become supranational. Instead, member countries have preferred to address issues to do with JHA through intergovernmental cooperation. Nevertheless, an impressive level of EU *acquis* has been developed and candidate countries are expected to harmonise their legislation and practice to it. Central to JHA issues is asylum, irregular migration and visas. Once the geography of the EU became borderless for the citizens of member countries, the questions of common asylum and immigration policies acquired heightened importance. The need to coordinate policy increased and the EU has gradually edged toward a common asylum and immigration policy. The 1997 Treaty of Amsterdam includes a commitment by member states to develop such a policy within five years. Once this is achieved the development of common immigration and asylum policies will come under the Council of Ministers' power.

Turkey is very central to this development. This is the case for a number of reasons. During the course of the 1990s Turkey has become a country of asylum as well as a country of immigration and transit irregular migration.^{iv} Together with irregular migration to EU member countries originating from Turkey, these issues have become very central to Turkish-EU relations. This is creating many areas of concern for the EU. They range from the need to encourage Turkey to harmonise its visa policy with the Schengen visa regime to persuading Turkey to sign readmission treaties and prop up the control of its eastern borders. The latter gains particular importance considering that if Turkey is eventually admitted as a member, these borders would become the borders of the EU. These are borders adjacent to regions from which an important proportion of irregular migration and refugee movements in the direction of the EU is currently taking place.^v Furthermore, if Turkey were to be admitted to the EU, in accordance with the existing EU *acquis* Turkey would become a country of first asylum and hence have to process these demands itself. Yet, as the *JHA Expert Mission* report also recognises Turkey is far from implementing its own refugee status determination and currently the quality of the protection granted to asylum seekers and refugees in Turkey falls short of EU *acquis* standards.^{vi}

Turkish officials recognise cooperation with the EU is a *sine qua non* of the smooth progress of the accession process. Yet, Turkish officials face a major dilemma. They fear a situation

occurring where they may actually be left in a very difficult position if they choose to cooperate with the EU in harmonising their policies with respect to asylum as well as broader issues to do with immigration, without this cooperation leading to actual membership. In other words, they do recognise that these issues are very important for the EU and that EU membership is dependent on Turkey's cooperation. On the other hand, in the face of the controversial nature of Turkish candidacy, Turkish officials fear a situation where if cooperation with the EU is not accompanied by Turkey's admission to the EU, Turkey would be exposed all on its own to the many difficult problems associated with asylum and irregular migration. This dilemma captures both the extent as well as the manner in which the EU's immigration, asylum and visa policies deeply impact Turkey and also Turkey's relations with a host of countries neighbouring Turkey. The purpose of this paper is twofold: to survey Turkish policy and practice in respect to asylum, irregular migration and the national visa regime and; to explore the nature and dimension of the impact that harmonising these policies with the EU may have on Turkey and the region surrounding Turkey.

Asylum:

In Europe, Turkey is not well known as a country of immigration let alone asylum. The image of Turkey is one that tends to emphasise labour migration from Turkey to Europe as well as refugee movements from Turkey.^{vii} The bulk of labour migration occurred in the 1960s and 1970s and this was later accompanied by migration resulting from family reunification. The 1980s and 1990s were in turn characterised by a conspicuous growth in the number of asylum seekers many of whom were Kurds. According to UNHCR statistics, during the course of just the 1990s there were almost 340,000 Turkish citizens who applied for asylum in various European countries.^{viii} Although over the last few years a significant drop has occurred, an unidentified number of Turkish citizens continue to migrate to Europe, often in an irregular manner. The financial and economic crisis into which Turkey fell in February 2001 may actually increase pressures of emigration out of Turkey in the direction of Europe. Today it is estimated that approximately 3.4 million Turks, including Kurds from Turkey, live in the European Union.^{ix}

Table 1

Numbers of People who Migrated to Turkey By Regions Between 1923-1997¹

	1923-1939	1940-1945	1946-1997
Bulgaria	198,688	15,744	576,430
Greece	384,000	-	24,625
Romania	117,095	4,201	1,266
Yugoslavia	115,427	1,671	188,418
Turkistan	-	-	2,878
Others	7,998	1,005	8,631

¹ The data for this table is mostly derived from statistics obtained from the General Directorate of Village Works and supplemented from Cevdat Geray, *Türkiye'den ve Türkiye'ye Göçler ve Göçmenlerin İskanı (1923-1961)* (Ankara: SBF Yayınları, 1962) Appendix 2. This Table does not include 12,507 refugees that Geray has reported for the Second World War years.

Total	823,208	22,621	802,248 = 1,648,077
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Yet, Turkey at the same time has always been a country of immigration especially for Muslim ethnic groups, ranging from Bosnians to Pomaks and Tatars, as well as Turks from the Balkans and to a lesser extent from the Caucasus and Central Asia.^x According to Table 1, from the establishment of Turkey in 1923 to 1997 more than 1.6 million immigrants came and settled in Turkey. Since the collapse of the Soviet Union, Turkey has also become a country receiving an increasing number of illegal workers and immigrants from Balkan countries and former Soviet republics as well as Iran, northern Iraq and Africa. These often include people that overstay their visa and work in the black market. There are no reliable figures but some Turkish officials claim that their numbers run to more than a million.^{xi} These are probably exaggerated figures but nevertheless the phenomenon has been on the rise throughout the 1990s and can be observed easily in the streets of Istanbul.^{xii}

At the same time Turkey has also been a country of asylum. The onset of the Nazi regime in Germany in 1933, for example, made Turkey a popular country of asylum, particularly during the second half of the 1930s. Between 1933-1945, there were approximately 800 German speaking refugees that sought asylum in Turkey.^{xiii} These refugees included university professors, scientists, artists and philosophers. A large number of these intellectuals were Jewish. Much more importantly, the Turkish government not only refused "German demands that it turn over the Jewish refugees for internment in the death camps" but "instead it went out of its way to assist passage into its territory of Jews fleeing from Nazi persecution in Poland, Greece and Yugoslavia as well as in western and central Europe."^{xiv} There are no definite figures for the number of Jews that benefited from temporary asylum in Turkey until their resettlement, for the most part in Palestine and subsequently in Israel. However, it is estimated that around 100,000 Jews may have used Turkey as their first country of asylum. During the course of the Second World War many people from the German occupied Balkans also sought refuge in Turkey. These included Bulgarians, Greeks - especially from Greek islands in the Aegean - as well as Italians from the Dodecanese islands. There are no public records available for their number but, according to one source, there were approximately 67,000 internees and refugees in Turkey at the end of the Second World War.^{xv} Most of these people returned to their countries subsequent to the end of the war although there were some Bulgarians who stayed on because of the change of regime in their country. Similarly, the civil war in Greece led some Greeks to stay on for an additional period of time.

The origins of the current asylum policies of Turkey can be traced to the early years of the Cold War when Turkey signed the 1951 Convention. Turkey was among a group of countries who took an active role in the production of a definition of 'refugee' and is likely to have been among those countries who pushed for the introduction of a geographical and time limitation to the Convention as expressed in Article 1.B(1)(a).^{xvi} Accordingly, Turkey accepted to be bound by the terms of the Convention for refugees fleeing persecution in Europe as a result of events prior to 1951. In 1967, when signing the 1967 Protocol relating to the Status of Refugees, Turkey accepted to lift the time but chose to continue to maintain the geographical limitation. This geographical limitation has been a central characteristic of Turkey's asylum policies and has traditionally drawn criticism from western governments as well as refugee advocacy and human rights groups. In spite of these criticisms, the Turkish government has in the past resisted lifting the limitation citing national security reasons and fears of a mass influx of refugees. The influx of more than half a million Kurdish refugees from Iraq in 1988 and 1991 reinforced these security concerns.

This geographical limitation led to the evolution of a two-tiered asylum policy.^{xvii} The first tier applied to asylum seekers to whom Turkey has upheld the Convention. By and large, these have been asylum seekers fleeing communism in Eastern Europe and the Soviet Union during the course of the Cold War. In general Turkey, in close cooperation with the UNHCR, granted refuge to such asylum seekers with the understanding that recognised refugees would, eventually, be resettled in third countries. Such refugees, during their stay in Turkey, enjoyed all the rights provided for in the Geneva Convention. Only a very small number were allowed to stay on in Turkey often as a result of marriages that took place with Turkish nationals. Consequently, there were never any of the economic, political and social problems often associated with integrating refugees. Furthermore, the fact that the costs of sheltering and resettling these refugees were often met by international agencies, such as the International Catholic Migration Commission and the UNHCR, helped to sustain the policy. Although it is very difficult to obtain accurate statistics on their numbers, the Ministry of Interior (MOI) has indicated that some 13,500 asylum seekers benefited from the protection of the 1951 Convention between 1970 and 1996.^{xviii} Statistics for previous years were not available.

The flow of asylum seekers from Eastern Europe came to a virtual halt with the collapse of Communism. However, the eruption of violence and ethnic strife in the former Soviet Union territories and the Balkans has led to displacement of Muslim and Turkic groups. There have been a number of asylum demands from nationals of the republics of the former Soviet Union. Even though these countries appear to be considered part of Europe and within the 1951 Convention's applicability, Turkish authorities in general have refrained from granting refugee status to Azeris, Ahıska Turks, Chechens and Uzbeks. Instead they have been allowed to stay in the country on an unofficial basis or have been allowed to benefit from the laws that allow people considered to be of Turkish descent to settle, work, and eventually obtain Turkish citizenship. Political considerations and the fear of offending the governments of Azerbaijan, Russia and Uzbekistan have been an important factor in this practice.

An additional factor has been the fear that a liberal and open refugee policy would attract greater numbers of asylum seekers to Turkey. This was clearly in the back of Turkish officials minds when a large group of Chechen refugees turned up at the Turkish border with Georgia in February 2000.^{xix} In spite of strong public opinion in support of their admission into Turkey, the government insisted that these refugees were safe in Georgia and that Turkey was providing humanitarian assistance.^{xx} Yet, Turkey has followed quite a liberal visa policy towards nationals of the former Soviet Union republics and Chechens with proper travel documents easily enter Turkey. Many overstay their visa. There is also the case of Meshketian Turks, also know as Ahıska Turks. These are people who have tried to return to their ancestral homes in Georgia from where Stalin had displaced them to Central Asia in 1944. Some have been trying to seek asylum in Turkey claiming mistreatment and persecution especially in the Krasnodar region of Russia.^{xxi} In their case too, Turkey has been reluctant to grant asylum. Instead, there are an estimated 15,000 Ahıska Turks who have settled with their relatives in various parts of Turkey having entered the country mostly on old Soviet passports.^{xxii}

An estimated 20,000 Bosnians Muslims from the former Yugoslavia also sought asylum in Turkey after 1992-97 and 3,355 of them became Turkish citizens. In their case too, Turkish officials refrained from applying the provisions of the 1951 Convention. Instead, and in line with practice elsewhere in Europe, the government granted them temporary protection. The overwhelming majority of the Bosnian refugees who were housed in camps returned to their country subsequent to the Dayton Peace Treaty in 1995. A similar situation occurred in late

1998 and 1999 when a growing number of Albanians and Turks from Kosovo began to enter the country as tourists. There were also a large group of Albanian refugees who were brought over to Turkey from Macedonia as part of the Humanitarian Evacuation Programme during the Spring of 1999. They were housed in the very same refugee camp where Bosnians had stayed. At its peak there were 8,700 refugees housed there.^{xxiii} It is also estimated that in total there were roughly 18,000 Kosovars who entered Turkey for protection. The ones in the refugee camps have mostly returned to Kosovo. Some of the others outside the camp have also returned or, often, are actually moving back and forth between Kosovo and Turkey.^{xxiv}

The second tier of Turkey's asylum policy concerns what might be referred to as "Non-Convention" refugees. Basically, these are refugees that have come from geographical regions outside of Europe. For along time Turkey did not have any provisions governing the status of such asylum seekers and refugees. Instead, a policy based on pragmatism and flexibility was permitted to evolve during the 1980s as a growing number of Iranians fleeing Ayatollah Khomeini's regime began to arrive. According to this practice a large number of Iranians including former Shah supporters, regime opponents, Kurds, and members of the Jewish and Bahai communities fled to Turkey. The absence of visa requirements for Iranian nationals made their entry into the country relatively easy. There are no accurate statistics on their numbers, although a member of the Turkish Parliament put the total of Iranians that came through Turkey between 1980 and 1991 at 1.5 million.^{xxv} By and large, these people found their way to third countries on their own means while only a small proportion actually approached the UNHCR. Turkish officials granted residence permits for those Iranians whose cases were being examined by the UNHCR or those who were waiting to be resettled.

From the late 1980s onwards, asylum seekers from countries other than Iran also began to benefit from this arrangement, including many Iraqis, but also nationals of Afghanistan, Somalia, Sri Lanka, Sudan and Tunisia, as well as Palestinians. The largest group among them came from Iraq.

This arrangement worked until the aftermath of the mass refugee crisis of April 1991 when Turkey began to change its policy. As a result of a military onslaught launched by the Iraqi government against a Kurdish rebellion in the north of the country close to half million refugees fled to Turkey. Turkey's diplomatic efforts culminated in the adoption of the United Nations Security Council Resolution 688 that enabled the declaration of a "safe haven" for refugees north of the 36th parallel. This was accompanied by Operation Provide Comfort which assisted the repatriation of the overwhelming majority of the refugees to northern Iraq.^{xxvi} The remaining couple of thousand refugees were over the years resettled to third countries. Subsequently, Turkey began to refuse Iraqis coming from northern Iraq the right to seek asylum arguing that northern Iraq is safe from the persecution of the central government. Turkish authorities reserved the right to deport such persons. However, some of them did approach the UNHCR in Ankara and had their refugee status recognised. On many occasions, Turkish officials refused to allow them to leave the country when they did not have passports with valid entry stamps into Turkey.^{xxvii} Furthermore, officials were also concerned that among these asylum seekers were PKK militants trying to enter Turkey from northern Iraq and make their way to Europe.

Turkish authorities became increasingly reluctant to apply the working relationship to asylum seekers from this area. They considered northern Iraq to be safe from Iraqi governmental persecution, viewed asylum seekers from that region as illegal immigrants looking for a better

economic life, and tended to deport them.^{xxviii} This led to disputes between UNHCR and the Turkish authorities. Amnesty International bitterly criticised this practice.^{xxix} On the other hand, Turkish officials also became uneasy about the growing number of asylum seekers from distant countries and began to argue that they had no obligation to recognise asylum seekers reaching Turkey via third countries, and likewise increasingly considered such people to be illegal migrants.

These developments also coincided with a period when Turkey came under increasing criticism over deportations of persons that the international community considered to be genuine asylum seekers or refugees. This was accompanied by growing pressure from western governments and refugee advocate organisations on Turkish officials to respect the principle of *non-refoulement* for “non-Convention” refugees. They argued that the forced return of asylum seekers and refugees constitutes a breach of Turkey’s international legal obligations. There were also arguments that Turkey, as a party to the European Human Rights Convention, had additional obligations given that this Convention is meant to apply to the citizens of Council of Europe members as well as to aliens in these countries.

These pressures and the intensification of the conflict between the UNHCR over who is an asylum seeker and who is not in due course saw the end of the fragile working relationship. Instead in July 1994, the Turkish authorities introduced their own status determination, which was then formalised with the introduction of the Asylum Regulation in November.

The November 1994 Regulation on Asylum is a direct outcome of the dramatic changes in the nature and size of movements of people into Turkey during the course of the preceding ten years.^{xxx} Until the mid-1980s, Turkish authorities had had to cope mainly with a manageable flow of Convention refugees. The numbers involved, and the fact that Convention refugees were often promptly resettled in the West, meant that from the perspective of Turkish authorities the system worked smoothly. Turkish national laws were respected and in turn Turkey, by and large, met its obligations under the 1951 Convention. In its early years even the steady exodus of asylum seekers from Iran was not a major problem for the Turkish authorities, so long as they did not overstay and did not violate national laws. However, the situation began to change when growing numbers of Iranians and nationals of other non-European countries began to seek asylum. The situation was also aggravated by the mass influx of mostly Iraqi Kurds in 1988 and 1991, Bulgarian Turks in 1989, and Bosnian Muslims in 1992-93. These movements taxed Turkey economically and in the case of Kurdish movements, Turkish officials felt Turkey’s national security was being endangered too. Furthermore, against the background of international criticism there was also among officials a frustration that Turkey was not getting any recognition for the economic and other sacrifices it was making for the assistance and protection of refugees, especially those from northern Iraq.

The Regulation aimed to bring status determination under the control of the Turkish government and also introduce strict regulation governing access to the asylum procedures. Curiously, the purpose of the status determination procedure was not really to identify whether the asylum seeker qualified to benefit from the full protection of the 1951 Convention as a recognised refugee. Instead, in the light of the geographical limitation the purpose of the exercise was more like a screening process aiming to decide whether the applicant was a “genuine” asylum seeker or not. Depending on the outcome of the screening process the person would be permitted to approach the UNHCR or be deported. At the same

time, the Regulation appeared to relegate the role of the UNHCR to the resettlement of asylum seekers whose application were accepted by the Turkish authorities. This was in stark contrast to the earlier system where the UNHCR was central to the process of status determination.

Furthermore, the Regulation also had an inbuilt bias in favour of asylum seekers entering the country legally as opposed to by illegal means. While asylum seekers in the first group could file an asylum application anywhere in the country the second group had to do it at their point of entry. This situation often required people to make trips from the big cities of Turkey in the west to the eastern border regions of Turkey. Additionally, the Regulation introduced a five day time limit for filing an application. This gave the authorities the possibility of rejecting those who failed to meet this time limit, often without addressing the actual substance of the application. The spirit of the Regulation seemed more concerned about deterring applications for asylum than ensuring protection for asylum seekers and refugees. The drafters of the Regulation were reacting to a belief that Turkey ran the risk of becoming a buffer zone between refugee generating regions and a Europe that authorities believed was becoming increasingly restrictive.

The practice that evolved from the first few years of the application of the Regulation attracted serious and concerted criticism from western governments as well as major international human rights advocacy groups.^{xxx1} Critics argued that Turkey was violating the rights of asylum seekers and refugees by denying them access to asylum procedures or failing to provide them adequate protection. These criticisms appear to have had some impact and as a result of this a climate of cooperation evolved between the Turkish authorities and the UNHCR. With the financial support obtained from a number western governments the UNHCR was able to develop a series of seminars and training sessions for the Turkish police handling asylum applications as well as for judges, prosecutors and the Gendarmerie. These seminars became ideal forums for discussing and debating existing problems in Turkish asylum practice and policy. Much more importantly these seminars also helped both sides to build confidence and goodwill. This very quickly was translated into concrete improvements in Turkish policy and practice.

The government increased the time limit from five to ten days in 1999. This significantly improved access to asylum procedures. More importantly, in terms of human rights and rule of law standards, with the initiative of the UNHCR negative decisions of the Turkish government on asylum application were appealed to administrative courts. On a number of cases the courts ruled in support of applicants and the Council of State, the highest court of appeal, did rule against the Ministry of Interior which had appealed against the ruling of a lower court. Accompanied with a critical ruling of the European Human Rights Court these rulings have made the government much more sensitive toward the enforcement of the time limit rule and respecting the principle of *non-refoulement*.^{xxxii} Most importantly, Turkish authorities unofficially have adopted a practice of cooperating very closely with the UNHCR in respect to status determination. Many point out that in effect it is the UNHCR that does the status determination and the Turkish government grants UNHCR recognised refugees temporary asylum by issuing residence permits. In return, the expectation from the Turkish side is that the UNHCR helps to make sure that asylum seekers do also register with the Turkish police and that recognised refugees are resettled out of Turkey.

These are clearly positive developments and the credit goes both to the Turkish authorities and to the UNHCR and to some degree to a number of western governments as well as the EU and several non-governmental organisations. A number of western governments also pushed behind the scenes for changes and improvements. Particularly those governments with a long track record of accepting refugees for resettlement from Turkey enjoyed considerable influence. Among these governments it is possible to count the United States, Canada, Australia, Sweden and Norway, Australia, and Holland as having played a critical role, especially with respect to providing support for training programmes. The United States has pushed for better respect for the human rights of asylum seekers through diplomatic channels and together with Australia has also earned goodwill from the Turkish government in helping to find resettlement for difficult cases. The case of non-governmental organisations is particularly interesting. By and large Turkish officials, when compared to international governmental organisations and western governments, have been much less keen to enter into cooperative projects such as training programmes with international non-governmental organisations. The exception to this rule is the International Catholic Migration Committee (ICMC). The ICMC has had a very long relationship with the Turkish government mostly through the UNHCR, in particular in resettling refugees out of Turkey during the Cold War years. To this day the ICMC remains the only refugee related non-governmental organisation in Turkey that enjoys some official status and continues to play a central role in resettlement. It also provides social assistance to asylum seekers and refugees in Turkey. CARITAS, the Istanbul Inter-Parish Migrants Programme and the Committee for Humanitarian Assistance to Iranian Refugees are three non-governmental organisations that run small support and counselling programmes for asylum seekers and illegal immigrants. The government has increasingly tolerated their existence.

In the last few years, Turkey has experienced a significant expansion of civil society. Simultaneously, the government is gradually learning to live with a more assertive civil society. There are a number of Turkish non-governmental organisations beginning to deal with asylum. In December 1995, the Association of Solidarity with Migrants and Asylum Seekers (ASAM) was founded. Since then the organisation has become active in organising training and public awareness seminars, and providing a modest level of counselling and social help to asylum seekers and refugees in Turkey. They also run small social support projects for asylum seekers in border towns in eastern Turkey. Most importantly, they have nurtured some goodwill with officials and learned to be discreet enough that they have also been able to intervene with the MOI in support of the cases of a number of asylum seekers.^{xxxiii} Foundation for the Development of Human Resources is another organisation that has been involved in modest projects with asylum seekers and refugees.

The Anatolian Development Foundation (ADF) is a relatively large non-governmental organisation with a long track record and experience in development projects and also refugee issues. ADF had first played an important role in assisting the settlement of more than 4,000 Afghan refugees from Pakistan in Turkey in 1982. Subsequently, they participated in efforts to assist victims of the mass influx of refugees from Iraq in 1991. In 1992, they became the UNHCR partner in running the refugee camp for Bosnians in western Turkey. In a similar fashion, they were also involved in assisting refugees from Kosovo who were brought to the same camp as a part of the humanitarian evacuation programme in 1999. Currently, ADF is involved in negotiations with both the Turkish government and International Organization for Migration to assist the repatriation of Iraqis from a number of western countries via Turkey.

The Turkish Bar Association has taken interest in the legal as well as human rights aspects of asylum. In an effort to increase awareness among its membership it has organised a number of seminars to debate aspects of refugee law and the Turkish practice.

It would be naive to claim that these non-governmental organisations make a major difference in Turkey's refugee policy. They are still very few in number and extremely under resourced. Nevertheless, the fact that they exist and that some have actually been able to receive recognition from government officials is an achievement in itself. Furthermore, they do also have some influence on public opinion and politicians even if at a very modest level. What may be somewhat disappointing is that of the three major human rights organisations in Turkey, the Turkish Human Rights Association, the Turkish Human Rights Foundation and the Organization of Human Rights and Solidarity with Oppressed People, only the latter makes some reference to the human rights of refugees in their mission statement.^{xxxiv} An additional disappointment is that a network of Turkish non-governmental organisations that came together to develop recommendations for the National Programme during its preparation by the government did not directly deal with asylum and refugee issues.^{xxxv}

It is the European Union itself that is fast becoming an influential actor in Turkish asylum policy and practice. The December 1999 decision to include Turkey among the official candidate countries for membership to the EU opened the possibility for the EU to influence Turkish asylum policy in an unprecedented manner. The section of the APD dealing with Justice and Home Affairs issues make it clear that adopting the EU *acquis* on asylum will be an integral part of Turkey's accession process. The APD also boldly states that the lifting of the geographical limitation to the 1951 Convention will be needed. The *JHA Expert Mission* report underlines the importance of this too. The Turkish NP that was issued in response to the APD in April 2000 has responded quite favourably to these demands. Most striking is the apparent willingness to consider the lifting of the geographical limitation. Even if an eventual decision to lift it is made conditional to the introduction of "legislative and infra-structural measures" and "the attitudes of the EU Member States on the issue of burden-sharing,"^{xxxvi} it must be viewed as no short of a revolutionary departure from previous practice. In the past, the UNHCR as well as many government and refugee advocacy groups had repeatedly called for the lifting of the geographical limitation. Turkish officials had always argued against such a decision and had not welcomed the questioning of the practice in national circles. The geographical limitation had been a major pillar of Turkey's asylum policy and the issue was generally considered from a national security perspective. The new policy is not only indicative of the degree of leverage that the EU can enjoy in its relations with a candidate country but also the changes taking place within Turkey.

However, it must also be noted that the decision to actually lift the geographical limitation will not be an easy one. The inclusion of the existing formulation into the NP was product of considerable negotiation and careful wording to appease the concerns of the advocates of the traditional policy. Military and security circles still remain very reluctant and especially fear the possibility of a mass influx from neighbouring Middle Eastern countries. Additionally, they continue to be apprehensive of Turkey becoming a buffer zone where asylum seekers and refugees congregate as they fail to enter into the EU. Public opinion in the country seems to be divided. There are those who see the lifting of the geographical limitation as opening the floodgates of asylum and argue that Turkey would become a haven for refugees who cannot make it to Europe.^{xxxvii} The opposing argument see it as part of the process of living up to the

legal and political standards of becoming an eventual member of the EU.^{xxxviii} In any event, the lifting of the geographical limitation will be a function of a long bargaining process between the EU and Turkish authorities, who will try to extract from their counterparts commitments to burden-sharing. For the Turkish authorities the continuation of the present resettlement commitments would be regarded as an important element of burden-sharing expectations. Furthermore, the issue will also be intricately linked to legal and political reforms in Turkey and a whole transformation of mindset.

The mindset issue is particularly important. Currently, the Turkish practice to immigration and asylum is one that restricts the possibility of settlement and integration to people of “Turkish descent and culture.”^{xxxix} This is reflected in the wording of the Law on Settlement dating from 1934.^{xl} According to this Law and the practice accompanying it, it is people with ethnic and religious affinity to Turkey that have been able to immigrate and settle in Turkey. These have primarily included different ethnic groups mostly from the Balkan countries, who were not necessarily always Turkish speakers, but who are Sunni Muslims. Article 3 of this Law openly restricts the possibility of settlement in Turkey to refugees who are of “Turkish descent and culture.” This partly explains the cultural and ideological background to the geographical limitation as well as the practice of emphasising resettlement or repatriation rather than integration for refugees in Turkey. Therefore one of the important changes that would have to accompany the lifting of the geographical limitation will be allowing the possibility of recognised refugees to stay on in Turkey and integrate. This will require either a substantive amending of the Settlement Law or the introduction of a new law solely addressing asylum and immigration issues. The *JHA Expert Mission* report is openly highlights the need for such a law.

Another problem awaiting Turkey in respect to both lifting the geographical limitation and the adoption of the EU *acquis* is the question of whether Turkey has the capacity to carry out the tasks associated with such changes. Currently, Turkey is not ready to carry out these tasks bureaucratically, organisationally or socio-economically. This will not only require a major training programme for the relevant personnel but also a whole restructuring of the existing asylum process. At a minimum, Turkey would have to become capable of performing status determination tasks in a manner that meets the 1951 Convention as well as EU standards. Furthermore, Turkey is also far from having the economic base and resources to sustain a support system for asylum seekers and refugees that would meet the requirements of the Convention. It is no surprise that back in 1961 when the 1951 Convention was ratified it was done with the reservation that refugees would not be granted rights that go beyond what Turkish citizens enjoy.^{xli} In theory asylum seekers and refugees are entitled to work and receive social assistance in Turkey. However, in practice acquiring a work permit is next to impossible. This often forces people to illegality which in turn makes them vulnerable to deportation for violation of Turkish law. The government has no social assistance programmes for asylum seekers and refugees. The network of non-governmental organisations addressing refugee needs is still extremely limited. The UNHCR provides some assistance of a very limited nature. Although the MOI appears to have become more aware of the need to develop awareness towards the needs of vulnerable refugee groups such a single woman and children separated from their parents, much yet needs to be accomplished in this area. The *JHA Expert Mission* report actually notes of a case where authorities initially refused to accept and process the asylum claim of a minor arguing that the person was not of a legal age. These are serious problems that continue to plague the quality of protection of asylum seekers and refugees in Turkey.

Even if Turkey may have come a long way in terms of economic development since the 1950s, it is not evident that it has reached a level where it can manage status determination and integration of refugees easily. Hence, assistance from the EU will be critical as well as further economic and political changes in Turkey. Inevitably, the transformation will be a long term one but what needs to be recognised is that Turkey is at the verge of overhauling its asylum policy. This, in turn, is largely a function of the relations developing between Turkey and the EU as well as the EU policy to increasingly transfer the task of addressing asylum issues to the borderlands of the EU - to members or candidates for membership.^{xliii} If this task is going to be performed successfully by Turkey there will have to be very close cooperation between Turkey and the EU. In this regard, Turkey will need to become much more transparent in its asylum policy and practice. This will include developing a habit of working much more closely with EU officials and experts. On the other hand, EU officials will need to be sensitive to the relatively unique geographical location of Turkey in terms of refugee movements as well as to Turkish officials' expectation that there will be a close, convincing and generous commitment to burden-sharing. This will be critical to nurturing the mutual goodwill and trust that will be crucial to a successful cooperation between the two sides.

The question of where all this would leave the asylum seeker and refugee can be debated. The accession process, if it works, will put considerable pressure on Turkey to develop and regularise its asylum admission and processing structures in line with the EU.^{xliiii} It will also compel Turkey to meet the higher legal and human rights standards of the EU especially with respect to appeal procedures and *non-refoulement*. Yet, as will be studied in the following section, achieving such an improvement may well be mitigated by an increasing pressure on Turkey to cooperate with the EU in preventing illegal transit migration through Turkey. Under these circumstances the line between an asylum seeker and an illegal migrant may become blurred. This situation may become particularly aggravated if the EU becomes inclined to give more importance to the prevention of illegal migration than promoting asylum law.^{xliiv} Clearly, this would not benefit the asylum seekers in Turkey. Currently asylum seekers and refugees are very much left to themselves with regard to meeting their social and economic needs. More often than not it is police officers and other officials who subsidise the needy asylum seekers and refugees from their meagre salaries as there are no or extremely limited funds allocated in the government budget for the care of such persons. Aligning the system with the one in the EU would clearly bring a significant amelioration to the welfare and interests of asylum seekers and refugees in Turkey.

On the other hand it can also be argued that the current system is a more flexible, pragmatic and possibly liberal one. Recognition rates in the current system are dramatically higher in Turkey than many other European countries. According to the UNHCR, during the 1990s granting of refugee status or some form of stay for asylum seekers fluctuated between 15 and 23 percent of the asylum applications filed in the European Union member countries.^{xliv} Calculating the recognition rates in Turkey is complicated. However, for the Turkish government, if one excludes cases that are still pending, the recognition rates is more than 60 percent covering the period from 1995 to 2001.^{xlvi} In the existing system asylum seekers and refugees enjoy also some degree of freedom from close government supervision and control. The introduction of reception centres advocated by the EU may well take away some of the freedom and flexibility in the existing Turkish system.^{xlvii} Also, the current system, again often because of a lack of funds, does not pursue asylum seekers who have had their cases rejected for deportation. Such persons often remain in Turkey illegally, attempt to go on to

Europe, or pursue alternative ways of seeking asylum or immigration to a third country. The danger here is that it exposes such persons to the abuse of smugglers as well as unscrupulous employers who use them as cheap labour. Yet, as Turkey adopts EU standards such people once deported would most likely try to return and be exposed to similar risks. Also, such a Turkey may institute the kind of border control that might make it much more difficult for asylum seekers to access the system. In turn they may resort to illegal entry using the services of smugglers with all the risks that this method would bring.

Table 2

**Statistics concerning applications under the 1994 Asylum Regulation
as of 1 November 2000**

<i>Country</i>	<i>Applications</i>	<i>Accepted cases</i>	<i>Rejected cases</i>	<i>Pending cases</i>	<i>Cases not assessed</i>
Iraq	8,961	2,335	2,809	3,296	114
Iran	10,713	4,946	750	4,469	172
Afghanistan	184	27	16	126	15
Russia	32	16	13	-	-
Uzbekistan	40	1	15	-	18
Azerbaijan	25	3	20	-	2
Other Europe *	30	6	18	-	1
Other **	100	8	63	22	1
Total ***	20085	7343	3705	7913	356

*Includes: Albania, Bosnia, Bulgaria, Macedonia, Ukraine and Yugoslavia.
 ** Includes: Algeria, Bangladesh, China, Congo, Egypt, Eritrea, Ethiopia, Jordan, Lebanon, Libya, Kuwait, Kyrgyzstan, Pakistan, Palestine, Rwanda, Sierra Leone, Somalia, Sudan, Syria, Tunisia, Zaire.
 *** Not appearing in the Table but included in the total for applications are 768 applications that were subsequently withdrawn.
 Source: Data obtained from the Foreigners Department of MOI.

Table 3

Aggregate UNHCR Statistics for Asylum Seekers and Refugees in Turkey between January 1995 and 30 November 2000

	Applications	Accepted	Rejected
1995	3840	1958	2160
1996	4432	1666	2488
1997	4632	1538	2179
1998	6838	2230	3013
1999	6605	1903	4266
2000	5285	2106	4012

Total	31632	11401	18118
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Source: Statistics obtained from the Ankara Branch Office of the UNHCR. The discrepancy in the aggregate of accepted and rejected cases and the actual total results from cases that get carried on to the following year. Figures indicate number of persons.

According to the UNHCR statistics covering the period since 1995 and that can be seen from Table 3, there are roughly between 5,550 and 6,000 asylum applicants a year. The Turkish authorities do not provide statistics on a yearly basis. Instead, a grand total is given for the period covering 1995 to November 2000. Their statistics suggest a lower level of applicants of just over 20,000 for this period. As can be seen from Table 2 and 3, there is a discrepancy of more than 11,000 applications between the Turkish and UNHCR statistics. This stems from the problem of irregular asylum seekers. These are asylum seekers who have failed to register with the Turkish authorities and their status determination is carried out only by the UNHCR. These are frequently persons who have either entered the country illegally or have let the time limit pass and hence have been reluctant to approach the Turkish authorities. An important consequence of this is that when and if the UNHCR does recognise them as refugees these persons encounter serious difficulties in exiting Turkey for resettlement.

The origins of the problem of irregular asylum seekers and refugees go back to the adoption of the Asylum Regulation in 1994. At that time there were people who had been in the country illegally but had their application under review or had their asylum application cases processed and accepted by the UNHCR prior to the Asylum Regulation coming into force. Often, these were refugees who had their resettlement arranged but were unable to leave the country as they risked being deported. Those who did attempt to leave the country were considered by Turkish authorities to be in violation of the Asylum Regulation and were prevented from leaving the country for their respective resettlement destinations. Technically, they would have to be deported but a stalemate developed. They simply remained trapped in Turkey as a crisis developed between the UNHCR and the international community on the one hand and Turkish authorities on the other hand. By 1996 there were more than 3,300 such persons.^{xlviii}

The problem of irregulars reached a peak when in 1997 the MOI seemed determined to resolve the problem by deporting anyone in Turkey in violation of the Asylum Regulation. However, international as well as national outcry led to the suspension of at least the deportation section of the order. This seems to have signified a symbolic turning point. In May, a tripartite meeting between the UNHCR, MOI and the Ministry of Foreign Affairs was held to study the problem of ‘illegal’, irregular, or stranded asylum seekers and refugees. The negotiations culminated in the preparation of a list identifying such persons. By August 1997, what was called, a ‘one time solution’ was reached between the parties. This arrangement allowed for a time frame for refugees to exit Turkey to their respective countries and gave the UNHCR until February 1998 to finalise pending status determination cases. Subsequently, recognised refugees would be allowed to leave for their respective resettlement countries

while rejected cases were expected to return to their country of origin. This arrangement turned out to be the product of a new, more flexible and cooperative frame of mind on the Turkish side.^{xlix} This development played a critical role in bringing about some of the positive developments in Turkish asylum policy raised earlier. However, the persistence of the problem is a clear indication that the Turkish asylum system continues to suffer from a problem of accessibility as well as a lack of confidence. This is a problem that Turkish authorities will need to resolve if the adoption of the EU *acquis* on asylum is going to be credible. A failure to overcome this problem will risk increasing irregular migration through Turkey.

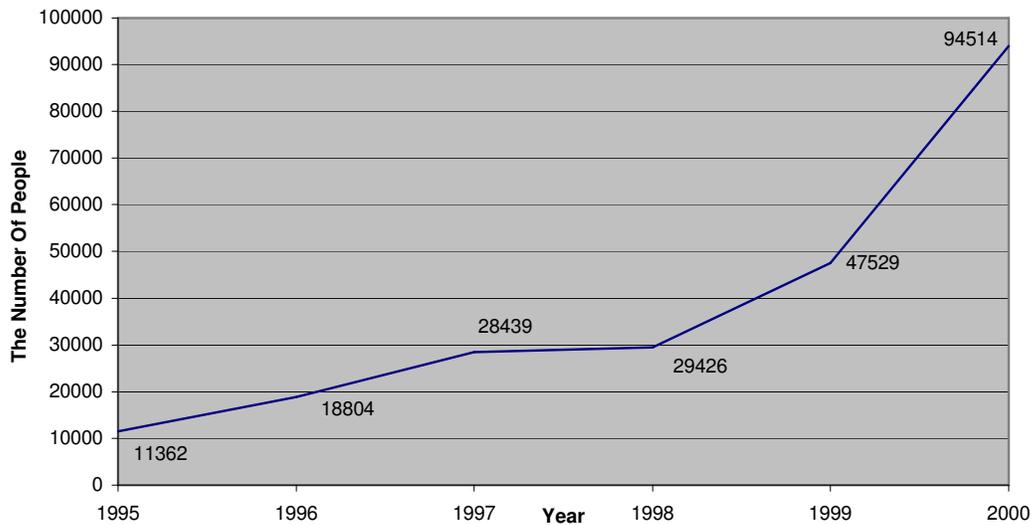
Irregular Migration:

Turkey over the last few years has become a country that is at the centre of news on irregular migration. There are frequent media reports of ships crowded with illegal immigrants landing on the coast of Greece, Italy or France. Occasionally human tragedies are also reported when these ships run aground or sink. Irregular migrants usually pay fees well into thousands of US dollars and fall into the hands of unscrupulous smugglers who force them to travel under inhumane conditions. Furthermore, there are also frequent media reports in Turkey of irregular immigrants being apprehended in Turkey. It is not possible to estimate the number of people that actually transit through Turkey. However, as it can be observed from Graph 1, since 1995 there has been a steady increase in the number of irregular immigrants being apprehended by the authorities in Turkey. Each year their numbers have increased, reaching a peak of 94,514 in 2000. There is a clear expectation that the numbers for 2001 will be significantly higher.

Closely associated with the problem of irregular migration is the problem of trafficking in human beings. Unlike the previous group these are people who are being forced across frontiers against their will. Often they are young women who have been lured to accept work abroad and instead find themselves forced into prostitution and trapped in the hands of organised crime. There is no reliable information on trafficked persons in Turkey. Yet, there is considerable prostitution taking place in Turkey by women from, in particular, former Soviet republics or Balkan countries. However, it is very difficult to tell what proportion of such persons are actually victims of trafficking and what proportion are coming to Turkey on their own for purely economic reasons. Currently, Turkish legislation to combat trafficking is in-existent although there is a new draft penal code that addresses the problem. In the meantime, Turkey is open to widespread international criticism for not doing enough against trafficking of human beings and this is clearly an area that will need to be closely addressed in respect to Turkish accession to the EU.

Graph 1

Number of Illegal Immigrants Arrested by Turkish Security Forces between 1995 and 2000



Source: Data obtained from the Foreigners Department of MOI.

Table 4 offers a breakdown of the numbers of illegal migrants by nationalities. However, it should be noted that the statistics cover two type of illegal migrants. The first group is people who overstay their visas in Turkey or are caught working in Turkey illegally. They are mostly nationals of Romania and the former Soviet Union. The second group is composed of illegal transit migrants although there may be a few Iranians and Iraqis apprehended in Turkey for overstay or illegal work. Otherwise, the majority of illegal transit migrants stopped in Turkey are from Iraq, Afghanistan and Pakistan. The ones from Iraq are mostly Kurds as well as small numbers of Turkmen and Arabs. The political instability in northern Iraq accompanied by deep economic difficulties and the negative consequences of sanctions on the country are the principle factors driving people to seek their fortunes in Europe.ⁱ Furthermore, the near lawlessness in northern Iraq makes the possibility of obtaining forged documents and contacting networks of human smugglers much easier. Turkish authorities complain that illegal migrants who are deported to northern Iraq often try again. This suggests that as long as there is no fundamental change in the political and economic situation there, the flow of illegal migrants will continue independent of what measures Turkish authorities take.

It is difficult to tell whether the steady increase in the numbers of people apprehended in Turkey is a sign that irregular transit migration is increasing or whether it is the Turkish authorities that are becoming stricter. Turkey has been under growing pressure from the EU as well as the United States to cooperate in the prevention of irregular migration. Turkey frequently is accused by western governments of not taking sufficient measures. In a report released in July 2001 by the US, Turkey was listed among countries that were not considered to be doing enough to stem trafficking of people through Turkey. The report threatened these countries with economic sanctions should they fail to cooperate.ⁱⁱ In Europe, there have also been occasions when Turkey has been accused of using irregular transit migration as a political weapon. In February 2000, when a freighter called the *East Sea* ran aground with more than 900 irregular migrants at the Mediterranean coast of France, there were many media reports in France blaming the Turkish government.ⁱⁱⁱ There were even reports that the Turkish government had done this as a punishment for the adoption the previous month by the French Parliament a resolution recognising the Armenian genocide.ⁱⁱⁱⁱ These were

accompanied by allegations that the Turkish coast guard vessels had actually escorted boats carrying the illegal migrants.

Similar accusations were also directed towards Turkey when from 1997 to 2000 there were a series of boats and sometimes ships carrying Kurds, many from southeastern Turkey, landing on the Adriatic coast of Italy.^{liv} Many of these ships carrying illegal immigrants landed in Italy just before, during and immediately after a bitter conflict erupted between Italy and Turkey in October 1998 over the extradition of the leader of the Kurdistan Workers Party (PKK), Abdullah Öcalan who had been arrested in Italy. The aggravation engendered by the crisis as well as the illegal immigrants led the Italian Prime Minister Massimo D'Alema who was visiting the United States in March 1999 to argue that there were similarities between the situation in southeastern Turkey and Kosovo. He appealed to his host Bill Clinton that "If we defend the rights of the Albanians in Kosovo, and rightly so, then I think we have to defend the rights of the Kurdish minority."^{lv} These two cases are indicative of the degree of importance as well as frustration that the issue of irregular migration coming through Turkey can cause.

The allegation that Turkish authorities abuse irregular migration or support it for political goals is probably exaggerated. This is the case for a number of reasons. Firstly, Turkey for a long time was concerned that the PKK was actually involved in the business of smuggling people to Europe. The officials believed this was the case because smuggling constituted an important source of income as well as constituting part of a concerted effort to create a base of support for the PKK in Europe.^{lvi} Hence, during the 1990s this was a major security concern for the Turkish authorities which they tried to prevent. Another reason was that often the smugglers were also part of larger organised crime networks involved in drug trafficking and illegal arms trade. A third reason had to do with the growing trend for some of these immigrants to stay on in Turkey and becoming involved in criminal activities. Hence, government officials have always had an interest in at least trying to stop illegal migration because of the connection between illegal migration and other forms activity threatening Turkish security as well as law and order in a more direct manner.

However, this interest often failed to translate itself into actual concerted action against preventing irregular migration. One important reason for this once more has to do with insufficient funds in the hands of the police. The police also complain about the difficulties in getting the cooperation of the countries whose nationals the illegal immigrants are and add that they themselves often lack the resources to arrange for the deportation of illegal immigrants particularly those who are not nationals of neighbouring countries. Additionally, for police officials to let illegal immigrants pass by is often much easier than facing the bureaucratic hassles of intercepting, apprehending and processing the deportation of illegal immigrants. Police officers have actually complained that at times they find themselves having to meet the basic needs of illegal immigrants from their own meagre salaries or go out and seek donations from the public. They have also complained that existing laws in Turkey are inadequate to deter criminals from organising smuggling and trafficking in human beings. They have argued that compared to drug trafficking the penalties are very low and the profit for the risk is very high.^{lvii} Many observers also argue that often these illegal migrants could not cross the whole length of the country if somewhere along the line there were not corrupt officials.^{lviii} Turkish authorities have also complained that western officials often accuse Turkey of not doing enough while making statements and adopting policies that encourage irregular migrants to try their fortunes.^{lix}

Table 4

Breakdown of Illegal Immigrants Arrested by Turkish Security Forces Between 1995 and 2000 by Their Nationalities

Countries	The Number of People
Afghanistan	16494
Bangladesh	8519
Pakistan	13481
Iran	16299
Iraq	61309
Syria	3466
Former Soviet Republics (Russia, Ukraine, Moldova, Georgia, Azerbaijan, Armenia)	22405
Bulgaria	3370
Romania	3213
Turkey	6779
Other	114208
Total:	269543

Source: Data obtained from the Foreigners Department of MOI.

Turkey itself has also been a source of illegal immigrant flow toward Europe. As Table 4 indicates among those apprehended in 2000 there were also Turkish nationals. Most of them have been Turkish citizens of Kurdish origin. The Kurds during the 1980s and 1990s had constituted a large proportion of the asylum seekers in Europe from Turkey. Many were claiming the persecution of the Turkish state against them. This was a period when the struggle between the PKK and the Turkish security authorities in the southeastern provinces of Turkey was particularly violent. This had culminated in wide spread human rights violations as well as massive internal displacement. The violence has subsided since the leader of the PKK, Abdullah Öcalan, was apprehended in February 1999. Although, the Kurdish problem in Turkey is far from resolved the decision of the PKK to give up armed struggle has created a much more positive climate for reforms.^{1x} In an unprecedented manner, the Turkish parliament adopted a series of liberal amendments to the constitution in October. In particular, one of these amendments is significant in terms of the Kurdish question as it opens the way to the possibility of broadcasting in Kurdish as well as the public use of the Kurdish language. This is considered to be an important step in the direction of addressing the grievances associated with the Kurdish question in Turkey. Yet, the same cannot be said in terms of the economy of the areas inhabited by most Kurds. The region is economically depressed and still bears the scars of years of violent conflict. The situation is also aggravated because of the economic embargo on neighbouring Iraq. Hence, many Kurds who are economically disenchanted are trying to migrate to Europe. Given the current economic crisis in Turkey it is highly likely that this trend may continue. A case in point: a man with six children from the southeastern city of Batman apprehended with a group of 350 irregular

immigrants in October 2001 trying to leave Turkey illegally by boat remarked, “the economy has hit rock bottom. Rather than live with hunger we thought we would give it a chance.” A university graduate on the other hand noted “The others (foreign illegals) are escaping from the Taliban and Saddam. Whereas we are escaping from lack of income.” Having been apprehended, he added “We will have to try again.”^{lxi}

Currently, there are few forums where issues to do with irregular migration between Turkey and the EU is dealt with. Most of the interactions are more of a bilateral nature. For example, Italian and Turkish officials have been meeting regularly in an effort to cooperate against illegal transit migration to Italy via Turkey.^{lxii} Furthermore, the governmental dialogue between Turkey and Greece has included the issue of illegal transit migration and agreements signed in this regard have been heralded as a sign of improving Turkish-Greek relations. Currently, the only official forum where these issues as well as the broader issues to do with immigration can be raised is the sub-committee under the Association Council (AC) between the EU and Turkey. The AC is the formal body where issues to do with the accession process are handled and there are eight sub-committees dealing with various issues. One such committee deals with Justice and Home Affairs issues. This committee so far has met only twice. The JHA mission delegation of September 2000 examined the issue of irregular migration extensively. It is expected that more such visits are going to take place.

So far, it is the Budapest process that has constituted the major multilateral forum where most of the cooperation in Europe on irregular migration takes place. However, this process operates outside the EU framework and is a consultative forum of more than 40 governments and 10 international organisations aiming to prevent irregular migration. The origins of this process goes back to the early 1990s when there was a growing fear among Western European governments of an imminent massive movement of people from Eastern Europe and the Soviet Union. It was against this background that the process was launched at a conference of interior ministers of the European Community members as well as of Central and Eastern Europe held in Berlin in October 1991. Since then the participants have met on numerous occasions and have adopted a wide range of measures and mechanisms to stem irregular migration.^{lxiii} Turkey had not been invited to the first meeting held in Berlin in 1991. Energetic interventions of the Turkish Foreign Ministry culminated in an invitation being extended for the Budapest Ministerial meeting in February 1993. Since then Turkey has been an active participant in the process.

One of the critical issues that have come up at the Budapest process is the question of readmission agreements. Members of the EU have been keen to get Central and Eastern European countries to reach such agreements for accepting the return of their own nationals as well as the ones of third countries. In particular, candidate countries from Eastern and Central Europe have been eager to comply as such agreements constitute part of the criteria they are expected to meet for membership to the EU. The APD for Turkey also notes the expectation from Turkey to sign similar readmission treaties. Turkey long resisted this and shied from negotiating such agreements with third countries. Instead, Turkey’s official position was that Turkey would be prepared to accept back anyone who is present in Europe and is a national of Turkey or legal resident in Turkey. This also applied to persons who may have legally transited to Europe via Turkey and were arrested for illegal entry into Europe as long as the demand for readmission is made within 48 hours of transiting Turkey. During the presidency of Britain in 1998 there were even offers to Turkey to mediate readmission agreements between Turkey and Pakistan as well as Bangladesh. However, since the adoption of the NP

Turkey's position has changed. The Programme makes clear references to the objective of adopting the EU *acquis* and reaching the required readmission agreements by 2004. In this regard, Turkey is negotiating such agreements with Bulgaria, Iran and Syria and considerable progress have been reported. In the case of Pakistan and Bangladesh efforts to negotiate such agreements have met with little progress. Turkey has also proposed to negotiate such agreements with China and Romania.^{lxiv}

A major concern that Turkish officials have in this regard is similar to the one they have in respect to the lifting of the geographical limitation. They fear Turkey becoming a dumping ground for irregular migrants apprehended in the European Union. They also argue that readmission agreements are not always effective as people who are returned to their country of origin soon come back in another effort to reach Europe. This is particularly the case with irregular migrants from northern Iraq. This also explains why Turkey has had a longstanding reluctance to accept the return of Iraqis via Turkey. A number of EU member countries such as Holland and Sweden approached Turkey in this regard but failed to elicit Turkey's full bilateral cooperation. Nevertheless, an agreement between the Turkish government and the International Organization for Migration appear to be in the final stages of negotiations. The agreement will make it possible for returning irregular Iraqi migrants from a number of European countries to travel via Turkey. A representative of a Turkish non-governmental organisation will accompany these persons from Turkish airports to the Iraqi frontier.^{lxv} In January 1998, after a series of ships had arrived in Italy carrying Kurdish illegal migrants mostly from Iraq and some from Turkey, the General Affairs Council adopted an Action Plan. The Plan, which placed heavy emphasis on efforts to stop unauthorised migration, was to provide assistance to Turkey to improve conditions for detaining illegals prior to removal, and to provide training for the Turkish police in screening asylum seekers. The Plan does not seem to have been implemented in a systematic manner although the EU has provided funding for training seminars run by the UNHCR focusing on separating genuine asylum seekers from irregular migrants. The question of organising reception centres in Turkey for irregular migrants seems to have remained unresolved, although, there have been visits by groups of Turkish police to European reception centres particularly in the Netherlands. There are also initiatives on Turkey's part to prepare projects in this area which, if accepted by European donors, would receive funding in the context of Turkey's accession efforts to the EU. Outside the EU context, between 1995 and 1997, the IOM actually ran a very successful programme to assist the return of stranded irregular migrants from Turkey to their country of origin. The programme assisted 550 stranded migrants. It was discontinued early in 1998 for lack of funds.

In general, Turkish officials have often argued that the problem of irregular migration stems from large economic gaps between Europe and the countries of the region. Hence, they argue police measures in and of themselves are not adequate. MOI officials have also complained of western government officials on the one hand putting pressure on them to prevent transit migration through Turkey and on the other hand making statements, which they argue, encourage people to become illegal migrants in an effort to get to Europe. Furthermore, they also add that the tight visa regime prevailing in Europe aggravates the situation by forcing people to try illegal means to reach Europe. It is interesting to note that in Germany in July 2001 and Britain in October, interior ministry reports have been adopted recommending a loosening of the tight immigration policies in favour of allowing more immigrants into the country. The idea of adopting an EU immigration policy that would give economic migrants a chance to enter the Union was taken up by the European Union Commissioner responsible for

JHA matters, Antonio Vitorino in London in July 2001. Similarly, the European Parliament in October 2001 adopted a report recommending similar measures as part of efforts to develop a Community immigration policy.^{lxvi} However, it is difficult to say whether the implementation of the ideas advocated by these reports would actually stem the flow of irregular migration. Commissioner Vitorino did also add that each year 500,000 illegal immigrants penetrate the territory of the Union and that encouragement of legal immigration would have to be accompanied by a fight against illegal immigration.^{lxvii} Therefore, it is likely that irrespective of the police measures taken in Turkey to control and prevent irregular transit migration the phenomenon will continue and it will remain an important item on the agenda of Turkish-EU relations.

Visa policy:

One of the areas that will have to experience drastic changes if Turkish law and practice is to be harmonised with the EU *acquis* is Turkey's visa policy.^{lxviii} The current visa policy of Turkey is a complex system. It is possible to speak of three categories of entry into Turkey.^{lxix} There are the nationals of a group of countries who can enter and remain in the country up to a pre-determined length of time, usually three months, without visas. A second group is a category of countries whose nationals must obtain visas prior to arriving to Turkey. Lastly, and most interestingly, is the practice of issuing visas at the frontier in return for a fee known as "bandrol" in Turkey. The fee varies from nationality to nationality. However, in the case of nationals of the former Soviet Union and some East European and Balkan countries it is a symbolic amount usually around US\$ 10 per visa. This practice is very much the legacy of the late Turgut Özal, a former prime minister and president of Turkey.

Özal was not only a leader who left a deep imprint on the liberalisation of Turkey's economy but also on Turkish foreign policy.^{lxx} He was a pragmatic leader who very much believed in the virtues of functionalism and interdependence in international relations. It is against this background that he had had the visa requirement for Greek nationals lifted in 1988. He believed that this would not only encourage Greeks to travel to Turkey thereby boosting commerce but also improve understanding between the people of the two countries at a time when the governments were locked in a stalemate over a wide range of conflicts. As the Cold War began to come to an end in the late 1980s he advocated the idea of the Black Sea Economic Cooperation Area (BSEC). The idea was to encourage greater contact among countries on the Black Sea as well as in its immediate vicinity. The Cold War had prevented many of these countries from interacting with each other. His vision of the region was one where these countries would cooperate with each other on a number of issues ranging from commerce to tourism as well as the environment and cultural exchanges. The countries of the region adopted the idea formally in June 1992 and set up a secretariat in Istanbul. The third category of visas evolved against this background to facilitate the movement of nationals of countries coming mostly from members of the BSEC into Turkey. With the collapse of the Soviet Union there also emerged a group of new states in the Caucasus and Central Asia with close linguistic and cultural ties to Turkey. This visa practice also would serve the purpose of enabling the nationals of these new Turkic republics as well as Russia to travel to Turkey with greater ease than had been the case during the Cold War. During the Cold War contacts between Turkey and Central Asia as well as many Turkic communities in distant parts of the Soviet Union was basically inexistent. There were not only major restrictions for Soviet nationals to travel abroad but often people also would have had to travel long distances to obtain a visa from Turkish representations in the Soviet Union.

There have been a number of consequences of this visa policy. During the course of the 1990s it encouraged the development of an informal import and export activity known as “suitcase trade.” This “trade” saw a large number of nationals of mostly Russia but also from the Ukraine, Georgia, Azerbaijan, Romania, Moldova and Central Asian republics travel to Turkey by chartered planes or ships, sell their “suitcase” full of products and in return purchase a wide range of consumer goods mostly in Istanbul, the Black Sea port city of Trabzon, and Van on the border of Iran. It is estimated that this trade amounted to approximately US\$ 4-5 billion a year during the 1990s. It peaked in 1995 with a trade volume of US\$ 10 billion and reached its lowest level in 1993 with US\$ 3 billion.^{lxxi} What this trade has done is enable a large number of people to cushion the economic difficulties that many of the countries of the region have experienced since the collapse of communism. Yet, there has also been a down side to this liberal visa policy. During the 1990s there was widespread prostitution in Turkey involving nationals of the former Soviet Union. This led to calls from authorities as well as the public for the introduction of stricter rules governing entry into Turkey. Similar calls started to come from labour unions as well as the Ministry of Labour as the number of illegal workers in Turkey began to increase.^{lxxii} As a result, since early 2001 the government increased the “bandrol” fees to US\$ 20 for the nationals of some countries and in some cases began to demand that people wishing to enter Turkey show possession of a minimum amount of hard currency for each day to be spent in Turkey.

Turkish officials frequently argue that this visa policy has kept people from joining the flow of irregular migration to Europe. Clearly, this is very difficult to prove. However there may be an element of truth in this argument. As can be observed from Table 1, there are none or very few illegal transit migrants apprehended by the Turkish authorities who are nationals of countries that benefit from the “bandrol” visa practice. Instead the majority of the illegal transit migrants come from countries whose nationals have to obtain visas before they come to Turkey. This explains to a large extent the trend among nationals of Afghanistan, Iraq and Pakistan to resort to the services of human smugglers. It is possible that had Iranian nationals not been exempted from any visa requirement when travelling to Turkey, there could be much higher numbers of Iranians apprehended as illegal migrants than the figure in Table 1. The absence of a visa requirement for Iranian nationals is a practice that has existed since the days of the now defunct CENTO, an organisation set up in the early days of the Cold War and supported by the Western Bloc as part of the strategy of containment against the Soviet Union. The practice survived the days of intense tension between Iran and Turkey after the Islamic revolution in 1978 led by Ayatollah Khomeini. These conflicts occurred usually when news and reports on Iranian government support for the PKK and Islamic activists appeared in the Turkish media. This would often be followed by calls for the abolishment of the visa exemption on the grounds that Iran was exploiting this policy to destabilise Turkey.

The days of this relatively liberal visa policy are numbered. The APD requires Turkey to adjust its visa policy to the standards of the Schengen system and improve its border control capacity. The NP acknowledges that Turkey will adopt the necessary changes. Turkish officials at the MOI have already formed a special committee to study the Schengen regulations and appear to be keen to adopt it even if they recognise that technically they may not yet be ready for it. However, they also recognise that Turkey would be entitled to EU funds to adjust Turkey’s capacity to the requirements of Schengen. This is a major incentive for the under-resourced ministry that oversees the work of the immigration police. Furthermore, at a time when Turkey is having difficulties in satisfying some of the tougher

political criteria in the APD, introducing a tighter visa regime and improved border control may compensate for the lack of progress in the political arena. Turkish officials are constantly feeling the pressure to achieve some progress in meeting the requirements for the start of accession negotiation between the EU and Turkey. The political criteria include reforms with respect to freedom of expression, freedom of association and minority rights as well as a change in Turkey's position on the resolution of the problem in Cyprus. There is still considerable resistance to introducing reforms in Turkey in these areas and also reluctance to move to a more moderate position on Cyprus. Hence, progress in the area of meeting the requirements of Schengen may seem relatively easier as well as important in terms of maintaining some progress in Turkish-EU relations.

More importantly, Turkish officials and politicians recognise that close cooperation with the EU in this area may open the possibility of easing EU visa restrictions for Turkish nationals. It is particularly Turkish business people who have bitterly complained about these restrictions which, they argue, leave them at a disadvantage in relation to their counterparts in the EU or other candidate countries. The EU practice of lifting or easing of visa requirements for the nationals of candidate countries that have adopted the EU *acquis* and practice in respect to visas has not gone unnoticed by Turkish officials and politicians. Most striking for them has been the way in which Bulgarian Turks who had fled to Turkey during the mass exodus in 1989 are returning back to Bulgaria to reclaim their citizenship. Clearly, the EU decision to lift visa requirements for Bulgarian citizens is a major motive for this behaviour.^{lxxiii} In turn the Turkish government has decided to lift the visa requirement for Bulgarian nationals.

In 1989, more than 300,000 Bulgarian Turks had fled to Turkey. The crisis played an important role in the eventual downfall of the communist regime in Bulgaria. Subsequently, a more democratic and western oriented regime emerged. While thousands of Bulgarian Turks returned to Bulgaria almost 236,000 of acquired Turkish citizenship.^{lxxiv} Many of them became dual citizens. Yet, the economic difficulties in Bulgaria and the severe recession that hit rural Bulgarian Turkish communities meant that many Bulgarian Turks preferred to stay in Turkey. The Turkish government, in an effort to stop economically motivated migration of ethnic Turks from Bulgaria into Turkey, introduced a strict visa requirement. This led to an increase in illegal entries often using smuggling networks. The recent decision to end the visa requirement for Bulgarian nationals is a good example of the extent to which EU policies can effect the policies of a third country. This brought the human smuggling business to an immediate halt. It is highly doubtful that the Turkish government would have adopted this new policy if it had not been for the EU decision to remove Bulgaria from the list of countries requiring visas to enter the EU.

However, the adoption by Turkey of the EU *acquis* on visa requirements may well aggravate the problem of irregular migration into Turkey as well as through it. Entry into Turkey will become much more difficult at a time when the "suitcase" trade is picking up again and is benefiting both Turks as well as countries of the region who continue to experience economic difficulties. It is likely that at least some of them may try to seek asylum in Europe. This may well be the case for example for Chechens who currently are able to enter Turkey without difficulties but who face economic hardship back at home as well as wide spread human rights violations and violence because of the disturbances in their homeland. A similar case could be made for Iranian nationals. Currently, Iranians constitute the largest number of asylum applicants in Turkey. However, introducing a visa requirement may lead to an increase in these applications as many Iranians enjoy an informal protection in Turkey by

virtue of the mere fact that they can enter the country unhindered. Furthermore, some of Iranians who were benefiting economically from the no visa policy may well start to join the ever increasing number of irregular migrants entering Turkey from the Middle East and trying to make it to Europe.

In spite of the many incentives that the Turkish government appears to have for meeting the EU criteria in respect to visas, it may not be an easy line to sell domestically.^{lxxv} At a time when Turkey itself is going through a major economic and financial crisis business circles that benefit from the “suitcase” trade are going to object to new visa restrictions. Furthermore, there are reports suggesting that this trade is slowly reviving.^{lxxvi} There is already considerable opposition being voiced to efforts to increase the “bandrol” fees for some nationals as well as the requirement that people be able to show a certain minimum amount of hard currency. In Turkey, there are also many well organised immigrant associations representing immigrant communities from both the Balkans and the Caucasus. They are often from a middle class background, well educated, and can be very effective in lobbying against such a government policy. For example, in the past on a number of occasions such associations were effective in getting the MOI to issue amnesties to illegal immigrants from Bulgaria and give them the opportunity to regularise their presence in Turkey. The task of such interest groups would also be facilitated by the fact that in the Turkish parliament there are quite a few politicians who are either descendents of immigrants or recent immigrants themselves. Considerable opposition would also come from right wing nationalist circles that would not appreciate any restrictions to the possibility of Turkic people entering Turkey easily.

Conclusion:

Asylum, irregular migration and visa regime are three issue areas over which the EU is going to have a significant impact on Turkey’s policies. This is an inevitable function of Turkey’s interest in becoming a member of the EU. The extension of candidate status to Turkey has significantly increased EU leverage over Turkey. The reforms that Turkey is expected to adopt in these areas are stated in quite an unequivocal manner in the APD. Turkey has responded to the ADP with the NP which demonstrates a will to adopt these reforms. This is most conspicuous in respect to the lifting of the geographical limitation. After a long period of resistance, Turkey has accepted to lift it by 2004. This will require Turkey to introduce major changes to its asylum policy above and beyond what other candidates have to do. In particular, this will mean making it possible for refugees to be integrated in Turkey and not rely solely on resettlement and repatriation. Furthermore, due to the geographic location of Turkey and given the nature of the EU *acquis*, Turkey is likely to become a country of first asylum. This will bring a considerable administrative as well as economic burden to Turkey. However, the harmonisation policy also brings the possibility of benefiting from financial as well as technical assistance. During the negotiation process Turkey should be able to insist on a commitment from the EU to burden sharing, particularly in the form of some resettlement of refugees.

In the case of illegal transit migration, Turkey is under particular pressure to stem it. An important objective is to prevent irregular migration from becoming a path for accessing asylum procedures in the EU. In this respect Turkey faces an important challenge. Turkey is expected to both stem irregular migration but also at the same time be able to weed out potential asylum seekers from outright economically motivated illegal migrants and process their applications. The need for Turkey to leave behind a relatively liberal visa policy and

replace it with the much tighter Schengen visa regime is meant to serve a similar end of stemming irregular migration into the EU. Asylum, irregular migration and visa regime are three areas very central to the JHA issues. The Union is committed to move towards the development of common policies in these areas. This means that current members will move away from intergovernmental cooperation to a level of integration that emphasises actual supranational decision making.

Traditionally, the question of who can enter a country and who can become integrated as a citizen of a country has been at the very heart of national sovereignty. Is Turkey ready to take that step? If it is, then the Turkish government will need to cooperate with EU officials and experts much more closely and professionally. In this respect the first ever visit of a EU delegation to Turkey on JHA issues has produced a report with mixed results. The report praises the goodwill and openness with which their Turkish counterparts have received the delegation. However, the report, especially with respect to asylum and migration issues, has expressed a certain frustration in accessing basic information and legislation in these areas. It is difficult to see how the harmonisation of Turkish legislation and policy can be achieved if Turkey fails to meet the very basics needed by the EU to make an assessment of the situation. The issue of protecting the Union geography from unregulated movements of people is a very central aspect of the enlargement process. Hence, the EU is going to give utmost care to assessing the candidate countries capacity to live up to the standards of the Union. Turkey's geography is going to make these issues all the more sensitive for the EU.

This leaves Turkey facing quite a few tough dilemmas and consequences. The cost of meeting the EU requirements in these three areas is quite significant in the economic as well as bureaucratic, social and political sense of the term. Undoubtedly, making the necessary adjustments may be seen as a worthwhile price to pay as part and parcel of the grander exercise of transforming Turkey into a more democratic, pluralistic country driven by rule of law. It is quite possible that some of the more administrative and economic aspects of the costs may be cushioned by EU financial and technical support. Yet, Turkish decision makers do face a major dilemma: What if Turkey at the end of all the adjustments is not admitted to the European Union as a member? This could leave Turkey facing major difficulties all on its own without the benefits of EU membership and more importantly the sense of security that comes with that membership.

Another dilemma that faces Turkey is the immediate future. The EU governments, especially in the area of controlling or stemming irregular migration, seem to be asking Turkey to perform tasks that would be questioned by many liberal circles in Europe. At times EU governments seem to demand from Turkey a tough performance bordering on authoritarianism in order to appease conservative anti-immigration circles in Europe while taking a more liberal approach toward those irregular migrants that make it to Europe. In this way, EU governments are not only able to satisfy liberal circles but also meet the growing needs of cheap labour in Europe at a time when demographic trends in Europe suggest that Europe's population is decreasing. This pattern of behaviour appears to be translating itself into a situation where Europe may increasingly introduce controlled and closely supervised immigration to meet labour needs while keeping the economically, socially, or politically disadvantaged out of the EU geography.^{lxxvii} In this way, after having served as the bastion of Western Europe's defence during the Cold War against the Soviet Union thanks to its geographically important location, this time Turkey would serve yet another security objective by becoming a buffer zone for keeping the unwanted and/or uncontrolled movement of people

into the EU. This is a risk though worth taking. The absence of cooperation in JHA issues would further complicate Turkey's membership potential. Adopting the EU *acquis* in this area and shouldering the costs associated with it can also be seen as a price worth paying for the larger advantages that membership to the EU would bring to Turkey. Furthermore, once Turkey is genuinely engaged in the accession process it will have ample opportunity to bargain and have its voice heard. This would give Turkey a much better opportunity to make a case for the particular difficulties and problems it faces compared to a situation where Turkey fails in its membership bid.

An important part of this paper is based on interviews held in May 2001 with officials in Ankara from the Ministry of Foreign Affairs, Ministry of Interior, The Secretariat General for European Affairs as well as representatives of the offices of the UNHCR, IOM, the European Union Commission and a number of non-governmental organisations. I would like to express my gratitude and appreciation for their assistance and cooperation. This paper has also benefited from observations and interviews held during a series of training seminars on asylum law and practice for government officials.

Endnotes:

ⁱ There is a wide body of literature that studies Turkey's relations with the European Union. For a concise and up to date analysis of the history of these relations see William Hale, *Turkish Foreign Policy, 1774-2000* (London: Cass, 2000), 174-179 and 233-245; for a long history of Turkish membership aspirations see Meltem Müftüler-Bac, *Turkey's Relations with a Changing Europe* (Manchester: Manchester Univ. Press, 1997); for a more detailed analysis of the background as well as the process leading up to the December 1999 decision see; Meltem Müftüler-Bac, "The Never Ending Story: Turkey and the European Union" *Middle Eastern Studies* 34, No. 4, Oct. (1998) and William Hale and Gamze Avci, "Turkey and the European Union: The Long Road to Membership" in *Turkey in World Politics*, ed. Barry Rubin and Kemal Kirişçi (Boulder, CO: Lynne Rienner, 2001).

ⁱⁱ *Accession Partnership Document: 2000* adopted by the General Affairs Council of the European Union in December 2000. The document can be accessed at <<http://www.deltur.cec.eu.int>>.

ⁱⁱⁱ The Turkish and English versions are available at the website of Secretariat General for European Affairs at <<http://www.abgs.gov.tr/>> (19 July 2001). Furthermore, the whole schedule and work to be done in respect to adopting the *acquis* is outlined in a massive worksheet known as *Follow-Up Instrument on the Turkish National Programme for the Adoption of the Acquis (NPAA)* (Secretariat General for EU Affairs, Ankara). This Document is available on the web-site of the Secretariat. The English version is currently being prepared for posting.

^{iv} For a coverage of immigration, illegal and transit migration in Turkey see Kemal Kirişçi "Coerced Immigrants: Refugees of Turkish Origins since 1945" *International Migration* 34, No. 3 (1996); Sema Erder, "Uluslararası Göçte Yeni Eğilimler: Türkiye "Göç Alan" Ülke mi?" (New Trends in International Migration: Is Turkey an Immigration Country?) in *Mübeccel Kıray için Yazılar* (İstanbul: Bağlam Yayınları, 2000); Ahmet İçduygu, "Transit Migration and Turkey" *Boğaziçi Journal* 10, Nos. 1-2 (1996) and *Transit Migration in Turkey* (Budapest: IOM Migration Programme, 1996); Ahmet İçduygu and Fuat Keyman, "Globalization, Security, and Migration: The Case of Turkey" *Global Governance* 6 (2000).

^v Turkey is in the middle or next to regions where large forced and irregular movements of people occur. According to UNHCR statistics in 1999, there were a total of more than 4.5 million refugees in countries neighbouring Turkey or very close to Turkey, calculated from *The State of the World's Refugees: Fifty Years of Humanitarian Action* (New York: Oxford Univ. Press for United Nations High Commissioner for Refugees, 2000), Annex 6, pp. 316-18. These figures do not include the 4 million Palestinians cared for by United Nations Relief and Work Agency and the almost 850,000 Kosovars who were displaced during the course of 1998 and 1999, nor the large numbers of illegal migrants that originate from these regions. As this work is being written in

October 2001, millions of Afghans are once more becoming displaced. Though in relatively small numbers some of these refugees are turning up in Turkey.

^{vi} In September 2000, the EU sent its first JHA-expert mission to Turkey to examine Turkish policy and practice in JHA related issues. The results of this extensive and detailed study was published as *General JHA Expert Mission to Turkey 18-29 September 2000: Mission Report on the Situation in the Field of Justice and Home Affairs in Turkey* (Internal Document).

^{vii} For a concise analysis of labour migration to Europe from Turkey see Nermin Abadan-Unat, "Turkish Migration to Europe" in *The Cambridge Survey of World Migration*, ed. Robin Cohen (Cambridge: Cambridge Univ. Press, 1995) and for asylum movements to Europe see Anita Böcker, "Refugee and Asylum-Seeking Migration from Turkey to Europe" *Boğaziçi Journal* 10, Nos. 1-2 (1996).

^{viii} *The State of the World's Refugees...*, Annex 10, p. 325 cited in endnote 5.

^{ix} Information obtained from <<http://www.byeem.gov.tr/yayinlarimiz/AnadolununSesi/165/T8.htm>> (12 July 2001).

^x For details see Kirişçi, 1996 cited in endnote 4.

^{xi} The Turkish Minister for Labour Affairs and Social Welfare, Yaşar Okutan, announced that there were approximately 1 million illegal immigrant workers in Turkey, *Radikal*, 30 Dec. 2000. The Ministry of Foreign Affairs put their numbers at 1.2 million *Radikal*, 4 January 2001.

^{xii} For details see Erder, 2001 cited in endnote 4. Newspaper are increasingly carrying long feature stories on the phenomenon. For example, see *Hürriyet*, 17 June 2001 for a coverage of Africans in Istanbul.

^{xiii} J. Cremer and H. Przytulla, *Exil Turkei: deutschsprachige Emigration in der Turkei 1933-1945* (München: Verlag Karl M. Ripp, 1991), 19.

^{xiv} Stanford Shaw, *The Jews of the Ottoman Empire and the Turkish Republic* (New York: New York Univ. Press, 1991), p. 256.

^{xv} Vernant, Jacques. *The Refugee in the Post-War World* (New Haven: Yale Univ. Press, 1953), p. 244.

^{xvi} Ivor C. Jackson, *The Refugee Concept in Group Situations* (The Hague: Martinus Nijhoff Publishers, 1999), p. 68.

^{xvii} For an analysis of the origins and early years of this policy see Kemal Kirisci, "The Legal Status of Asylum Seekers in Turkey: Problems and Prospects" *International Journal of Refugee Law*, 3, No. 3, (1991).

^{xviii} Statistics and information obtained from the Foreigners Department in Ankara.

^{xix} *Milliyet*, 22 Feb. 2000 reported that there was a group of 104 Chechen refugees waiting at the border at minus 30 Celsius degrees.

^{xx} *Radikal*, 25 Feb. 2000.

^{xxi} A. Ossipov, "Constructing Conflict in the Former Soviet Societies: the Case of Meskhetian (Ahiska) Turks" paper presented at the *Workshop on Ahıska (Meshketian) Turks: Identity, Migration and Integration*, 14-15 Dec. 2000. See also *Russian Experience of Ethnic Discrimination: Meskhetians in Krasnodar Region* (Memorial Human Rights Center, Moscow, 2000).

^{xxii} Opening speech given by Abdulhaluk Çay, State Minister responsible for immigrants and refugees at the *Workshop on Ahıska (Meshketian) Turks: Identity, Migration and Integration*, 14-15 Dec. 2000.

^{xxiii} *Annual Activity Report for 1999* (Anatolian Development Foundation, Ankara).

^{xxiv} According to statistics obtained from the Foreigners Department there were as of 1 Nov. 2000, 40 Kosovar and 83 Bosnian refugees remaining at the refugee camp near the Bulgarian border.

^{xxv} *Cumhuriyet*, 15 Feb. 1991.

^{xxvi} For a detailed analysis of the crisis and the subsequent effort to assist the refugees see Kemal Kirişçi, "'Provide Comfort' and Turkey: Decision Making for Refugee Assistance" *Low Intensity Conflict and Law Enforcement*, 2, No. 2, (Autumn 1993).

^{xxvii} For a report on such a case see *Turkish Daily News*, 7 Jan. 1994.

^{xxviii} *Cumhuriyet*, 13 Jan. 1994 and *Sabah*, 5 Dec. 1995.

^{xxix} *Turkey: Selective protection: Discriminatory treatment of non-European refugees and asylum seekers* (London: International Secretariat, March 1994).

^{xxx} For an unofficial translation of the text of the Regulation and an early evaluation of it see Kemal Kirişçi, "Is Turkey lifting the "geographical limitation"?: The November 1994 Regulation on Asylum in Turkey" *International Journal of Refugee Law* 8, No. 3, (1996). For a more critical analysis of the Regulation see Bill Frelick, "Barriers to Protection: Turkey's Asylum Regulations" *International Journal of Refugee Law*, 9, No. 1, (1997).

^{xxxi} See for example the following reports *U.S. Department of State: Turkey Country Report on Human Rights for 1996* (Released on January 1997 obtained from <<http://www.state.gov>> (28 Dec. 2000): Bill Frelick, *Barriers to Protection: Turkey's Asylum Regulations* (Washington D.C.: Report issued by the U.S. Committee for Refugees) and *Turkey: Refoulment of non-European refugees – a protection crisis* (London: Amnesty International Secretariat, Document EUR 44/031/1997).

^{xxxii} For a brief analysis of these court rulings see Kemal Kirisci "UHNCR and Turkey: Cooperating toward and Improved Implementation of the 1951 Convention." *International Journal of Refugee Law*, 13, No. 1-2. The Turkish court rulings can be found in *Sığınmacı, Mülteci ve Göç Konularına İlişkin Türkiye'deki Yargı Kararları* (Ankara: Birleşmiş Milletler Mülteciler Yüksek Komiserliği, Ankara, 2000). The English translation of this book is being prepared for publication by the Branch Office of the UNHCR in Ankara.

^{xxxiii} I would like to express appreciation to the director of ASAM who has generously shared the experience of his organisation as well as of other non-governmental organisations in Turkey with asylum seekers and refugees with the author.

^{xxxiv} Information about these organisations can be obtained at their websites www.ihd.org.tr, www.tihv.org.tr and www.muslimder.org.

^{xxxv} The web site of this network of non-governmental organisations can be visited at www.tr-ab-stk.org.

^{xxxvi} *Turkey: National Programme for the adoption of the Acquis*, Secretariat General for the EU Affairs, Ankara, 2001, Section on "4.25.2 Asylum".

^{xxxvii} Başak Kale, "Mülteci Cenneti' Oluruz" (We Will Become a Haven for Refugees), *Radikal*, 5 Dec. 2000.

^{xxxviii} Adem Arkadaş, "Sığınma ve Kaçak Göç (Asylum and Illegal Migration), *Radikal*, 23 Jan. 2001 and Cengiz Aktar, "Çağdaş Bir İltica Politikası İçin: Hoşgörü Değil Hukuk" (For a Modern Asylum Policy: Law In Place of Tolerance" *Radikal*, 28 June 2001.

^{xxxix} Kemal Kirişçi, "Disaggregating Turkish citizenship and immigration practices" *Middle Eastern Studies* 36, No. 3, July 2000.

^{xl} *Official Gazette* (Resmi Gazete), 14 June 1934, No. 2733. This law has since been heavily amended but the basic articles that define who can be an immigrant and refugee remain unchanged.

^{xli} For the ratification text see *Official Gazette*, 5 Sept. 1961, No. 10898.

^{xlii} For the argument see Andrew Geddes. *Immigration and European Integration: Towards Fortress Europe?* (Manchester: Manchester University Press, 2000), pp. 104-6.

^{xliiii} There are reports that the Turkish government is currently drafting a completely new asylum law. However, as of July 2001 the draft law has not been made available to the public. So it is not possible to comment as to whether the new law that is being considered will actually live up to the EU *acquis* as well as international refugee law.

^{xliv} See p. 104-5 in Geddes cited in endnote 42.

^{xlv} See Figure 7.11 in *The State of the World Refugees*, p. 175 cited in endnote 5.

^{xlvi} According to Table 1 out of 20,085 application 7,343 were accepted and granted residence permits or temporary asylum, 3,705 had their applications rejected and 7,913 applications were still pending. If one excludes the pending files the recognition rate for the period comes to just over 60 percent. The UNHCR branch office in Ankara for the period from 1997 to 2000 reports positive decisions ranging between 33 to 43 percent of files closed.

^{xlvii} This was to some extent recognised by the Representative of the UNHCR in Ankara when he noted that "... we consider that the general policy in Turkey of allowing refugees and asylum seekers to find private accommodation is a good one, and that organised accommodation centers should not be transformed into closed camps." "Turkey and the EU enlargement, from the UNHCR perspective" remarks presented at the conference on *Turkey and EU Enlargement* by the Centre for Research and Policy on the European Community, Ankara University, 5 Dec. 2000.

^{xlviii} *Chronological History of 'One Time Solution'* Document prepared by UNHCR Branch Office in Ankara 7 Dec. 1998.

^{xlix} According to statistics obtained from the Foreigners Department as of 1 November 2000 of the initial 3,300 persons for whom the 'one time solution' was reached 944 were resettled to third countries with another 30 awaiting to be resettled shortly, 1133 had their cases rejected, 346 had failed to report to the authorities and were presumed to have 'escaped' (firarda), 647 cases had their files closed, 13 persons were deported, 216 cases were still pending and one person had actually been accepted to Turkish citizenship.

^l For a first hand coverage of this situation see article by Rizgar Khoshnaw, "Why are the Kurds leaving their homeland?" *KurdishMedia.com*, 14 June 2001.

^{li} *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report* (U.S. Department of State, July 2001) <<http://www.state.gov/g/inl/rls/tiprpt/2001/>>, 18 July 2001.

^{lii} See French dailies such as *Le Monde* and *Liberation*, 19 Feb. 2001.

^{liiii} *Radikal*, 1 March 2001 reported that many of these news had been based on a report carried by *Armeniannews*.

^{liv} *CNN.Com*, 1 Jan. 1998 reported that during the course of 1997 boats and ships carrying 5,000 illegal immigrants had been intercepted and that 3,000 were either from Turkey or had transited Turkey. In an earlier

report *CNN.Com*, 21 Dec. 1997 reported that Italian officials alleged there were 18-20,000 Kurds awaiting to set sail toward Italy from Turkey.

^{lv} *New York Times*, 4 March 1999, A12.

^{lvi} For an analysis of the activities of the PKK see Michael Radu, “The Rise and Fall of the PKK” *Orbis* 45, No. 1 (Winter 2001).

^{lvii} See story by Ayşe Karabat, “Kar Tatlı, Ceza Komik” (High Returns for Comical Penalties), *Radikal*, 4 Jan. 2001.

^{lviii} There have been news reports of police officers arrested among smuggler rings. Corruption is a chronic problem in Turkey. The former Minister of the Interior, Saadetin Tantan, had openly admitted that the problem existed in the Turkish bureaucracy and vowed to combat corruption in the bureaucracy and actually supported a research project on corruption in Turkey. For the results of this research project see Fikret Adaman, Ali Çarikoğlu and Burhan Şenatarlar, *Hanehalkı Gözünden Türkiye’de Yolsuzluğun Nedenleri ve Önlenmesine İlişkin Öneriler* (Istanbul: TESEV, 2001). Also a prominent politician from the right wing nationalist National Action Party in an interview in *Radikal*, 12 June 2000 highlighted the role of security forces in drug trafficking.

^{lix} Interview with a high level MOI official on *NTV*, Yakın Plan, 14 May 2001. This official also said that the *East Sea* had been closely monitored and the police had been alerted in Europe but that their counterparts had not expressed any interest to follow up the matter before the ship ended up running aground in France in Feb. 2001.

^{lx} For a detailed analysis of the origins of the Kurdish problem in Turkey see Kemal Kirişçi and Gareth Winrow, *The Kurdish Question and Turkey* (London: Cass, 1997); for an evaluation of developments since the capture of Abdullah Öcalan see Svante Cornell, “The Kurdish Question in Turkish Politics” *Orbis* 45, No.1 (Winter 2001).

^{lxi} *Radikal*, 12 Oct. 2001.

^{lxii} In spite of the bitter recriminations that both sides directed toward each other, Italian and Turkish officials have also been cooperating in effort to stem illegal migration. It is in this context that the Minister of the Interior, Saadetin Tantan, met his Italian counterpart to discuss closer cooperation in this area, for the news reporting see *Radikal*, 24 Jan. 2001.

^{lxiii} For a historical background and general evaluation of the Budapest process see *Overview of the Activities of the Budapest Process: 1991-2000* (Vienna: ICMPD, May 2000).

^{lxiv} For work in progress concerning readmission agreements see *Follow-Up Instrument...* (cited in endnote 3), Section 4.25.4 Migration sub-section 6.

^{lxv} Interview held with the director of the mentioned non-governmental organisation, 27 Sept. 2001.

^{lxvi} The report is also known as the Pirker Report of the European Parliament published on 14 Sept. 2001.

^{lxvii} For the speech by the Commissioner given in London on 9 July 2001 see <http://europa.eu.int/comm/commissioners/vitorino/index_en.htm>.

^{lxviii} For work in progress concerning visa related issues see *Follow-Up Instrument...* (cited in endnote 3), Section 4.25.3 External Borders sub-section 7.

^{lxix} For the list see <<http://www.mfa.gov.tr/grupf/fa/06.htm>> (18 July 2001).

^{lxx} For a comparative analysis of Turgut Özal’s foreign policy and traditional Turkish foreign policy see Soli Özel, “Of Not Being a Lone Wolf: Geography, Domestic Plays, and Turkish Foreign Policy in the Middle East” in *Powder Keg in the Middle East: The Struggle for Gulf Security*, ed. G. Kemp and J. G. Stein (Lanham, Md.: Rowman and Littlefield, 1995). See also William Hale, *Turkish Foreign Policy, 1774-2000* (London: Cass, 2000), pp. 164-5 and p. 205.

^{lxxi} Figures obtained from Mine Eder et al, *Redefining Contagion: The Political Economy of the Suitcase Trade Between Turkey and Russia*, (Project proposal submitted and accepted by International Exchange, May 2001).

^{lxxii} There were reports that in Istanbul alone the number of illegal workers was 750,000 *Radikal*, 9 Feb. 2001. Under pressure from the unions and the public the Minister of Labor Affairs and Social Security, Yaşar Okutan argued that illegal workers were taking away jobs from Turkish citizens and that legislation was being drafted to introduce fines, *Radikal*, 30 Dec. 2001.

^{lxxiii} Reported in *Radikal*, 10 March 2001.

^{lxxiv} Statistics obtained from the Foreigners Department.

^{lxxv} The government is currently negotiating agreements with a number of countries to revoke visa exemptions. However, the government hopes to finalise this process by the end of 2002 before the agreements are opened to ratification. See *Follow-Up Instrument...* (cited in endnote 3), Section 4.25.3 External Borders sub-section 7.

^{lxxvi} *Radikal*, 17 July 2001.

^{lxxvii} See feature entitled “Europe’s Immigrants: A continent on the move” *The Economist*, 6 May 2000, which under the subsection “Don’t give me your tired, your poor” raises the preference of the EU to allow in only skilled immigrants and keep the unskilled out of the EU.