

# Uncertainties involved in Turkey's migration management: The case of Syrians under Temporary Protection

di Elif Çetin

**Abstract:** Turkey hosts 3.6 million Syrians<sup>1</sup> under its 'temporary protection' scheme. Yet, the Temporary Protection regime lacks a concrete timeframe and generates uncertainties for Syrians living in Turkey as, in practice, it does not establish guaranteed and stable rights to them. Moreover, there are additional uncertainties emanating from the EU-Turkey Readmission Agreement, which overlooks that Turkey still reserves geographical restriction to the 1951 Geneva Convention and its 1969 Protocol. Furthermore, there is a certain lack of clarity on the application of human rights standards to vulnerable irregular migrants, casting doubts on the legality of this soft law instrument.

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**Keywords:** Migration governance; Refugees; Turkey; EU-Turkey Readmission Agreement

## 1. Introduction

On 22nd July 2019, Minister of Foreign Affairs of Turkey, Mevlüt Çavuşoğlu, announced that the EU-Turkey Readmission Agreement is put on hold<sup>2</sup> and will no longer be functional until the EU fulfils its promise of visa free travel for Turkish nationals<sup>3</sup>. As the AKP government announced its decision in the midst of a rising tide of tensions in the Eastern Mediterranean around the issue of gas exploration, some commented that Turkey was instrumentalising migrants and refugees in the country as a bargaining chip in its relations with the EU<sup>4</sup>.

Around the same time, Minister of Interior, Süleyman Soylu, and the Istanbul Governor's Office ordered Syrian refugees to return to the cities where they had been originally registered<sup>5</sup>. On top of that, there were also

<sup>1</sup> United Nations High Commissioner for Refugees (UNHCR), *Turkey Fact Sheet*, 2020, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/74387.pdf>.

<sup>2</sup> Deutsche Welle, *Çavuşoğlu: Geri Kabul Anlaşması'nı askıya aldık* [Çavuşoğlu: we put Readmission Agreement on hold], 22 July 2019, [www.dw.com/tr/çavuşoğlu-geri-kabul-anlaşmasını-askıya-aldık/a-49699277](http://www.dw.com/tr/çavuşoğlu-geri-kabul-anlaşmasını-askıya-aldık/a-49699277).

<sup>3</sup> Daily Sabah, *Readmission agreement with EU no longer functional, Ankara says*, 23 July 2019, available at [www.dailysabah.com/eu-affairs/2019/07/23/readmission-agreement-with-eu-no-longer-functional-ankara-says](http://www.dailysabah.com/eu-affairs/2019/07/23/readmission-agreement-with-eu-no-longer-functional-ankara-says).

<sup>4</sup> Z. Lüle, *Türkiye'ye Doğu Akdeniz kışkacı* [Turkey's eastern Mediterranean quagmire], T24, 11 July 2019, available at [www.t24.com.tr/yazarlar/zeynel-lule/turkiye-ye-dogu-akdeniz-kiskaci,23100](http://www.t24.com.tr/yazarlar/zeynel-lule/turkiye-ye-dogu-akdeniz-kiskaci,23100).

<sup>5</sup> Hurriyet Daily News, *Unregistered Syrians sent back to camps in Turkey: Interior minister*, 24 July 2019, available at [www.hurriyetdailynews.com/unregistered-syrians-sent-back-to-](http://www.hurriyetdailynews.com/unregistered-syrians-sent-back-to-)

allegations<sup>6</sup> that Turkey was deporting hundreds of Syrians back to Idlib<sup>7</sup>. Turkish authorities immediately denied these claims and stated that only the unregistered irregular migrants were being deported and unregistered Syrians were being sent to refugee camps. The timing of these developments is far from being coincidental.

The above statements of Turkish authorities highlighted once again the lack of clarity in the country's management of Syrian migration and uncertainties emerging as a result. Against this background, thus this paper explores the following questions: Why are these statements and policies put forward by Turkish authorities now, even though the country has been following a relatively liberal approach towards Syrians, who escaped the Syrian civil war and have been residing in Turkey for the past eight years? Moreover, what could be the possible meaning and future implications of these developments?

Out of an estimated 5.6 million Syrians, who left their country as refugees since the outbreak of the civil war in March 2011<sup>8</sup>, 3.6 million<sup>9</sup> of them are being hosted by Turkey under the 'temporary protection' scheme. The dramatic increase in the numbers of Syrians post-2011 created immense pressures on Turkey, leading the country to issue the Temporary Protection Regulation in 2014 as a significant legal response. Yet, temporary protection implies the lack of any long-term structured policy measures regarding the status of Syrians. This paper argues that, based on a logic of hospitality, where Syrians in Turkey are labelled as 'guests', the temporary protection regime lacks a specific timeframe and generates uncertainties for Syrians living in Turkey as, in practice, it does not establish guaranteed and stable rights to have access to the labour market, health care, education and affordable housing. Uncertainties involved in Turkey's migration governance strategies also erect barriers to Syrians' integration to the country, risking the escalation of the already existing tensions between Syrians and local communities. Shortsighted migration policies that does not grant secure status to migrants would motivate them to try to reach Europe irregularly with a hope to have a better future.

On top that, the so-called EU-Turkey deal, which came into force on 18 March 2016, creates another layer of structural uncertainty due to the difficulties arising from its implementation. While the deal recognizes Turkey as a 'safe third country', it appears to overlook the fact that the country still reserves the

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camps-in-turkey-interior-minister-145224.

<sup>6</sup> Washington Post, *Turkey has deported hundreds of Syrian migrants advocates and refugees say*, 22 July 2019, available at [www.washingtonpost.com/world/turkey-has-deported-hundreds-of-syrian-migrants-advocates-and-refugees-say/2019/07/22/14114c9c-ac87-11e9-9411-a608f9d0c2d3\\_story.html](http://www.washingtonpost.com/world/turkey-has-deported-hundreds-of-syrian-migrants-advocates-and-refugees-say/2019/07/22/14114c9c-ac87-11e9-9411-a608f9d0c2d3_story.html).

<sup>7</sup> The Guardian, *Syrian refugees in Beirut and Istanbul detained and deported*, 29 July 2019, available at [www.theguardian.com/world/2019/jul/29/syrian-refugees-in-beirut-and-istanbul-detained-and-deported](http://www.theguardian.com/world/2019/jul/29/syrian-refugees-in-beirut-and-istanbul-detained-and-deported).

<sup>8</sup> UNHCR, 'Syria emergency', 2018, available at <https://www.unhcr.org/syria-emergency.html>.

<sup>9</sup> Directorate General of Migration Management (DGMM), *Temporary protection*, 2020, available at <https://en.goc.gov.tr/temporary-protection27>.

geographical restriction to the 1951 Geneva Convention and its 1969 Protocol, meaning that it does not grant full refugee status to people coming from non-European countries, including Syrians. Moreover, there is a certain lack of clarity on the application of human rights standards to vulnerable irregular migrants, casting doubts on the legality of this soft law instrument.

## 2. Turkey as a recent country of immigration.

An EU candidate country since 1999, and negotiating for full membership since 2005, Turkey now provides both sea and land borders for the EU, which extend nearly 10,000 km in the EU's southeast, in proximity to one of the world's most conflicted regions. It has become a major country of transit and immigration within the context of the changing dynamics in types, flows and destinations of migration that have become more diversified in the last two or three decades<sup>10</sup>. Most recently, the increasing pressure of the refugee challenge, particularly the high number of arrivals from Syria, has put the country once again under the international spotlight.

Turkey forms a bottleneck in the Eastern Mediterranean route taken by irregular migrants trying to reach Europe through eastern Greece, southern Bulgaria or Cyprus. Turkey's being a crucial staging post for onward migration does not only pose a major challenge for Europe but also for the Turkish authorities who are seeking to control migration in the region.

According to the data provided by the UNHCR, out of the total number of 356.000 people that are registered with the UNHCR (as of 29 February 2020), most of them are Afghan nationals (46%) followed by Iraqis (39%), then Iranians (9%), Somalis (1%) and others (5%).<sup>11</sup> In total, out of 3.9 million people that are of concern for the UNHCR, some 3.6 million are Syrians. Yet, due to the geographical limitation that Turkey maintains regarding the 1951 Geneva Convention Relating to the Status of Refugees (1951 Convention) and its associated 1967 Protocol, Turkey does not grant refugee status to people fleeing from non-European countries due to conflicts and fear of persecution. Nevertheless, it does provide 'conditional refugee status' along with 'refugee' and 'subsidiary' protection. Therefore, persons who have fled Syria are subject to a separate asylum procedure as specified under the Temporary Protection Regulation (TPR) (2014).

According to the data released by the Directorate General of Migration Management (DGMM), the number of residency permits granted to foreigners per year increased more than three times between 2005 and 2020, from 178.964

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<sup>10</sup> International Organization for Migration (IOM), *Transit migration in Turkey*, Genève, 1995; A. İçduygu, *Transit migration in Turkey: Trends, patterns and issues*, Firenze, 2005; B. Kaiser, A. Kaya, *Transformation of migration and asylum policies in Turkey*, in A. Güney, A. Tekin (Eds), *The Europeanization of Turkish public policies*, New York, 2016, 94–115.

<sup>11</sup> UNHCR, *Türkiye Kilit Veriler ve Sayılar (Turkey: Key Data and Numbers)*, 2020, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/74424.pdf>.

to 961.267.<sup>12</sup> The top 10 permit receiving nationalities are Iraqis, Turkmen, Syrians, Azerbaijanis, Iranians, Afghans, Uzbeks, Russians, Egyptians, and Libyans.<sup>13</sup> Up until the end of 1990s, the country had also experienced relatively small numbers of migrant arrivals flows from Greece, Iraq, Bulgaria, Bosnia, Kosovo and Macedonia.<sup>14</sup>

The EU has been a central actor in Turkey's efforts to reform its immigration and asylum policy.<sup>15</sup> The crux of the migration and mobility dialogue between the EU and Turkey has always been about controlling and reducing irregular transit migration of third-country nationals through Turkey *en route* to Europe.<sup>16</sup> The EU has been highly concerned about Turkey's ability to manage migration control and implement policies at the southeast gate of Europe in compliance with the EU's migration and asylum regimes. Within the framework of accession negotiations, which has been rather slow and challenging for Turkey, migration and asylum issues are dealt with under Chapter 24, 'Justice, Freedom and Security', which has been blocked by Cyprus since 2009.

In addition to the pressures emanating from diverse forms of migratory movements including irregular migration, transit migration, as well as arrivals of asylum-seekers, refugees and regular migrants, the country's EU membership bid has also significantly motivated Turkey to put some considerable effort in re-organising its immigration and asylum administration structure. One of the most significant policy developments that took place in Turkey under the influence of Turkey's EU membership bid was the entry of the Law on Foreigners and International Protection (LFIP) into force in 2014. Article 91 of LFIP has been of crucial importance regulating the conditions for the granting of Temporary Protection to Syrians who arrived to Turkey as a result of the conflict in their countries.

In terms of recent developments, Turkey's relatively liberal approach towards arrivals from Syria stirred mixed reactions from Europe. On the one hand, it was supported mostly because it was assumed that more Syrians staying in

<sup>12</sup> DGMM, *Residence permits*, 2020, available at <https://en.goc.gov.tr/residence-permits>.

<sup>13</sup> *Ibidem*.

<sup>14</sup> UNHCR, *Irregular Migration and Asylum in Turkey, New Issues in Refugee Research Working Paper*, n. 89, 2003 available at [www.unhcr.org/3ebf5c054.pdf](http://www.unhcr.org/3ebf5c054.pdf).

<sup>15</sup> S. Lavenex, *EU Enlargement and the Challenge of Policy Transfer: The Case of Refugee Policy*, in 28 *Journal of Ethnic and Migration Studies* 4, 701–721 (2002); A. İçduygu, *The Irregular Migration Corridor between the EU and Turkey: Is it Possible to Block it with Readmission Agreement?*, *Research Report Case Study EU-US Immigration Systems*, n. 2011/14 B, available at <http://cadmus.eui.eu/handle/1814/17844>; J. Tolay, *Discovering Immigration into Turkey: The Emergence of a Dynamic Field*, in 53 *International Migration* 6, 57–73 (2012).

<sup>16</sup> A. İçduygu, *Europe, Turkey, and International Migration: An Uneasy Negotiation*, Paper presented at the Migration Working Group, Firenze, 2011, available at [www.eui.eu/Documents/RSCAS/Research/MWG/201011/01-26-Icduygu.pdf](http://www.eui.eu/Documents/RSCAS/Research/MWG/201011/01-26-Icduygu.pdf); K. Kirişçi, *The Question of Asylum and Illegal Migration in European Union-Turkish Relations*, in 4(1) *Turkish Studies*, 79–106 (2003); S. Aydın-Düzgüt, N. Tocci, *Turkey and the European Union*, London, 2015; A. İçduygu, S. Köşer Akçapar, *Turkey*, in M.L. McAuliffe, F. Laczko (Eds), *Migrant Smuggling Data and Research: A global review of the emerging evidence base*, Genève, 2016, available at [https://publications.iom.int/system/files/smuggling\\_report.pdf](https://publications.iom.int/system/files/smuggling_report.pdf).

Turkey would be translated into less Syrians arriving Europe. On the other hand, there was some criticism that Turkey's flexible border policy would generate some potential threats and security risks for Europe. Furthermore, many critics asserted that Turkey was using migrants and refugees for political ends and was seeking to gain an upper hand in its relations with Europe, in particular to secure further financial aid from the EU. In the face of these ongoing debates, especially from the summer of 2015 onwards, the migrant and refugee crisis in Europe, and policies to address it have turned into a major issue shaping the dynamics of the EU-Turkey relations, paving the way for the conclusion the EU-Turkey Statement<sup>17</sup> on the readmission of refugees, which is analysed in the following section.

### 3. The EU-Turkey Statement and uncertainties emanating from it.

The migration crisis in the EU and increased concern around the issue of refugee crisis in the Mediterranean for both the EU and Turkey reinforced the dialogue between them. At the beginning of 2015, the numbers of individuals crossing from Turkey to EU through irregular means have increased up to 880.000 and emerged as a matter of concern.<sup>18</sup> It should be underlined that the EU and Turkey had in 2013 signed a Readmission Agreement (RA). The RA came into force on 1 October 2014<sup>19</sup>, however pursuant to Article 24(3) of the Agreement, provisions related to the obligations and procedures for readmission of third country nationals and stateless persons were to become effective three years after the date of entry into force; precisely on 1 October 2017. Therefore, RA was not functional for readmissions from the EU to Turkey at the time when the irregular crossings were taking place intensively in 2015. Yet, the EU-Turkey Statement of 18th March 2016 accelerated the process and the readmission of Third Country Nationals (TCNs) starting by the 4th April in 2016.

In the EU-Turkey Joint Action Plan (JAP) it was agreed that:

For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria. A mechanism will be established, with the assistance of the Commission, EU agencies and other Member States, as well as the UNHCR, to ensure that this principle will be implemented as from the same day the returns start. Priority will be given to migrants who have not previously entered or tried to enter the EU irregularly.<sup>20</sup>

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<sup>17</sup> The EU-Turkey Statement is also known unofficially as the EU-Turkey Refugee Deal, or the EU-Turkey Readmission Agreement.

<sup>18</sup> European Commission, *Managing The Refugee Crisis/EU-Turkey Joint Action Plan: Implementation Report*, 2016, available at [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/managing\\_the\\_refugee\\_crisis\\_-\\_eu-turkey\\_join\\_action\\_plan\\_implementation\\_report\\_20160210\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/managing_the_refugee_crisis_-_eu-turkey_join_action_plan_implementation_report_20160210_en.pdf).

<sup>19</sup> European Commission, *Statement of Commissioner on the Entry into Force of the RA between Turkey and the EU*, 2014, available at [http://europa.eu/rapid/press-release\\_STATEMENT-14-285\\_en.htm](http://europa.eu/rapid/press-release_STATEMENT-14-285_en.htm).

<sup>20</sup> The EU-Turkey Statement, paragraph 2, 2016.

**Table 1. Number of Syrians who left to the country in the scope of the one-to-one policy****STATISTICAL DATA RELATED TO SYRIAN REFUGEE WHO LEFT COUNTRY IN THE SCOPE OF ONE TO ONE POLICY**

COUNTRY	TOTAL
<b>GENERAL TOTAL</b>	<b>26.135</b>
GERMANY	9.501
FRANCE	4.549
NETHERLANDS	4.464
FINLAND	1.950
SWEDEN	1.917
BELGIUM	1.301
SPAIN	754
ITALY	396
CROATIA	250
PORTUGAL	244
AUSTRIA	213
LUXEMBOURG	206
LITHUANIA	102
BULGARIA	85
ESTONIA	59
LATVIA	46
SLOVENIA	34
ROMANIA	31
MALTA	17
DENMARK	16

\*by the date of 29.07.2020

Source: Directorate General of Migration Management, available at <https://en.goc.gov.tr/temporary-protection27>.

In order to be able to provide temporary protection for Syrians who were returned due to the EU-Turkey Statement, Turkey amended the scope of TPR, by extending it to ‘Syrian citizens who irregularly reached Aegean islands from Turkey after 20 March 2016 but were subsequently readmitted to Turkey’. According to DGMM Statistics, 14.529 Syrians were resettled to the EU from Turkey due to the one-to-one resettlement scheme as of 28th June, 2018.<sup>21</sup>

While the re-energised context of the EU-Turkey dialogue within the field of migration indicated the realpolitik playing a greater role than accession process in terms of motivating both sides to cooperate following the refugees crisis, it also triggered a heavy public debate. Some observers have raised some serious concerns regarding the legality, and more importantly, the feasibility of the EU-Turkey deal.<sup>22</sup>

<sup>21</sup> DGMM, *Yıllara Göre Geçici Koruma Kapsamındaki Suriyeliler* [Distribution of the Numbers of Syrians Who Are Under Temporary Protection According to Years], Directorate General of Migration Management (DGMM), 28 June 2018, available at [http://www.goc.gov.tr/icerik6/gecici-koruma\\_363\\_378\\_4713\\_icerik](http://www.goc.gov.tr/icerik6/gecici-koruma_363_378_4713_icerik).

<sup>22</sup> E. Collett, *The Paradox of the EU-Turkey Refugee Deal*, in *Migration Policy Institute Op-Ed*, 2016, available at <http://www.migrationpolicy.org/news/paradox-eu-turkey-refugee-deal>.

The Action Plan was handed over by the European Commission President Juncker to the President of the Republic of Turkey Erdoğan on 5 October 2015. It tried to address the crisis situation in three ways:

- (1) by addressing the root causes leading to the massive influx of Syrians;
- (2) by supporting Syrians under temporary protection and their host communities in Turkey;
- (3) and by strengthening cooperation to prevent irregular migration flows to the EU.<sup>23</sup>

The document puts emphasis on the spirit of burden sharing and identifies a certain set of actions to be implemented simultaneously by Turkey and the EU. The implementation of the Action Plan is jointly steered and overseen by the European Commission and the High Representative/Vice President and the Turkish government through the establishment of the EU-Turkey high-level working group on migration.<sup>24</sup>

One of the key EU priorities involved in the plan is achieving better cooperation with Turkey against irregular migration from third countries/countries of origin of irregular migrants, in the form of joint return operations, including reintegration measures. The particular EU countries that Turkey is expected to step up cooperation are Bulgaria and Greece with the aim to prevent irregular migration across the common land borders. For that to happen, the importance of effective implementation of the tri-partite agreement signed in May 2015 establishing a common centre in Capitan Andreevo is underlined.<sup>25</sup> On this point, the key EU expectation is the accelerated readmission of irregular migrants by Turkey who reached to Europe via Turkey and are not in need of international protection.

Readmission constitutes to be one of the challenging and critical issues in the EU-Turkey relations. The EU sees cooperating with Turkey and sending back all irregular migrants who have entered the EU through Turkey as a very tough and crucial target in terms of its fight against irregular migration.

For Turkey, the full and effective implementation of the readmission agreement is highly dependent on the EU's incentives to be clear and credible on visa liberalisation and cooperation regarding migration and asylum issues. However, since the suspension of the accession negotiations, the EU's credibility and influence in Turkish politics is low and the EU has failed to enhance trust. The 2016 joint action plan indicated the commitment of the European Commission to complete the preparatory work for the opening of some chapters in the first quarter of 2016. This demonstrated that instead of the accession process, which had been stagnated for years, the unprecedented migration crisis in Europe revitalised not only the migration cooperation between Turkey and EU but also

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<sup>23</sup> European Commission, *The EU-Turkey Joint Action Plan*, *European Commission Press Release*, 15 October 2015, available at [http://europa.eu/rapid/press-release\\_MEMO-15-5860\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm).

<sup>24</sup> *Ibidem*.

<sup>25</sup> *Ibidem*.

the accession process itself. Yet the EU-Turkey joint action plan suffers a number of major limitations.

To begin with, the EU-Turkey deal is far from being a long-term solution. As the German Chancellor Angela Merkel herself also once said ‘You can only reduce the number of refugees as a result of joint action with Turkey, Greece and the EU, you have to tackle the causes’.<sup>26</sup>

Moreover, it is vulnerable to European resistance over visa liberalisation. To qualify for visa liberalisation, Turkey needs to improve its border management, establish an asylum system in line with international standards, effectively combat irregular migration and organised crime, and implement adequate forms of police and judicial cooperation with the EU. Nonetheless, at this point, it should also be noted that Art. 41 of the Additional Protocol to the Association Agreement between the European Economic Community and Turkey (1973) contains a standstill clause, which indicates that contracting parties are not allowed to introduce any new restrictions on the freedom of establishment and the freedom to provide services. Many decisions of the European Court of Justice involving Turkish citizens refer to this article, as demonstrated by the crucial ‘Soysal’ case of February 2009. From Turkey’s perspective, Turkish citizens are actually already in possession of the rights they are not able to enjoy due to the political resistance coming from the EU Member States.

Another point of difficulty regarding the implementation of the EU-Turkey refugee deal concerns Turkey’s worries regarding the risk of a huge burden that may result if Turkey cannot send returned third-country nationals back to their countries of origin. While the EU priority was to make Turkey agree on the readmission clause of the deal, Turkey’s priority is to sign readmission agreements with source countries on its eastern and southern borders. Turkey has already signed readmission agreements with several countries from its neighbourhood, such as Greece (2002), Kyrgyzstan (2004), Ukraine (2005), Russia (2011), Bosnia (2012) and Belarus (2013). Yet, the progress is often extremely slow since third countries, especially those that are in a position of being the countries of origin, have little incentive to cooperate because such cooperation will increase their share during the process of dealing with migrants.

Furthermore, the EU-Turkey deal also led to criticisms with respect to its implications for the human rights of refugees. While the European Union position significantly shifted from rhetoric about creating ‘a large-scale mechanism to ship back irregular migrants arriving in Greece to Turkey’<sup>27</sup>, to an assessment process respecting the asylum rights of each individual reaching Greece, concerns are still

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<sup>26</sup> Reuters UK, *Bavarian leader criticizes Austria and Merkel over refugees*, 27 October 2015, available at <http://uk.reuters.com/article/uk-europe-migrants-germany-idUKKCN0SL1F420151027>.

<sup>27</sup> European Council, *Remarks by President Donald Tusk after his meeting in Ankara with Prime Minister Ahmet Davutoğlu*, 3 March 2016, available at [https://www.consilium.europa.eu/en/press/press-releases/2016/03/03/tusk-remarks-davutoglu-ankara/?utm\\_source=dsms-auto&utm\\_medium=email&utm\\_campaign=Remarks+by+President+Donald+Tusk+after+his+meeting+in+Ankara+with+Prime+Minister+Ahmet+Davuto%c4%9flu](https://www.consilium.europa.eu/en/press/press-releases/2016/03/03/tusk-remarks-davutoglu-ankara/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Remarks+by+President+Donald+Tusk+after+his+meeting+in+Ankara+with+Prime+Minister+Ahmet+Davuto%c4%9flu).

looming over the implementation of the deal (Collett, 2016). The speed and unchartered nature of the implementation may mean rules are set aside in favour of expediency. Some of the observers accused the deal as an attempt on the side of the EU to push the migrant problem beyond its boundaries so that ‘the EU leaders can pretend it's not there’<sup>28</sup>.

Additionally, Turkey has its own issues, and have been suffering from political volatility that can complicate the implementation of the deal. Furthermore, migration has been increasingly turning into a salient issue in Turkish politics, and in particular, the issue of Syrian refugees has become highly politicised. For instance, some Turkish media and members of the main opposition party, the Republican People’s Party (Cumhuriyet Halk Partisi; CHP), claimed that Syrian refugees were going to vote in the municipal and national parliamentary elections<sup>29</sup>, which were later proven to be unfounded. Likewise, as his election promise, CHP’s leader, Kemal Kılıçdaroğlu promised to expel Syrians from Turkey back to their homeland.<sup>30</sup> Such an increasingly politicised environment exerted limitations on the implementation of the EU-Turkey deal that would comply with the EU priorities. Instead, challenging the hierarchical power asymmetry, which has long characterised Turkey’s relations with the EU, Turkish authorities seek to instrumentalise migration issues as bargaining chips while negotiating with the EU.

#### 4. Legal status of Syrians in Turkey.

As Turkey still preserves its geographical limitation to the 1951 Geneva Convention and its associated 1967 Protocol, there are two different asylum regimes in Turkey with distinct sets of procedural rules, reception provisions and detention considerations that apply to European and non-European asylum-seekers, where the latter can receive international protection<sup>31</sup> under the ‘conditional refugee status’. Nonetheless, Syrians, who arrived to Turkey directly from Syria as a result of the civil war in their country, constitute a separate case. Different than the experiences of the EU countries, Syrian mass arrivals to Turkey started as early as 2011, when LFIP was still being designed. The situation of these Syrians were therefore initially managed with reference to the 1994

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<sup>28</sup> K. Malik, *The EU's stinking refugee deal with Turkey*, *Al Jazeera*, 27 October 2015, available at [www.aljazeera.com/indepth/opinion/2015/10/eu-stinking-refugee-deal-turkey-151026093515679.html](http://www.aljazeera.com/indepth/opinion/2015/10/eu-stinking-refugee-deal-turkey-151026093515679.html).

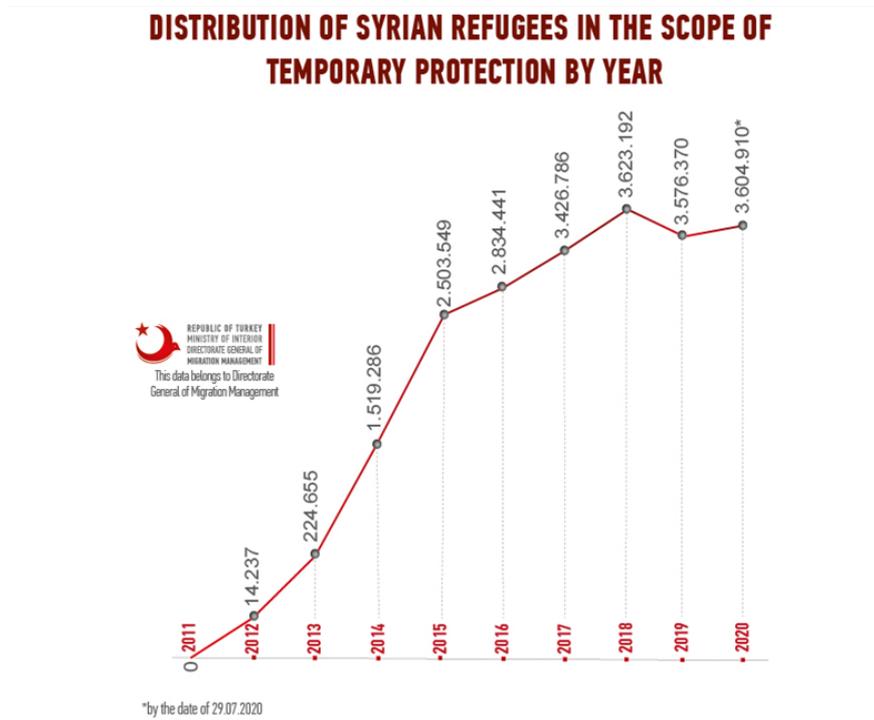
<sup>29</sup> Cumhuriyet, *Tekin: Suriyeliler Oy Kullanacak!* [Tekin: Syrians will vote!], 24 November 2013, available at [www.cumhuriyet.com.tr/haber/siyaset/12677/Tekin\\_\\_Suriyeliler\\_oy\\_kullanacak\\_.html#](http://www.cumhuriyet.com.tr/haber/siyaset/12677/Tekin__Suriyeliler_oy_kullanacak_.html#).

<sup>30</sup> Daily Sabah, *CHP's latest election promise of sending back Syrian refugees in Turkey comes under criticism*, 23 April 2015, available at [www.dailysabah.com/politics/2015/04/23/chps-latest-election-promise-of-sending-back-syrian-refugees-in-turkey-comes-under-criticism](http://www.dailysabah.com/politics/2015/04/23/chps-latest-election-promise-of-sending-back-syrian-refugees-in-turkey-comes-under-criticism).

<sup>31</sup> LFIP defines the following three types of international protection statuses: (i) refugee status (Article 61-1); (ii) conditional refugee status (Article 62-1); and (iii) subsidiary protection status (Article 63-1). Conditional refugee status is the outcome of Turkey’s geographical reservation towards the 1951 Convention and enables it to not grant full refugee status to non-European asylum-seekers.

Regulation<sup>32</sup>, which was the only relevant legal tool available back then laying down the principles and procedures regarding population movements and foreigners arriving in Turkey either as individuals or in groups wishing to seek asylum either from Turkey or to request residence permission in order to seek asylum from another country. Yet, the numbers of Syrians in the post-2011 era continued to increase dramatically. For instance, while the numbers of arrivals were about 10.000<sup>33</sup> in 2011, in 2012 this number skyrocketed to over 100.000<sup>34</sup>, exerting immense pressures on Turkey. These pressures eventually led the Temporary Protection Regulation to be issued by the Council of Ministers in October 2014 as a significant legal response that applies only to Syrians.

**Figure 1: Number of Syrians under temporary protection by year**



Source: Directorate General of Migration Management, available at <https://en.goc.gov.tr/temporary-protection27>.

<sup>32</sup> By-law of 14-09-1994 on the Principles and Procedures concerning Possible Population Movements and Foreigners Arriving in Turkey either as Individuals or in Groups Wishing to Seek Asylum either from Turkey or Requesting Residence Permission in order to Seek Asylum from another Country, n. 94/6169, the Official Gazette, n. 22127, 30 November 1994, available at <http://www.multeci.org.tr/wp-content/uploads/2016/12/1994-Yonetmeli.pdf>.

<sup>33</sup> DW, *Suriyeli sığınmacılara kapımız açık* [“Our doors are open to Syrian refugees”], 15 June 2011, available at [www.dw.com/tr/turkiye-suriyeli-siginmacilara-kapimiz-acik/a-15155526](http://www.dw.com/tr/turkiye-suriyeli-siginmacilara-kapimiz-acik/a-15155526).

<sup>34</sup> Sabah, *Mülteci sayısı psikolojik sınırı aştı* [“Numbers of asylum-seekers went above the psychological threshold”], 16 October 2012, available at [www.sabah.com.tr/gundem/2012/10/16/multeci-sayisi-psikolojik-siniri-asti](http://www.sabah.com.tr/gundem/2012/10/16/multeci-sayisi-psikolojik-siniri-asti).

As displayed in Figure 1, the number of Syrians under temporary protection in Turkey gradually increased since the outbreak of the Syrian civil war in 2011, with the exception of a minimal decrease from 2018 to 2019 during which Turkey adopted voluntary return framework in a more pronounced way (discussed later in this paper).

In particular, there was a significant increase in the numbers of temporary protection granted between the years 2014 and 2015. Apart from the growing numbers of Syrian arrivals, temporary permit increases were tightly connected to the DGMM's increased efforts to 'conclude the registrations by the end of 2014 with technical assistance from the UNHCR'<sup>35</sup>. Previously, Turkish authorities regarded the presence of Syrians in Turkey as a permanent situation and did not consider systematic registration a necessity. Problems affiliated with the registration of Syrians grew further as their numbers increased and as it became clearer that the conflict would not come to an end in the near future<sup>36</sup>, pushing Turkish authorities to increase their efforts to register Syrians, almost as a reactionary response.

As the situation of Syrians, who arrived to Turkey directly from Syria, are regulated by the TPR, they are not required to apply for 'international protection' in Turkey. An extension of this rule is that, while persons, who arrive to Turkey seeking for 'international protection' first approach UNHCR before they register with DGMM, persons arriving directly from Syria need to first go to DGMM.<sup>37</sup> In other words, Syrians under temporary protection cannot approach UNHCR, and in that sense, when compared with those who are under international protection, Turkish authorities deal with the situation of Syrians separately. Yet, Syrians, who arrived to Turkey from a third country, may apply for 'international protection, if they fear their deportation back to a third country will put their lives under risk.<sup>38</sup>

Syrians under TPR have access to certain health and education services, in addition to having access to labour market, social assistance and interpretation services.<sup>39</sup> While Turkey also issued several secondary administrative regulations in order to improve Syrians' access to public services, who are under temporary protection, these still fall short of rights and benefits resourcing from international protection.<sup>40</sup>

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<sup>35</sup> M. Erdoğan, *Türkiye'deki Suriyeliler: Toplumsal Kabul ve Uyum Araştırması* [Syrians in Turkey: Social Acceptance and Integration], 2014, 53, available at <https://data2.unhcr.org/en/documents/download/46184>.

<sup>36</sup> *Ibidem*.

<sup>37</sup> *Refugee Rights Turkey*, 2016, available at [www.mhd.org.tr/images/yayinlar/MHM-14.pdf](http://www.mhd.org.tr/images/yayinlar/MHM-14.pdf).

<sup>38</sup> *Ibidem*.

<sup>39</sup> TPR, Articles 26-31.

<sup>40</sup> For a detailed analysis of benefits and rights resulting from temporary protection and international protection see; N.Ö. Öztürk, *Geçici Korumanın Uluslararası Koruma Rejimine Uyumu Üzerine Bir İnceleme* (An Analysis on the Consistency of Temporary Protection With International Protection Regime), in 66 *Ankara Üniversitesi Hukuk Fakültesi Dergisi* (Journal of Ankara University Faculty of Law) 1, 201-263, (2017).

Based on a logic of hospitality, where Syrians are labelled as ‘guests’, the temporary protection regime lacks a well-defined timeframe and generates uncertainties for Syrians living in Turkey as, in practice, it does not establish guaranteed and stable rights to have access to the labour market, health care, education and affordable housing.

Moreover, Syrian’s freedom of movement is also limited, as they need to remain in cities where they register. In order to go to another city, they need to receive a ‘travel permit’ (*yol izin belgesi*) from the branch offices of the Directorate General of Migration Management in their respective cities or from the units that provincial governorships will guide them to. Yet, due to the high number of arrivals, there have been gaps in the implementation of the rule. As a result, most of the Syrian population in Turkey is concentrated in Istanbul, even though; the first city where they registered might be different.

### 5. Disconnect between public opinion and political approaches.

Despite the significant number of arrivals from Syria, migration did not automatically turn into a highly salient domestic political issue in Turkey. Until very recently, politicians from the ruling AKP have been engaging with a predominantly positive meaning production process regarding Syrians in Turkey. For AKP, the primary reference point has been a romanticised interpretation of a common Muslim Ottoman past where the need to welcome ‘Sunni brothers and sisters’<sup>41</sup> would be constantly underlined.

It should be noted that there has been a significant disconnection between public reactions, especially in cities with sizeable Syrian population, and the ruling party’s sensemaking strategies. In cities where Syrians constitute a significant percentage of the population, such as Kilis (%76,8), Hatay (%26,7), Gaziantep (%21,7), Şanlıurfa (%20,2)<sup>42</sup>, financial and social challenges of migration are particularly prominent creating considerable levels of anxiety among host communities. In fact, registration of temporary protection beneficiaries has been halted in cities, such as Istanbul<sup>43</sup> and Hatay<sup>44</sup> that are already accommodating quite high numbers of Syrians. The DGMM announced that this decision was

<sup>41</sup> S. Ergin, *Erdoğan ve Tarih (2): Dış politikada ecdadı sahiplenme doktrini* [“Erdoğan and History (2): the doctrine of owning historical ancestors in foreign policy”, *Hürriyet*, 1 December 2012, available at [www.hurriyet.com.tr/erdogan-ve-tarih-2-dis-politikada-ecdadi-sahiplenme-doktrini-22051883](http://www.hurriyet.com.tr/erdogan-ve-tarih-2-dis-politikada-ecdadi-sahiplenme-doktrini-22051883)].

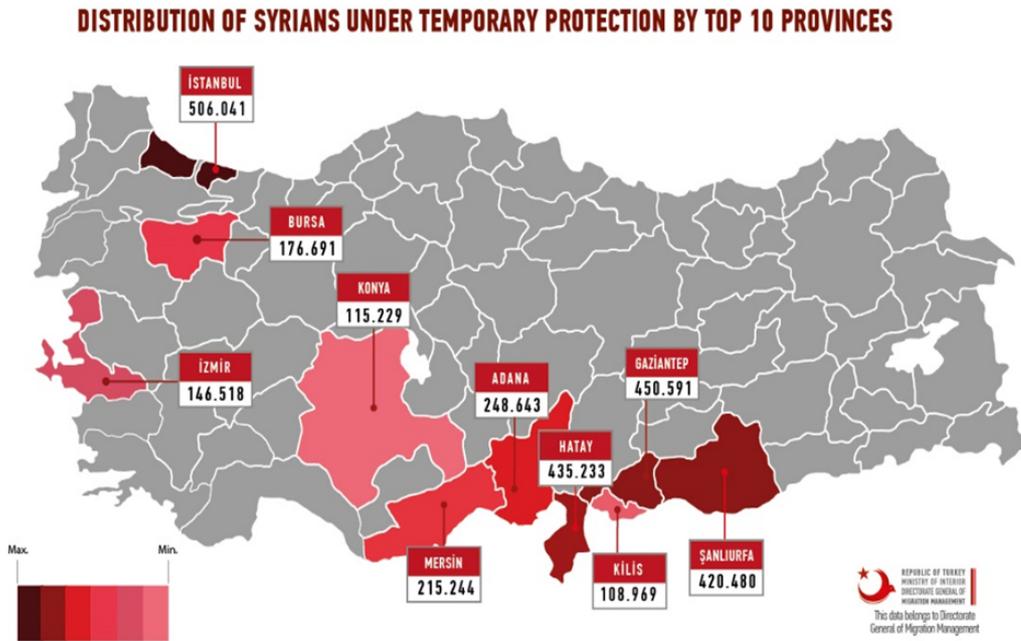
<sup>42</sup> Mülteciler.org, *Türkiye’deki Suriyeli Sayısı: Temmuz 2020* [Numbers of Syrians in Turkey: July 2020], 2020, available at <https://muletciler.org.tr/turkiyedeki-suriyeli-sayisi/>.

<sup>43</sup> Deutsche Welle, *Suriyelilerin İstanbul’a kaydı durduruldu* [Syrians’ registration in Istanbul has been halted], 6 February 2018, available at [www.dw.com/tr/suriyelilerin-istanbula-kayd%C4%B1-durduruldu/a-42465450](http://www.dw.com/tr/suriyelilerin-istanbula-kayd%C4%B1-durduruldu/a-42465450).

<sup>44</sup> Human Rights Watch, *Türkiye Suriyeli Sığınmacıları Kayıt Altına Almayı Durdurdu* [Turkey Stopped Registering Syrian Refugees], 16 July 2018, available at [www.hrw.org/tr/news/2018/07/16/320295](http://www.hrw.org/tr/news/2018/07/16/320295).

taken in order to continue to provide services available to Syrians in a 'healthy and sustainable fashion'<sup>45</sup>.

**Figure 2: Distribution of Syrian refugees in the scope of temporary protection by top ten province**



Source: Directorate General of Migration Management, available at <https://en.goc.gov.tr/temporary-protection27>.

According to the results of a recent research titled Syrian Barometer (*Suriyeliler Barometresi: Suriyelilerle Uyum İçinde Yaşamın Çerçevesi*), for instance, only 11,4% of Turkish society believes that they can peacefully live together with Syrians.<sup>46</sup> The same study also underlines that the host communities have a perception of high social distance from Syrians, as about 80% of all respondents think that Syrians are culturally and socially very different from Turkish citizens.<sup>47</sup> Therefore, there has been a certain time lag between the politicisation strategies of the AKP and growing public worries regarding Syrians in the country.

In contrast with the dominant rhetoric of the AKP, the two main opposition parties, self-proclaimed centre-left Republican People's Party (CHP) and ultra-nationalist Nationalist Movement Party (MHP), deliberately avoided using any political language, which would include references to common religious and/or cultural heritage between Syrians and Turkish people.

<sup>45</sup> Deutsche Welle, *Suriyelilerin İstanbul'a kaydı durduruldu*, cit.

<sup>46</sup> M. Erdoğan, *Suriyeliler Barometresi* [Syrian Barometer], İstanbul, 2017, 27.

<sup>47</sup> *Ibidem*.

In addition, the opposition has occasionally put the discourse of returning Syrians back home forward. The leaders of these parties have been making calls<sup>48</sup> to the AKP government to create safe zones in Syria so that Syrians in Turkey could be sent home as soon as possible.<sup>49</sup> Still, there is no anti-immigration party in Turkey that capitalises primarily on the issue of migration in general, and on Syrian refugees in particular.

In addition to the public opinion-government rhetoric gap, there has also been a divide between the discourse adopted within the domestic context and the international one. Despite the seemingly unpoliticised nature of migration and refugees within the national setting, these issues have already been politically significant items on the table for Turkish authorities in their negotiations with the EU officials. In February 2016, for instance, the euro2day.gr financial news website published what it said were minutes of a quite tense meeting between Jean-Claude Juncker, Donald Tusk and Recep Tayyip Erdoğan that appears to have taken place after a G20 summit meeting in Antalya, Turkey.<sup>50</sup> In the document, Erdoğan was quoted to tell the EU officials that Turkey ‘can open the doors to Greece and Bulgaria anytime’ and can send refugees to the EU ‘in buses’.<sup>51</sup> The contents of the document was confirmed by Erdoğan where he stated that he was proud of what he said which he claimed to be in defence of the ‘rights of Turkey and refugees’.<sup>52</sup> Tensions between the EU and Turkey continued to escalate towards late 2019, when Erdoğan accused the EU for not providing the financial aid it once promised in connection with the Readmission Agreement, and stated that if the efforts to create a 450 km ‘safe zone’ in Syria fail, then Turkey ‘might be obliged to open the [national] borders’ to let refugees and migrants move in the direction of Europe.<sup>53</sup>

Eventually, these threats turned into concrete action when on 28 February 2020, Erdoğan announced that Turkey opened its borders to Europe<sup>54</sup> by adding

<sup>48</sup> Radikal, *Kılıçdaroğlu: ‘Suriyeli kardeşim git kendi ülkende çalış’ diyeceğiz* [Kılıçdaroğlu: We will say ‘Syrian brother/sister go work in your own country’], 10 February 2015, available at [www.radikal.com.tr/politika/kilicdaroglu-suriyeli-kardesim-git-kendi-ulkende-calis-diyecegiz-1290399/](http://www.radikal.com.tr/politika/kilicdaroglu-suriyeli-kardesim-git-kendi-ulkende-calis-diyecegiz-1290399/).

<sup>49</sup> Sözcü, *Bahçeli’den Suriyelilerle ilgili acil çağırısı!* [Bahçeli’s emergency call about Syrians], 27 July 2019, available at [www.sozcu.com.tr/2019/gundem/bahceliden-suriyelilerle-ilgili-acil-cagri-5252555/](http://www.sozcu.com.tr/2019/gundem/bahceliden-suriyelilerle-ilgili-acil-cagri-5252555/).

<sup>50</sup> Reuters, *Turkey’s Erdogan threatened to flood Europe with migrants: Greek website*, 8 February 2016, available at [www.reuters.com/article/us-europe-migrants-eu-turkey-idUSKCN0VH1R0](http://www.reuters.com/article/us-europe-migrants-eu-turkey-idUSKCN0VH1R0).

<sup>51</sup> Euobserver, *Erdogan to EU: ‘We’re not idiots’, threatens to send refugees*, 11 February 2016, available at <https://euobserver.com/migration/132233>.

<sup>52</sup> *Ibidem*.

<sup>53</sup> Deutsche Welle, *Turkey threatens to ‘open the gates’ to Europe for refugees*, 05 September 2019, available at <https://www.dw.com/en/turkey-threatens-to-open-the-gates-to-europe-for-refugees/a-50317804>.

<sup>54</sup> The New York Times, *Erdogan Says, ‘We Opened the Doors,’ and Clashes Erupt as Migrants Head for Europe*, 29 February 2020, available at [www.nytimes.com/2020/02/29/world/europe/turkey-migrants-eu.html](http://www.nytimes.com/2020/02/29/world/europe/turkey-migrants-eu.html).

that millions of migrants and refugees would soon arrive at European borders<sup>55</sup>. About 35,000 migrants arrived at Greek border<sup>56</sup> only to be pushed back by Greek authorities. Stuck in between borders under difficult conditions, refugees, once again, became victims of an ‘unprecedented humanitarian crisis’, as the Council of Europe Commissioner for Human Rights Dunja Mijatovic described.<sup>57</sup> Erdogan’s decision to open borders received criticism from several European leaders and EU officials.<sup>58</sup> Yet, since the EU suffers from a solidarity crisis and is not ‘fully equipped to help those Member States most exposed to migratory movements’<sup>59</sup>, it continued to approach the refugee deal with Turkey as a viable option. The EU received criticism for relying on Turkey in order to externalise its border controls and for rewarding a rent-seeking<sup>60</sup> government, which seeks to profit out of the situation of migrants and refugees by using them as political and financial pawns without creating much value for these individuals.<sup>61</sup>

While the recent EU-Turkey migration spat is to a certain extent related to the fact that the EU is not pulling its weight in terms of hosting refugee population of the world, it was Ankara, which triggered problems related to thousands of migrants and refugees stranded at the European frontiers. It could be argued that the AKP government’s decision to lift controls at Turkey’s sea and land borders with Greece was to a certain extent connected to the death toll Turkish military suffered in Idlib in late February 2020, where at least 34 soldiers died.<sup>62</sup> Turkish authorities were concerned that ‘intensified combat in Idlib would push nearly one million more Syrians into Turkey’<sup>63</sup>, increasing the already existing migration pressures and running the risk of lowering down public support for the government’s Syrian refugee policy. The volatility of Turkey’s approach towards the EU-Turkey deal once again brings forth how Turkey’s migration management strategy lacks a concrete framework and is marked by uncertainty.

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<sup>55</sup> BBC News, *Turkey says millions of migrants may head to EU*, 2 March 2020, available at [www.bbc.com/news/world-europe-51707958](http://www.bbc.com/news/world-europe-51707958).

<sup>56</sup> Reuters, EU, *Turkey in stand-off over funds to tackle new migrant crisis*, 6 March 2020, available at [www.reuters.com/article/us-syria-security-turkey-eu/eu-turkey-in-stand-off-over-funds-to-tackle-new-migrant-crisis-idUSKBN20T1RH?il=0](http://www.reuters.com/article/us-syria-security-turkey-eu/eu-turkey-in-stand-off-over-funds-to-tackle-new-migrant-crisis-idUSKBN20T1RH?il=0).

<sup>57</sup> AP News, *Child dies as migrants rush to cross Greek-Turkish border*, 2 March 2020, available at <https://apnews.com/e37fd2d4e629bdc1fab13fe229080bda>

<sup>58</sup> *Ibidem*.

<sup>59</sup> European Commission, *Communication on migration*. COM 248 final, 2011, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0248&from=EN>.

<sup>60</sup> G. Tsourapas, *How Migration Deals Lead to Refugee Commodification*, *News Deeply*, 13 February 2019, available at <https://www.newsdeeply.com/refugees/community/2019/02/13/how-migration-deals-lead-to-refugee-commodification>.

<sup>61</sup> D. De Vries, *Refugees as Pawns, a short history of the 2016 EU-Turkey deal until now*, EIPA, 12 March 2020, available at <https://www.eipa.be/?p=3669>.

<sup>62</sup> B. Mandiraci, *Sharing the Burden: Revisiting the EU-Turkey Migration Deal*, *International Crisis Group*, 13 March 2020, available at [www.crisisgroup.org/europe-central-asia/western-europemediterranean/turkey/sharing-burden-revisiting-eu-turkey-migration-deal](http://www.crisisgroup.org/europe-central-asia/western-europemediterranean/turkey/sharing-burden-revisiting-eu-turkey-migration-deal).

<sup>63</sup> *Ibidem*.

Moreover, the added nationalist tones of AKP's discourse in its dialogue with the EU, together with the shift in its approach towards Syrians in Turkey from a predominantly laid back approach to that of a more control-oriented one within the national context also appears to coincide with the party's loss of mayoral seats in three main cities, namely Istanbul, Ankara and Izmir, as a result of the local elections held in March 2019. Even though the Readmission Agreement does not only apply to Syrians, in the public mind these two are tightly connected. There is a growing sense of public insecurity and people are worried that those readmitted will be predominantly composed of Syrians who will add up to the already existing challenges that the communities are going through.

## 6. Concluding remarks.

Turkey's migration governance is mainly guided by a logic of temporality, which also characterises its Temporary Protection Regulation that applies to Syrian refugees in the country. However, temporary protection is not, and should not be regarded as, an alternative to international protection since it is an emergency measure developed in response to sudden increase in the numbers of Syrian refugee arrivals, and does not offer any framework for either Syrians' long-term settlement or integration. The Council of Ministers has wide discretionary powers in defining the scope and implementation of temporary protection, which grants a certain level of flexibility to political authorities, and deepens uncertainties in Syrian refugees' lives further. Since temporary protection is short of providing the rights and benefits of international protection, it also carries the risk of turning Syrians in Turkey into protracted refugees.

In addition, the issue of Syrian refugees in Turkey has been having an impact on the EU-Turkey relations and it is now highly salient in Turkish domestic politics as well. While the decision to halt the Readmission Agreement appears to be a policy tool used by Turkish government to create a new momentum in its relations with the EU, and to exert power in the Eastern Mediterranean energy fight, the recent call for Syrians to relocate back to where they initially registered is aimed at soothing increasing public concerns. Syrians are scapegoated for the things that do not go well in the country, including recent fluctuations in Turkish economy.

Public discontent of government policies towards Syrians were reflected in the results of the 2019 local elections, triggering the government decision to demand Syrians registered elsewhere in Turkey to leave Istanbul. In most cases, the cities Syrians initially registered are those that are close to Syrian border. When compared with Istanbul, these cities' economies are not as vibrant and job opportunities are a lot less, meaning Syrians relocating may end up living under unsustainable conditions in these areas and may even seek to go to Europe via irregular means. Instead of a forced relocation, it would be both more humane and rational, to allow Syrians, who have been living and working in Istanbul with their families for the past couple of years, to continue staying in Istanbul. These people

should also be offered better integration opportunities, which, first and foremost, have to include improved access to Turkish language courses and work permits. Integration is never a one-sided process where the responsibility solely remains with migrants and refugees. More established communities should also be better prepared for co-existence in order to avoid the rise of rampant racism and discrimination.

Apart from that, Turkish authorities have started to encourage Syrians to voluntary return to Syria by signing voluntary return forms; an action that creates question marks regarding the nature of its political approach and long-term plans towards Syrian refugees. It is difficult to consider Syria as a safe place, even though there are ‘occasional ceasefires and de-escalation zones under Turkish, Russian and Iranian control, fighting and violence continue across Syria’<sup>64</sup>. Furthermore, the extent to which Turkish authorities inform Syrians about the consequences of signing voluntary return forms is quite vague. Once Syrians sign these voluntary return forms and go back to Syria, they actually waive their claims for asylum protection and cannot legally return to Turkey.<sup>65</sup> It is difficult to imagine that one would be willing to return to a country that lacks stability, peace and adequate physical infrastructure. Therefore, this raises suspicions that the level of uncertainty experienced by Syrians in Turkey due to factors, such as lacking full refugee status, unemployment, exploitation in undocumented economy and growing tensions with the host communities, might be pushing them to return to Syria. Instead of a temporary protection status without any concrete timeframe, designing and implementing longer-term policies that will clarify Syrian’s future prospects in Turkey will also help with their integration into their new communities.

*Elif Çetin*  
Dept. of International Relations,  
Yaşar University, Izmir – Turkey  
ec409@cam.ac.uk

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<sup>64</sup> Z. Şahin Mencütek, *Encouraging Syrian Return: Turkey’s fragmented approach*, in 62 *Forced Migration Review*, 2019, 30.

<sup>65</sup> *Ibidem*.