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## The Europeanization of Turkish Asylum Policy

*An Intensive Case Study on the European Union Accession  
Process Effect on the Evolution of Turkish Asylum Policy  
and the Adoption of the Law on Foreigners and  
International Protection*

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# Abstract

This thesis aims to explain the effect of Turkey's accession process to the European Union on its asylum policy's evolution. By applying two branches of new institutional theory—rational choice and social institutionalism—the thesis analyzed the Europeanization phenomenon of the European Union's accession effect on domestic policy change. In order to do so, process tracing and document analysis were applied to the European Commission's regular progress reports for Turkey from 1998 when Turkey received its very first report—one year before its declaration as an EU candidate state at the 1999 Helsinki Summit—to 2013 when the Law on Foreigners and International Protection was adopted. Additionally, a small-scale content analysis is employed to observe the importance given to the issue by the European Commission. The fact that Turkey had no comprehensive legislation regarding its asylum and migration issue until 2013 used to constitute a sizable problem for asylum seekers, Europe, and Turkey itself. The study shows that the accession conditionality as the main tool of the EU, rational decisions of authorities and officials supported by the EU incentives along with their socialization with their European counterparts through several EU projects shaped the process. Turkish asylum policy has Europeanized by the formation of the Law on Foreigners and International Protection and the establishment of the Directorate General of Migration Management. The process has resulted in changed norms, practices, policies and the 'way of doing things' introduced by the EU.

**Key words:** *Europeanization, asylum policy, refugees, asylum seekers, New Institutional Theory, Turkey*

**Words:** 20.640

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# Abbreviations

APD:	Accession Partnership Document
CEECs:	Central and Eastern European Countries
DGMM:	Directorate General of Migration Management
EC:	European Commission
ECHO:	European Community Humanitarian Office
EU:	European Union
IOM:	International Organization for Migration
IPAC:	International Protection Assessment Committee
LFIP:	Law on Foreigners and International Protection
MAB:	Migration Advisory Board
MOI:	Ministry of Interior
MPB:	Migration Policies Board
NATO:	North Atlantic Treaty Organization
NGO:	Non-Governmental Organization
NPAA:	National Programme for the Adoption of the Acquis
RCI:	Rational Choice Institutionalism
RRP:	Regional Response Plan
RSD:	Refugee Status Determination
SI:	Social Institutionalism
TNP:	Turkish National Police
UNHCR:	United Nations High Commissioner for Refugees
UNICEF:	United Nations Children's Fund

# 1. Introduction

Human mobility has been the case since the beginning of evolution. Migration has received a strong attention in social, economic, and political science. Unfortunately, some migration types are not just consequences of individual choice or economic vulnerability but rather of a well-founded fear of being persecuted. The migration flow and the contemporary refugee crises show that Europe has been the target continent for legal and illegal human flows. Sadly, in most of the cases immigrants risk their lives to reach the continent and seek asylum (i.e. Mediterranean migrant crisis, Syrian migration crisis). Turkey, given its geographical position, is a popular transit state on the journey to Europe, and is also in an accession negotiation process with the European Union (EU). Once a country of emigration, Turkey has become a country of immigration while maintaining its position as a transit state.

Having migration and asylum seeking as global facts in mind, the EU, as a representative of target lands, tries to create specific policies towards the issue, e.g. Dublin Convention, Asylum Procedures Directive, in order to regulate and manage the migration flow. In order to have a well-rounded regulation or solution, the Union needs to include EU candidate, neighbor, and transit states that play a vital role in this journey. Turkey, as a candidate country, is expected to obtain the Schengen area migration and asylum policy and border management policies. This can be seen as one of the “key” options of a solution to the issue of illegal migration and refugee crises. Therefore, a policy change in Turkish migration and asylum policy affects refugees, migrants, and Europe itself. The lack of a comprehensive asylum and migration policy in Turkey, along with bureaucratic and institutional complexities, constituted one of the biggest challenges Turkey faced during its Europeanization process. Europeanization broadly indicates a domestic policy change influenced by the EU. The vulnerable status of international protection seekers and Europeanization of Turkish asylum policy are the main inspiration for this thesis.



Andrew Moravcsik argues that domestic preferences are the consequences of exogenous change in the international economic, ideological and geopolitical fields, and they are not formed in response to Europeanization specifically (1998). However, Europeanization plays a significant role in differentiating and addressing exogenous change. Globalization alone cannot explain why a country would change a specific policy. The reason Turkey began considering a change in its perspective on asylum and a formation of a comprehensive legal framework for migration cannot be explained by globalization alone. In this sense, I agree with Cowles et. al. that while globalization and domestic processes cause independent impacts on domestic formations, Europeanization is an important reference point through which these processes can be channeled and domestic change can be addressed (2001:221). The EU's weight in the international arena increases the ideological effect of Europeanization rather than the question of legal adaptation of norms and values that shape global cooperation in a given policy area (Lavenex, 2007:315). Therefore, the focus of this research is on the EU's impact where Europeanization is addressed, not globalization.

The establishment of the new democratic and secular Turkish Republic accelerated the modernization process. This process then turned into a Europeanization process with the 1963 Association Agreement with the, then, European Community. The relationship between Turkey and the European Community became stronger, and following the Mediterranean enlargement, Turkey's Europeanization process was accelerated by its membership application to the European Community in 1987. Despite some ups like the beginning of implementing the customs union in 1995 and downs like the EU's failure in solving the Cyprus issue, this relationship has continued.

Meltem Muftuler-Bac argues that the EU focuses on Europeanization because it is the only institution with enforcement mechanisms, so it becomes the most visible manifestation of the Europeanization process (2005:18). Therefore, the EU is perceived as the most important actor in building communities and policies around European, liberal democratic values and norms (Cowles, 2001;

Muftuler-Bac, 2005). The official recognition of Turkey as a candidate state at the 1999 Helsinki Summit and the declaration of the beginning of accession negotiations in 2005 have been the cornerstones of Turkish Europeanization. The main factor behind hesitation of EU member states about Turkey's full membership has been the migration issues (Martin, 2012:134), and this problem has been a significant obstacle for Turkey to overcome. The conditional status gave Turkey a considerable impetus to obtain steps in line with democratic and human rights norms between 1999 and 2005 (Icduygu, Aksel, 2013; Saatcioglu, 2010; Acikmese, 2010; Önis, 2008; Tocci, 2005; Ulusoy, 2005; Muftuler-Bac, 2005). Although the difficulties of adapting the EU-driven policies with the coalition government and the 2001 economic crises constituted an obstacle to taking necessary steps towards adopting EU requirements between 1999 and 2002, the election of a single party in 2002 let the Turkish legislation ratify policy packages at such a speed that Turkey was able to reach accession negotiations after the new government announced the EU membership as the overarching goal (Muftuler-Bac, 2005; Tocci, 2005). No doubt, the migration issue kept its significance during this period. The accession negotiations are still ongoing with both minor and major challenges.

A major part of Europeanization studies focuses on member states from top-down and bottom-up perspectives. Therefore, there are only a few studies about the Europeanization processes of candidate states. That creates a lack of opportunities to observe the EU's effect on candidate countries (Haverland, 2007:67). There is a need for more theoretically-informed research in the field and those theoretically-informed works that exist are mostly handled by northern European scholars and mainly focus on environmental policies (Bulmer, 2007:57). This thesis contributes a contemporary aspect of the Europeanization process's effect on an EU candidate state's asylum policy by employing a synthesis of two branches of new institutionalist theory: rational choice institutionalism and sociological (or constructivist) institutionalism. The number of studies emphasizing causal effect is very low. As such, there is still a need to have a better look at the causal mechanisms through which the EU influences

changes. Intensive case studies are necessary for this purpose. This thesis fills these gaps in the field of Europeanization by employing the so-called three-step model.

The Law on Foreigners and International Protection (LFIP) and the newly formed agencies this law brought represent the concrete changes in Turkish perspective on migration in general and asylum in particular. However, how this Europeanization process shaped and affected the formation of this law is essential to scrutinize. This supplies a deeper understanding of the concept of Europeanization and its influence. Turkey is among the original signatories of the 1951 Convention on Status of Refugees and its 1967 Protocol. However, it is also among the very small number of countries that maintain the geographical reservation as defined in Article 1.B/1.a. Turkey, then, gives refugee status only to those who have fled their countries due to an event that occurred in a European country<sup>1</sup>, and rejects those from other continents. Along with the new law, this geographical reservation has caused debates between the EU and Turkey. Europeanization has been a very powerful impetus for Turkey to fulfill EU requirements and to reach a comprehensive law on migration and international protection. Investigating the Europeanization process of Turkish asylum policy contributes to foreseeing how it might be possible to lift this geographical reservation for Turkey.

Robert Ladrech argues that Europeanization has not produced any “radical” shifts in the operation of national policy-making and institutions (2010:206). However, my thesis argues that we can observe great change in Turkish asylum policy by the formation and ratification of the Law on Foreigners and International Protection in 2013, which resulted in the creation of new agencies. Thereof, Europeanization did make Turkey take steps to form a

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<sup>1</sup> Turkey defines Europe as “all members of the Council of Europe, including Russia and ex-Soviet states west of the Urals, including the Caucasus.” (UNHCR, 2011(a):18)

comprehensive law and establish relative institutions. If Turkey removes its geographical reservation and grants refugee status to those outside of Europe, Europeanization will cause a radical shift in national policy-making. To sum up, this thesis fills these gaps in the field mentioned above by constructing an intensive case study on Europeanization of Turkish asylum policy.

## **1.1. Purpose and Research Question**

The main aim of this research is to analyze how Europeanization played a vital role in Turkish asylum policy evolution, which resulted in the LFIP, a policy in line with European standards. In order to achieve this aim, the thesis scrutinizes the effect of the Turkish accession process to the EU on Turkish asylum policy. In this regard, the main research question is:

*How did Turkey's accession process to the European Union affect the evolution of its asylum policy and the formation of the Law on Foreigners and International Protection?*

## **1.2. Terminologies**

The 1951 Refugee Convention defines the term *refugee* as a person who is forced to flee his or her country due to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership in a particular social group. The core principle is *non-refoulement*, which affirms that a refugee should not be returned to a country where he or she fled. An *asylum seeker* is “an individual who has sought international protection and whose claim for refugee status has not yet been determined” (UNHCR, 2014:5). It is the requirement for the asylum seeker to demonstrate that his or her fear of persecution is well-founded. According to the 1951 Convention relating to the Status of Refugees, countries are responsible for determining whether an asylum seeker is a refugee or not.

Non-European asylum seekers entering Turkey legally or in an irregular manner have access to the national procedure for temporary asylum and registration of the applications. Then they are assigned to reside in *satellite cities*

which are selected by the Ministry of Interior (UNHCR, 2011(b)). *Resettlement* is when refugees are granted permits to move to a third country where they will be hosted by a long-term protection (Castles, Miller, 2009:189).

The *EU acquis*, also called *acquis communautaire*, is the body of common rights and obligations that bind all member states. All candidate states have to accept the *acquis* before joining the union by making the EU law part of their own national legislation (European Commission, 2016).

### **1.3. Argument**

This thesis sees Turkey's accession process to the EU as a strong impetus for adjustment of its asylum policy to the EU acquis. The argument of this thesis is that the EU played a significant role in the evolution of Turkish asylum policy and therefore the formation of the LFIP. Hence, this study does not claim to analyze other possible factors that might influence the process. The subject of this thesis is the EU accession process's effect on Turkish asylum policy change.

### **1.4. Structure of the Thesis**

This thesis is structured in eight chapters. Chapter One supplies an introduction to the research with the purpose of the thesis, research question, terminologies explaining the concepts used in the study, and the argument of the thesis. Chapter Two provides a historical background and a view to the asylum policy and law before the official declaration of Turkey as a candidate state. In Chapter Three, the theoretical base and the concept of Europeanization are provided. In this section, previous research and literature review are combined with the explanations of related concept and theory. Chapter Four deals with the methodological base of the research. The list of the methods used and the rationale behind them are explained in this section along with ethical concerns. The analysis and discussion are combined and handled in Chapter Five. In Chapter Six, the research is concluded. The bibliography is given in Chapter Seven and the appendices in Chapter Eight.

## 2. Asylum and Refugee Policies before 1999

Turkey is known as a country of emigration in the West due to several large-scale labor agreements<sup>2</sup>. However, the Turkish Republic has also served as a transit state by supplying a route to Europe from Asia (Icduygu, 2005; Icduygu and Yukseler, 2010). Turkey has been an immigration country for certain people since the establishment of the republic. Currently, Turkey is perceived as a transit and immigration country due to its social, economic and political developments and events occurring in its neighboring countries (Kirisci, 2003; Kilberg, 2014).

Turkey has long been a country of immigration, especially from Muslim ethnic groups ranging from Bosnians to Tatars (Kirisci, 2012:65). The Ottoman Empire, the predecessor of modern Turkey, had a long tradition of receiving refugees from a wide range of backgrounds. This predates the emergence of modern refugee regimes since the First World War<sup>3</sup>. Emigration, as well, was experienced in the Empire<sup>4</sup>. Despite the well-founded acceptance of refugees in the Ottoman era, the newly founded Turkish Republic had some limitations about granting refugee status. In the literature of Turkish immigration and asylum policy evolution, there are three main factors: identity formation period between 1923 and the 1950s, the 1951 Refugee convention and closer relationship with the West and NATO until the 1990s, and finally the European effect in 1990s (ORSAM, 2012:15-16). Table 1 presents a similar interpretation of the evolution by Icduygu (2014:10). Turkey has steps taken towards the migration and asylum issue under the EU accession process. The analysis part of this thesis encompasses the period

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<sup>2</sup>With Germany in 1961, with Austria in 1967 (Akgunduz, 2008)

<sup>3</sup>The most famous examples of this tradition are the arrival of almost 300,000 Jewish refugees fleeing the Spanish Inquisition in 1492 (Kirisci, 1991), the arrival of Hungarians and Poles in 1848-1849 (Ibid), the arrival of 493,000 Muslim Caucasians between 1858-1864 (McCarthy, 1995), and the acceptance into Ottoman territory of approximately 1 million Caucasians who escaped the Russian army in 1864 (also known as Ethnic cleansing of Circassians) (Ibid).

<sup>4</sup>Many Armenians, Greeks and Jews left the Ottoman Empire for the United States around the turn of the century (Kirisci, 1991)

between the attainment of candidate status in 1999 and the adoption of Law on Foreigners and International Protection in 2013. This chapter explains the political and legal facets of the asylum and refugee issue in Turkey before 1999. It is crucial to look at these factors in order to have a clear frame regarding the legal and cultural background of the issue before the analysis.

**Table 1:** An Overview of the International Migration Transition in Turkey

<b>Period</b>	<b>Dominant Types of International Migration</b>	<b>Dominant State Ideology Related to Migration</b>
1923-1950/60	Emigration of non-Muslims Immigration of Muslims and/or Turks	Nationalism/Statism
1960-1980/90	Labor Emigration (Muslims and/or Turks)	Developmentalism/Liberalism
1990-2010	Immigration of foreigners (non-Muslims and/or non-Turks)	Neoliberal Institutionalism

The first factor is the nation-building efforts of the newly founded Turkish Republic. In this regard, the main aim of the republic was to form a national identity and belonging (Örselli and Babahanoglu, 2016:2065). The new republic encouraged the immigration of those of Turkish origins or those who shared Turkish culture by living on former Ottoman land. This perspective resulted in several legal regulations on settlement and work. Two important laws constitute a great example of this period's mentality. The first law is the Law on Activities and Professions in Turkey Reserved for Turkish Citizens, which was issued in 1932 (no.2007). It declared that foreigners could not be eligible for all types of occupancies. The second law is the 1934 Settlement Law (No.2510). This law gave the right to migrate to Turkey but only to those who are *Turkish descendants* or *nomadic people*. Hence, the requirement to settle down in Turkey was either being a Turk, or embracing Turkish culture. Therefore, an ethnocentric approach

was adopted at the very beginning of the republic. As a result, a special discourse evolved since there was a lack of *foreigners* in the migration policy formation until the 2000s (Örselli and Babahanoglu, 2016:2066). Those who migrated to Turkey had been called as *muhacir* (Turkish migrant), and those who emigrated called as *gurbetçi* (expatriate). The 1934 Settlement Law was the first legal document to have a direct effect on the asylum and refugee issue. With the rise of globalization after the first half of the 1990s, the types of immigration to and emigration from Turkey have started to change. Turkey was not a country where only ‘absolute’ Turks migrated anymore but a country receiving migrants from neighboring countries (Ibid). Therefore, the notions of *muhacir* and *gurbetçi* could no longer be an effective discourse applied to migration policy.

The second factor is the closer relationships between the Turkish Republic and the United States, as well as Western Europe in the 1950s. Turkey was a signatory country of the 1951 Geneva Convention (28 July) on Refugees by reservations, which are maintained in its 1967 Protocol, as well. According to the convention, which was published in the Official Newspaper on 5 September 1961 (no.10898), Turkey would give refugee status to those persons who had fled their home countries as a result of events that occurred in Europe. Turkey’s membership to the North Atlantic Treaty Organization (NATO) on 18 February 1952 also played a vital role during this period. During the Cold War era, Turkey developed its migration policy in security axis by closing its borders, which diminished its social, economic and political development strategies (Örselli and Babahanoglu, 2016:2066). In this period, Turkey shaped its migration policy regarding NATO and the Geneva Convention until the 1990s, where it faced the new phenomenon of global migration (ORSAM, 2012:15-16). The Geneva Convention is the second main legal document directly affecting refugees and asylum seekers in Turkey.



The third important legal document directly affecting the issue is the 1994 Regulation on Asylum<sup>5</sup> adopted by the Council of Ministers. Even though Turkey legally guarantees refugee status for European asylum seekers *sensu stricto*, the fact is that the majority of the asylum seekers in Turkey were not European; mostly, they were from Iraq, Iran and Afghanistan (Kirisci, 2004). Therefore, to handle this reality, Turkey formed its own temporary protection mechanism with the 1994 Regulation on Asylum. With this regulation, regardless of the country of origin, European or non-European, asylum seekers had to apply for residence permits at the Department of Foreigners, Borders, and Asylum of the National Police under the Directorate of General Security of the Ministry of Interior (Soykan, 2012; Öner and Genç, 2015:28). In order to be qualified to resettle outside of Turkey via UNHCR, those non-European asylum seekers had to then register with the police and comply with the reporting duty (Soykan, 2012:39, Mannaert, 2003:9). Accordingly, the regulation was not supplying a long-term local integration for this group of asylum seekers. The procedure was in parallel with the UNHCR and it required residence permits from all applicants. Under this regulation, Turkey and the UNHCR conducted Refugee Status Determination (RSD) interviews for non-Europeans. In order to be eligible to resettle to a third country, both the Turkish and UNHCR authorities should have recognize applicants as refugees.

Sadly, due to a lack of a formal Host Country Agreement between Turkey and the UNHCR Office in Turkey, the UNHCR lacked a way to get involved with all asylum cases (UNHCR, 2011(a)). That was not helpful for non-European refugees who could not resettle in a third country. Because of long waiting times,

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<sup>5</sup>The full name of the regulation is *The 1994 Regulation on Procedures and Principles related to Mass Influx and Foreigners Arriving in Turkey either as Individuals or in Groups wishing to Seek Asylum either from Turkey or Requesting Residence Permits with the Intention of Seeking Asylum from a Third Country*. No. 22127. Published in the Official Journal on 30 November, 1994 (No: 94/6169).

those asylum seekers were subject to the Foreigners Law issued in 1950. By this law, those asylum seekers were requested to pay residence permit fee like any migrant wishing to live and work in Turkey. According to a field study in Turkey conducted by Cavidan Soykan in 2010 (as cited in Soykan, 2012), the required fee was 441.30 Turkish Lira (£158)<sup>6</sup>. The residence permit fee created a problem between Turkey and the EU in the accession process as well. (How this issue is handled is analyzed in Chapter Five.) However, the 1994 Regulation on Asylum supplied a temporary de facto protection for Syrians in camps near the border via the third and fourth sections about mass flows. This protection provided an open border policy and prevented the deportation of those persons, did not limit the period of stay, offered assistance in the camps, but it did not affect resettlement programmes supplied by the UNHCR (Soykan, 2012). Consequently, the 1994 Regulation supplied a de facto protection but its strict measures on deadlines are highly contested.

As Soykan observes: *“Without the prospect of local integration and rights explicitly guaranteed by law, the recognized non-European refugees are, within the current system, seen by the state as foreigners ‘honored’ with the (temporary) protection against deportation, rather than as bearers of international rights”* (2012:39-40).

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<sup>6</sup> Including the booklet fee for themselves and 288.15 Turkish Lira (£104) for their children (aged between 15 and 18), every six months they had to renew their legal residency in Turkey like any other foreigners (Soykan, 2012:39, UNHCR 2011(a)).

### **3. Theoretical Background**

The theoretical framework in this chapter introduces the concept of Europeanization and discusses its features, which help contextualize the process experienced by Turkey. As this thesis scrutinizes the EU's impact on the Turkish asylum policy evolution, Europeanization can be very beneficial to this research. Here is why it is essential to explain why Europeanization matters and how it can support the research. Yet, Europeanization is not perceived as a theory by many authors but a phenomenon that needs to be explained with theoretical frameworks (Bulmer, 2007:47). Therefore, the thesis employs the New Institutional Theory in order to have a strong theoretical basis. This section does not only present how Europeanization and new institutionalism support the analysis here but also includes the literature review. The review is included in related sections.

It is believed that the combination of these two could be very beneficial for this research. Key concepts, critiques and how these concepts can be useful in this study are explained in this section.

#### **3.1. Europeanization**

Initially, Europeanization referred to institution building at the European level. It emerged and developed as a result of changes internal to the theory of integration. Therefore, it is endogenous to the evolution of integration theory (Caporaso, 2007:23). James Caporaso states that with the progress in European integration, it was clear that the conventional integration theories were not sufficient to describe or explain developments at the European level (Ibid:24). Later, the effects of this process at the national level began to receive attention (Olsen 1995; Andersen and Eliassen 1993; Rometsch and Wessels 1996). For instance, the question of how Brussels impacted the national institutions of member states took a considerable attention in the field (Cowles et al, 2001:3). Europeanization studies, therefore, are originally concerned with the member states of the EU. However, with the downfall of communism in Central and Eastern European Countries (CEECs), the focus also shifted to non-member states (Schimmelfennig and Sedelmeier,

2007:88). Therefore, the focus of the Europeanization studies is the EU in political sciences, even though Europeanization is a rather wide field.

There are multiple understandings of the Europeanization phenomenon which leave it open for further discussion. Several definitions of the process have been formed by different scholars. For instance, Cowles et. al. have provided the following definition:

*“We define Europeanization as the emergence and development at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with political problem-solving that formalize interactions among the actors, and of policy networks specializing in the creation of authoritative European rules. Europeanization involves the evolution of new layers of politics that interact with older ones”* (2001:3).

Political institutionalization involves the development of formal and informal rules, procedures, norms and practices governing politics at the European, national and subnational levels (Ibid). However, this description limits the field to EU member states.

Ladrech sees Europeanization as an “incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making” (1994:69). Drawing from Ladrech’s definition, Radaelli argues that the concept of Europeanization refers to:

*“Process of (a) construction, (b) diffusion, and (c) institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’, and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies”* (2003:30).

Other scholars debated the concept but delimited it to EU member states (See Börzel and Risse, 2003; Howell, 2004). Although the scope is limited in these explanations, the main point of above mentioned descriptions claims that “Europeanization is the institution building at both the state and the civil society levels in the spirit of the EU’s role as the ‘center of gravity’” (Agh, 2016:41). A

national policy, in our case the asylum policy, becomes Europeanized if the appropriate European provisions have been translated into domestic laws and administrative procedures (Lavenex, 2007:310).

Claudio Radaelli's description of Europeanization is the most explicit one, not limited by the member states, and more inclusive compared to others. Therefore, it is more favorable to apply to the thesis. The construction, diffusion, and institutionalization of European rules, norms and 'ways of doing things' are seen as more pertinent to this research. Therefore, I agree with Radaelli's view of Europeanization the most since it supports the research in this thesis with its wide approach and is applicable to a case study on a candidate state as this thesis aims.

It is argued that Europeanization can very easily become a cause in search of an effect (Goetz, 2001:211). Therefore, it needs to be founded theoretically. However, there is a risk we face here that Europeanization is not a theory in itself but a phenomenon that should be explained by several theoretical frameworks (Bulmer, 2007:47). A theory is applied in Europeanization studies in order to provide an explanation for causal relationships. According to Bulmer, "the core theoretical questions are concerned with explaining the change brought by Europe" (Ibid:48). In this regard, Jordan and Liefferink (2004:4) argued that there have been two phases of Europeanization studies. The first phase treated integration as the independent variable explaining domestic change caused by European integration. It demonstrated that Europeanization was connected to other theoretical disputes over integration (Ibid). With this in mind, Caporaso argues in his paper that Europeanization is a logical offshoot from the evolution of integration theory (2007:23). The second phase has been characterized by the new institutionalist agenda with the explanatory variables located at the domestic level (Jordan and Liefferink, 2004:4, as cited in Bulmer, 2007:49). This institutional perspective is employed since it is particularly pertinent to this thesis. The reason for this selection and the exploration of the relationship between Europeanization and new institutionalism are explained in section 3.2.

### **3.1.1. Europeanization Mechanisms**

As a “normative power” and “center of gravity” (Piattoni 2010; Larsen 2014), the EU has been performing as a global actor and as a ‘civilian power’ which gives the nature of the Europeanization process (Agh, 2016:39). Therefore, the strongest independent impact of Europeanization has been observed in the Southern and CEE countries. The EU requirements were the main drivers behind the contemporary asylum policies in Greece, Italy, Portugal and Spain, though they had weak or even nonexistent asylum laws and institutions prior to their Europeanization processes like Turkey (Lavenex, 2007). In these countries, asylum reforms have been formed by the accession conditionality and have responded ambiguous priorities of the European *acquis*<sup>7</sup>. Hereby, I would like to mention that by reviewing the literature, I recognized that there are also interesting debates on Europeanization in the literature on enlargement, particularly in CEECs. This thesis also seeks to contribute to this debate, as the research covers the enlargement area as well. However, I would like to go further by focusing on asylum specifically. This case study in Turkey, an EU candidate state, scrutinizing the EU accession’s impact on asylum policy evolution contributes to the Europeanization debate, along with the enlargement.

Basically, there are two types of mechanisms: vertical and horizontal Europeanization. The vertical mechanism is based on adaptational pressures from the EU where policy is defined, to the domestic level where policy has to be metabolized (Radaelli, 2003:41). By contrast, horizontal mechanisms look at Europeanization as a process where there is no pressure to conform to EU policy models (Ibid). This is also called a two-way process by Börzel: “bottom-up” and “top-down” (2002:193). For many scholars, the member states “upload” their

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<sup>7</sup> Ambiguous priorities because there was a limited and fragmented essence of the EU *acquis* in asylum matters at that time.

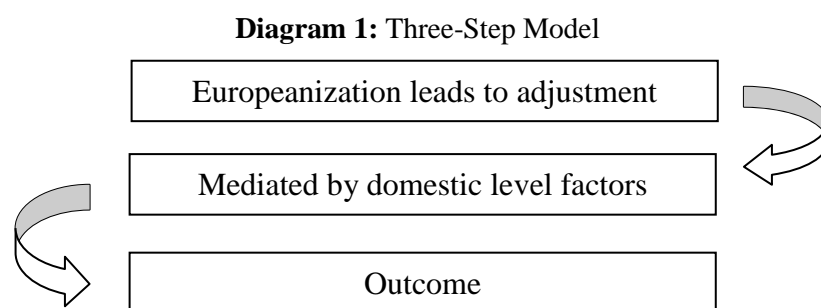
preferences and experiences, and construct the EU system via negotiations (bottom-up process), and “download” from various EU policy menus (top-down) (Börzel, 2002:193; Bulmer and Burch, 2001; Bulmer, 2007:48). Europeanization differs in candidate states compared to member states. Firstly, they are positioned in an asymmetrical relationship. The accession conditionality gives the EU a strong leverage by accession partnership and regular progress reports (as seen in CEECs). Secondly, the EU has a direct impact via the twinning programme and financial support. Since Turkey is not a member state yet, I find the top-down approach applicable and supportive to this analysis by its ability to scrutinize such an asymmetrical process.

### **3.1.2. Three Step Model**

It is argued that “political scientists should be less interested in questions of end state and final outcomes and more in questions of processes and coevolution of domestic and EU structures” (Goetz, 2002; Olsen, 2002). The Europeanization effects ought to be accompanied by an explicit treatment of causality (Ibid). In this regard, the three-step approach represents the conceptual framework of this thesis since it contributes a causal explanation to the analysis. The message is that strong movements in Europeanization along with strong adaptational pressure do not necessarily translate to domestic change. These forces must pass through and interact with facilitating and/or obstructive factors specific to each country (Risse et al., 2001:2). The question is how closely EU policies fit with the already existing domestic ones. Poor fit implies strong adaptational pressure, and good fit implies weak pressure (Ibid).

The model argues that Europeanization leads to adjusting (goodness of fit) which are then mediated by domestic-level factors, and finally to outcomes (Risse et al. 2001:6-12; Caporaso, 2007:27). Technically, the model is close-looped, so that the domestic outcomes feed back into the process of Europeanization. However, since Turkey is not a member state of the EU and the top-down approach is employed, for research purposes the analysis is basically restricted to

domestic adjustments. Aydin discusses that the model is limited by the EU's concrete regulatory conditions and it concerns only the member states (2016:287). However, this thesis employs this model with a small modification and claims that it is applicable to a non-member state as well (see diagram 1). The modification is the removal of the feedback into the process of Europeanization. By doing this, the model becomes applicable to non-member states and the top-down approach. For methodological purposes, it is important to note that there are no exogenous variables in this model, since every variable is a function of some or all other variables in the model (Caporaso, 2007:27).



The so-called pressure created by Europeanization is seen as a function of the degree of (mis)fit or (in)congruence between the domestic and European levels (Caporaso, 2007:29). However, as mentioned above, such pressure is a necessity for but not sufficient as a sole condition for domestic change (Börzel and Risse, 2003:28). Theoretically, the variations in outcomes are the results of mediating factors, which intervene between adaptational pressures and outcomes. The model informs this analysis by employing domestic-level factors and their effect on adjustment efforts, which then form an outcome. It supports the study by its ability to explain causality of domestic change brought by the EU.

### **3.1.2.1. Goodness of fit**

The explanation provided by Börzel (1999) and Cowles et al. (2001) is based on the general idea of adaptational pressure. The basic idea is that Europeanization



matters only if there is divergence, incompatibility or ‘misfit’ between European-level institutional process, politics and policies, and the domestic level (Radaelli, 2003:44). This misfit provides new opportunities and limitations for societal and political actors to follow their interests (Terzi, 2005:115). Börzel and Cowles et al. explicitly refer to the new institutional analysis for this purpose.

The problem with this concept is that it needs further explanation. The metaphor of the fit covers a broad range of elements (Radaelli, 2003:45). There is no absolute compatibility or mismatch: it is up to political actors at the EU and domestic levels to define what they are. This definition is part of a process of interpretation and political conflict (Goetz, 2002). However, the misfit in the asylum area between Turkey and the EU is clear, as the European Council mentioned in all progress reports that the lack of a comprehensive law on migration and asylum in line with the EU norms (which is the focus of this thesis), the lifting of geographical reservation, and the signing of readmission documents with the third countries are areas that need adjustment (Sagiroglu, 2016:43).

### **3.1.2.2. Mediating factors**

Whether or not a country adjusts its institutional and legal structure to Europe will depend on the presence or absence of mediating factors (Cowles et. al., 2001:2). There are five intervening factors: multiple veto points in the domestic structure, facilitating formal institutions, a country’s organizational and policy-making cultures, the differential empowerment of domestic actors and learning (Ibid:9-12). Additionally, Heritier and her associates argue that there are three key intervening variables (2001, as cited in Radaelli, 2003:47). The first group of variables is the institutional capacity to change. Under this variable, veto players and executive leadership are explained. Veto players—including informal ones, such as pressure groups—can represent serious obstacles. Europeanization is most likely to have a high impact (in terms of policy change) under conditions of intermediate institutional capacity. Secondly, timing is essential to decision-

makers whether they follow a gradualist path or to proceed by leaps and bounds. With this in mind, Goetz (2001) borrows the categories of time, timing, and tempo<sup>8</sup> from Schmitter and Santiso (1998). Institutional capacity and timing provide the potential for change, but policy change has to be considered legitimate by the discourse surrounding it. The mediating domestic or intervening factors can have weak veto points (or none at all) and actually have a facilitating impact on change where the adjustment is perceived as necessary and appropriate. The logic of appropriateness is explained in section 3.2.

### 3.1.2.3. Outcome

Radaelli argues that magnitude of change and its direction can be explained via four possible outcomes as shown in table 2 (2003), while Börzel and Risse have slightly a different threefold classification: absorption, accommodation and transformation (2003:69-73). However, Radaelli's typology has the ability to capture a wider range of circumstances categorized as: *retrenchment*, which indicates national policy becoming less "European"; *inertia*, which indicates a lack of change; *absorption*, which indicates change as adaptation<sup>10</sup> and *transformation* (2003:37). The key observation here is that it is important to obtain a theoretical understanding of the outcomes of Europeanization rather than merely writing an empirical story (Bulmer, 2007: 55).

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<sup>8</sup> Time refers to when a decision is made, timing to the sequencing of decisions, and tempo to the speed.

<sup>10</sup> Domestic structures and policy legacy provide a mixture of resiliency and flexibility, so that they can absorb certain changes while maintaining the 'core'. It is the accommodation of policy requirements without real modification of the essential structures and changes in the 'logic' of political behavior (Heritier, 2001).

**Table 2:** Direction of policy change

<b>Retrenchment</b>	<b>Inertia</b>	<b>Absorption</b>	<b>Transformation</b>
-	0	+	++

However, how to measure them and explain what are the differences is the question. Radaelli suggests an answer to this problem by employing literature from learning and cognitive development and applying it to policy analysis (Bateson 1973; Laird, 1999). The distinction between simple learning processes and cognitive development is useful. First of all, it complies with the distinction between adaptation and transformation. Secondly, Laird (1999) provides a clear focus on institutions, which provides more precision than terms such as transformation. The focus on transformation as institutional development brings institutions back into the analysis. As such it leads to the empirical analysis of policy change in its institutional context. Indeed, when political scientists say that EU environmental policy has transformed environmental policy in country A, they mean that the institutions of environmental policy think and perform along European tracks (Radaelli, 2003:39).

Laird argued that there are four processes of transformation: political experience (interaction), robustness, equilibration and discourse (1999). *Interaction* looks at how institutions become stronger in relation to other institutions. *Robustness* focuses on the extent to which Europeanization brings institutional robustness of domestic institutions. Since institutions develop through *equilibrium* in crises, institutions can rethink their preferences and then the rules and norms are transformed and become institutionalized. Finally, discourse detects any presence of change.

Europeanization can be evaluated by whether it is voluntary, in the sense of domestic actors' willingness to be embraced, or coercive, in the sense of whether it is being imposed on them and whether these impacts are direct or indirect (Bache, 2002; Bache and Jordan, 2006).

### 3.2. New Institutionalism

With the fall of communism in CEECs, the focus of Europeanization studies shifted to non-member states. The declaration of those countries to return their policies to Europe was followed by closer institutional ties with the EU, such as trade agreements. These institutional ties are generally accompanied by the promotion and diffusion of EU institutions and policies in partner countries, and the process of Europeanization (Schimmelfennig and Sedelmeier, 2007:88). In this sense, understanding institutional change or formation in accession countries is crucial to linking the evolution of institutions and policies to the Europeanization process.

Bulmer argues that it is necessary to explore this relationship between Europeanization and new institutionalism (2007:50). The new institutionalist literature is generally characterized by three branches. The first branch is rational choice (rationalist) institutionalism (RCI), which is typically concerned with the responses of domestic actors—institutions are regarded as opportunity structures or veto points; actors seize the available opportunities or are blocked by the veto points—and the design of the institutions in connection with desired policy objectives (Ibid). It focuses on the actors' behaviors which are affected by their environment and argues that actors have their goals and, therefore, act according to their interests in the most "appropriate" manner possible (March and Olsen 1998:951-952). The EU is seen as an opportunity by those actors who are motivated by effective appropriateness (Aydin, 2016:287). The logic of appropriateness is explained below. Schimmel and Sedelmeier discuss the external incentive model (2005:10-12), also termed "conditionality", where the Europeanization effect is measured by the adoption of democratic and human rights norms as a consequence of EU conditionality (Schimmelfennig and Sedelmeier, 2007:90). Additional to Börzel and Risse's argument, their point of departure relies on the *national balance*, which describes the power of national actors, their social class and public decisions. Cost-benefit balance relies on four factors: preciseness of conditions, size and speed of rewards, the credibility of

threats and promises, and the size of the compliance cost (Ibid). RCI is related and applicable to the research question since it illustrates the process of change by focusing on the role of actors acting appropriately and reasonably, and the design of institutions or rules with a view to achieving specific behavior at the domestic level.

The second branch, historical institutionalism, focuses on the role of time in the integration process. Time is categorized into three different facets by Schmitter and Santiso: time, timing and tempo (1998) as mentioned previously. This thesis does not employ historical institutionalism since the role of time is not the focus and the size of this thesis is limited.

The third branch, sociological institutionalism (SI), is concerned with the realm of norms, ideas, discourses, organizational culture and the psychology of politics (Bulmer, 2007:51). It suggests that Europeanization leads to domestic change through socialization and a collective learning process, resulting in norm internalization and the development of new identities, such as conditional refugees and subsidiary protection in Turkish legislation discourse. Therefore, the domestic effect of Europeanization can be conceptualized as a process of change at the domestic level (Terzi, 2005:115). SI focuses on the logic of appropriateness like RCI. Here, actors are generally motivated by the internal identities, norms and values embedded in institutional regulations. That is, instead of full strategic calculation, SI emphasizes the selection scope of the action plan to which individual perception is linked (Aydin, 2016:288). Perceptions are vital in the policy-making process because “they provide a means of intercepting, classifying and interpreting information in terms of structured systems that set cognitive limits to rational decision making” (Hyde-Price, 2004 as cited in Terzi, 2005:117).

Logic of appropriateness means that actors are guided by collective understanding of what is proper and/or socially accepted behavior in a given structure (Terzi, 2005:116). These collective perceptions affect how actors define their goals and what they perceive as rational. Instead of maximizing their desires, actors try to fulfill social expectations (Börzel and Risse, 2003). The question of

how to act appropriately arises here. March and Olsen (2004) argue that “proceeding according to the institutionalized practices of a collectivity, based on mutual, and often tacit, understandings of what is true, reasonable, natural, right and good and involves a learning process”. Because of this perspective, Europeanization is understood as the “emergence of new rules, norms, practices, and structures of meaning to which member states are exposed and which they have to incorporate into their domestic practices and structures” (Börzel and Rise, 2003) as mentioned in the previous section. EU candidate countries may have their preferences taken into consideration by making use of the right arguments and by acting appropriately (Terzi, 2005:133).

Institutions receive greater attention in SI compared to RCI. That is why the “transmission mechanism” in SI is more sociological than rule-based. (Bulmer, 2007:50) It is important to note here that there has not been a pure application of RCI to Europeanization studies; not all of the authors place themselves in one category. However, the main point here is that new institutionalism is indispensable for understanding how Europeanization is theorized (Bulmer, 2007:51).

Discourse has a heavy place in new institutionalism. It is argued by Vivien Schmidt (2002, as cited in Bulmer, 2007:53) that significant policy change is most likely to occur where a convincing supportive domestic discourse is applied.

The changes in asylum policies are handled by constructivist scholars with a focus on the practices, discourses, norms and values that shape the rights and perils of asylum seekers and refugees (Lavenex, 2007:312). That is why adopting the constructivist understanding of the asylum policy to the evolution of the Turkish perspective on refugees is essential. Moreover, the institutionalist point of view focuses on the relationship between intergovernmental and supranational elements in the development of this policy field (Ibid:313).

Studies of Europeanization in the accession countries typically analyze the effects of EU conditionality compared to those of other strategies and mechanisms (such as socialization or social learning) and the conditions under which EU conditionality has or has not been effective in the CEECs (Jacoby, 2004; Kelley,

2004; Kubicek, 2003; Schimmelfennig and Sedelmeier, 2005). A policy of conditionality is “one in which international organizations promise rewards (such as financial assistance or membership) to target states on the condition that the states fulfill one or more conditions (such as policy adjustments or institutional change) set by the international organizations”, and it forms the core of the EU’s policy towards the non-member states in its neighborhood (Schimmelfennig and Sedelmeier, 2007:88-89). The EU’s main tool for inducing national domestic change is its conditionality, especially for membership (Schimmelfennig et al. 2003). Democratic conditionality is dependent on two factors for its effectiveness: the presence or absence of credible EU membership incentives and the domestic political costs of adoption for incumbent governments (Schimmelfennig and Sedelmeier, 2007:91). They argue that there are three groups of target countries:

- a) the democratic frontrunner countries where liberal democracy is a domestic equilibrium and adoption costs are small
- b) non-democratic countries governed by strongly nationalist and authoritarian governments
- c) countries situated between democratic frontrunners and entrenched authoritarianism, such as fragile democracies in which individual democratic and human rights norms are contested and democratic and authoritarian political forces compete for power (Ibid)

Turkey can be categorized as a fragile democracy before the start of negotiations. The beginning of negotiations in 2005 indicated that necessary democratic and human rights norms were enhanced. Therefore, the category Turkey situated in after 2005 is the democratic frontrunner.

The dominant logic of conditionality or external incentives corroborates the “actor-based rational-choice approach” to the study of Europeanization (Hereitier 2001:3). If the adoption phase is quick, the reason for it can confirm rationalist expectations where social and historical institutionalism could have predicted more inertia (Börzel and Risse 2003:70; Jacoby 2004:197-202).

Once accession negotiations start, the focus of conditionality shifts from general democratic and human rights norms towards more specific EU rules

regarding the *acquis communautaire*. Rule adoption via external incentives is generally more likely to be contested than if it results from social learning or lesson-drawing compared to those in social institutionalist or constructivist thought (Schimmelfennig and Sedelmeier, 2007:95). In the Turkish case of obtaining a comprehensive single migration law in accordance with the human rights and democratic values, as this thesis argues, it is a combination of both external incentives resulted from EU conditionality and from social learning. Once the EU explicitly spells out the rules of the *acquis*, rule adoption increases dramatically (Schimmelfennig and Sedelmeier, 2007:99). In the *acquis* conditionality period, the literature broadly agrees that the EU's influence is particularly pervasive (Ibid:92). Studies show that the key condition for the success of Europeanization is whether the EU sets its rules as conditions for countries with a credible membership perspective. Some rule adoption is also observable even before the EU's conditionality is spelled out, as was the case for Turkey, which is examined in the analysis.

As *acquis* conditionality does not concern the political system and the bases of political power as such, governments generally do not have to fear that the costs of the adoption in individual policy areas will lead to a loss of office. Costs are thus unlikely to be prohibitive. Moreover, once a credible membership perspective has been established, adoption costs in individual policy areas are discounted against the (aggregate) benefits of membership rather than just the benefits in this particular policy area. Thus, adoption costs and domestic veto players do not play as decisive a role as in the case of democratic conditionality (Schimmelfennig and Sedelmeier, 2007:93). However, they often have an influence on the timing of rule adoption, yet they don't lead to systematic variation in the likelihood of rule adoption as such (Ibid). Salience that the EU attaches to a particular area is a key factor in rendering the EU's credible conditionality (Schimmelfennig and Sedelmeier, 2007:93). Briefly, the adoption costs of governments were paramount democratic conditionality. For *acquis* conditionality, the veto-player structure only mattered for the speed but not for the



likelihood of rule adoption, contributing high benefits (Schimmelfennig and Sedelmeier, 2007:98).

The research on Europeanization literature showed that Schimmelfennig and Sedelmeier's mechanisms are most suitable for the research question (2004). Bulmer also suggests that the notions of framing and regulatory competition do not help. Instead, more generic work on incentive structures and social learning may be more useful (2007:56). Therefore, the rationalist "external incentives model" and sociological (or constructivist) social learning approach are applied in this thesis.

## 4. Methodology

This thesis scrutinized how the EU accession process influenced Turkey's asylum policy evolution which resulted in the LFIP. In this regard, the phenomenon of Europeanization is perceived as the most suitable framework to apply. To underpin the research theoretically, the new institutional approach is employed. These two understandings required the adoption of a qualitative research design as a unique tool for examining what lies behind a decision, behavior, change or other phenomena (Ritchie,2003:28). A qualitative approach facilitates in-depth examination subjects. The role of qualitative research design is widely recognized by various epistemological approaches (Giddens, 1984; Layder, 1993; Lofland and Lofland, 1995; Miles et al., 2014). Qualitative methods are not only beneficial for their flexibility with looking at the dynamics of how things operate, but also useful in understanding outcomes by identifying the different types of effects that can arise from a policy and different ways in which they are achieved (Ritchie, 2003:29). In this regard, the selected qualitative methods strongly support the research. The selected methods and the rationale behind the selections are described below.

Better elucidation of the causal mechanisms through which the EU influences domestic policy by using its conditionality and socialization tools is still needed (Börzel and Risse, 2003; Haverland and Holzacker, 2006; Radaelli, 1997). Intensive case studies are the best option for this purpose (Haverland, 2007). Intensive methods are concerned with what makes things happen in specific circumstances, with examining the qualitative nature of phenomena and the complexities of context, and are thus concerned with causality (Sayer 2000: 20). Haverland argues that the concepts and hypotheses studied in many case studies regarding the EU impact in domestic policies should be tested systematically for a larger number of cases (2007:68). By conducting an intensive case study, this thesis contributes to the Europeanization field in the long term by becoming one of the case studies. Intensive case studies mostly concern member states, so there is a need for such studies in candidate states as well. Eising's study

can be an example for this as it explicitly utilizes an intensive process tracing changes in electricity regulations in Germany, the UK and the EU (2002). To fill this gap, this thesis employed this intensive case study approach.

As the three-step model is adopted in this thesis which examines the Europeanization process of a specific domestic policy, the adjusting efforts of the candidate state, the progress and the outcome are needed to be examined. As the previous research proves the benefits of process tracing, this thesis employs the process tracing method to track the Europeanization process of Turkish asylum policy change. In order to do so, the regular progress reports are perceived as the best documents to analyze for observing the changes. Document analysis is applied to those regular progress reports encompassing the period between the publication of the very first progress report in 1998, and when the LFIP was adopted by the Turkish Grand National Assembly in 2013. The research is also supported by a small-scale content analysis. The number of times related words used in the reports are counted and the trendlines of each word are found. Additionally, the percentage of the asylum sections in each Justice and Home Affairs Chapters, Chapter 24, of the selected regular progress reports is calculated and presented in a graph to show the dominance of the asylum issue in the progress reports. The aim here is to present the importance given to the issue by the EC and to supply some visual data to discuss. These qualitative methods contributed to the analysis of this intensive case study. As Jane Ritche argued, this selection can be labeled as *Triangulation* which involves the use of different methods and sources to check the integrity of inferences drawn from the data (2003:46). Triangulation decreases the impact of potential biases (Bowen, 2009). How these methods are handled is presented in the section below.

The data that this thesis collected is called *naturally occurring data*, which is often textual, documentary or archival and is produced without direct intervention by a social researcher. They provide a depiction of a social phenomenon in its original settings (Ritche, 2003: 45). Therefore, the material collection for analysis was mainly found online. I used the government websites the *Ministry for EU Affairs* and the *Ministry of Interior Directorate General of*

*Migration Management* to access the progress reports and other related documents to which the process tracing led me. Regarding the data collection on theory, concept, previous studies et cetera, I mainly used the university's libraries and database. Namely: *Lovisa, Libris and LUB Search* were the main data collection sources along with other online platforms such as *google scholar*.

#### **4.1. Process Tracing**

According to this method, the researcher is expected to start by acquiring observable implications from the EU-level theory. These predictions can indicate what and how it should happen if the theory is valid. These patterns should then be compared with the empirical pattern analyzed by the case study (Yin, 1994, as cited in Haverland, 2007:62). This method is sometimes perceived as incompatible with rational choice theories (Bennett and Checkel, 2014:6). However, many considerable rational choice theorists argue that their hypotheses bear some correspondence with the actual processes through which individuals make decisions, such as rational choice institutionalism. Therefore, they are amenable for process tracing (Bates et al. 1998).

Alexander George and Andrew Bennett argue that:

*“Process tracing use histories, archival documents and other sources to see whether the causal process a theory hypothesizes or implies in a case is in fact evident in the sequence and values of the intervening variables in that case”* (2005: 6). They also add that “the process-tracing method attempts to identify the intervening causal process – the causal chain and causal mechanism – between an independent variable (or variables) and the outcome of the dependent variable” (Ibid.: 206). This thesis treats Europeanization as an independent variable, includes intervening variables such as the mediating domestic factors which facilitated and sometimes accelerated the process, the Syrian refugee crisis et cetera, and employs both rational and sociological institutionalism. The casual framework is contributed by Risse's three-step model which is explained in section 3.1.2. Basically, the model argues that the misfit between the EU and domestic legislations cause domestic authorities to adjust their legislation, which

mostly ends up with an outcome in line with the EU *acquis*. In this thesis, this causal mechanism is analyzed through process tracing and two other qualitative methods. The Europeanization process of Turkish asylum policy is traced by document analysis along with a secondary content analysis of the European Commission's regular progress reports for Turkey. This research employs RCI and SI branches of new institutional theory. They support the analysis by bracing the theoretical base and explaining the process and the facilitating domestic-level factors. The research explains how these approaches support the establishment of the causal effect of Europeanization, which is absent in most Europeanization studies. The process is tracked chronologically regarding the progress observed by the EC.

## **4.2. Document Analysis**

Document analysis involves the study of existing documents to understand their essential content or to explain deeper meanings (Ritchie, 2003:35). The type of documents might be government papers, reports, procedural documents, personal documents and such. It is especially useful in studies where written communications may be central to the inquiry. Documents provide a background context. Furthermore, documents might be the most effective tools for collecting data (Bowen, 2009).

A document analysis is conducted on the sixteen selected progress reports for Turkey which are prepared by the European Commission. The asylum sections under Chapter 24 are analyzed by focusing the Commission's requirements, Turkey's progress and responses to those requirements. The analysis of the progress reports led me to go further and scrutinize several amendments and circulars along with certain laws issued by the Turkish authorities. The supplementary data collected from these documents supported the analysis. Document analysis is often used in combination with other qualitative methods as a means of triangulation (Denzin, 1970:291). The analysis is supported by content analysis as well.

### **4.3. Content Analysis**

In order to observe the importance given to the area of asylum in the regular progress reports by the EC, a small-scale content analysis was conducted. The asylum section in the Justice and Home Affairs Chapter (Chapter 24) of each selected progress report are measured by word counts. Afterwards they are compared to the total word counts in related chapters to obtain the percentage. The number of sections in Chapter 24 is collected, which is eight, and the space given to asylum and migration area presented in a graph in the discussion. By doing this, the emphasis given to the asylum issue by the EC is shown in the analysis.

Content analysis refers to a variety of methods to analyze documents usually in a quantitative way and involves counting, coding, categorizing the elements (words) et cetera. Although it refers first and foremost to the quantitative analysis of documents or broadcast media (Gomm,2004:247), the method is also adopted by qualitative researchers. Roger Gomm claims that most quantitative content analyses begin with a qualitative analysis of data to discover what they might contain (Ibid). It is also used to refer to the qualitative analysis of texts.

The content analysis that this thesis employed is a quantitative method in practice that it involved word counting and calculation. However, it is a qualitative approach which is conducted to support the analysis of selected documents and the process tracing in a qualitative way. The conducted small-scale content analysis does not aim to gather numerical data and generalize it to explain a particular phenomenon (Babbie, 2010). Therefore, it does not claim to be applied to a large-scale quantitative research. The method here is used to reinforce the claim that the asylum and migration issue between Turkey and the EU constitute an important misfit. As a content analyst generally wants to make some claims about the representativeness of the data entered into the analysis, the intention here is to present the EC's given importance to the issue by examining the portion of the reports that is about the asylum issue and then interpreting them.

For this reason, the small-scale content analysis is conducted as a subsidiary method to the document analysis.

The method also includes counting the words “asylum”, “refugee”, “international protection” and “temporary protection” to examine the usage of these terms and to observe the trendline, especially of the word ‘asylum’ and its dominance. The portion of asylum and migration related sections in chapters are presented in a graph along with the word counting. The findings are put in a table in a Microsoft Excel sheet. Later, the portions are calculated in a row as the results. The graphs of the findings are created in the same Microsoft Excel sheet. The content analysis facilitated the work and using Microsoft Excel was enough for the analysis.

The percentage is calculated by multiplying the word count in the asylum section by a hundred and then dividing it by the word count of Chapter 24. The collected data can be found in Appendix 1.

#### **4.4. Ethical Concerns**

I did not conduct any research regarding participation of any third party for this thesis. The main methods this thesis adopted are process tracing, document and content analyses. Therefore, the ethical concern is mainly subjectivity, neutrality and credibility. Accordingly, I tried to position myself in an unbiased stance, which was the limitation, and checked the subjectivity of the analysis and credibility of the sources in each step of the research. Consequently, all the sources are carefully indicated in Chapter 10. The data was mainly collected through Lund University’s libraries via *Lovisa*, *Libris* and *LUB Search*. Additionally, *Google Scholar* was used. The material was collected through the official websites mentioned above.

## 5. Analysis and Discussion

*“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” (Kirisci, 2001:9).*

The Regular Progress Reports prepared by the European Commission (EC) for Turkey are perceived as the most suitable documents for tracing the Europeanization process of Turkey as explained in the methodology section. In order to observe the progress in the area of asylum, analyzing the related chapters in the reports contributed valuable findings to discuss. Additional to the analysis of related chapters in the reports, a small-scale content analysis was also conducted on sixteen progress reports to observe the pattern. The content analysis supplied an overview of the percentage of words used in the asylum issue in Chapter 24: Co-operation in the field of justice and home affairs<sup>11</sup> and visual data by graphics.

The description of the misfit between the European Union (EU) and Turkey in asylum area is vital to applying the three-step model. The lack of a comprehensive legal framework in line with the EU and international standards, the lack of a specialized civilian authority for asylum, and the lack of an independent appeal board for asylum-decisions are named as issues Turkey needs to adjust according to progress reports (1999–2012). In order to obtain a better lens for the analysis, the section is divided into three parts including the mediating factors to the discussion, such as domestic responses to the EC through the

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<sup>11</sup> Titled as “Justice and home affairs” in the 1998 and 1999 Progress Reports.



enactment of laws, circulars and amendments. In the first part, the analysis encompasses the period between 1999 (when Turkey officially announced as an EU candidate state in the Helsinki Summit) and 2005 (when the accession negotiations started). The second part focuses on the period between 2005 and 2013, when the Law on Foreigners and International Protection (LFIP) was adopted by the Turkish Grand National Assembly. The third part analyses and discusses the LFIP as an outcome of the Europeanization process. Analysis and discussion are combined in this chapter.

### **5.1. Period between 1999- 2005**

Turkey is a unique example, as it received progress reports before the declaration of candidate status. As argued by Schimmelfennig and Sedelmeier, some rule adoption can be observed even before the EU's conditionality is spelled out (2005). The decision to report Turkey's progress before declaring its candidate status was based on Article 28 of the Association Agreement<sup>12</sup> and on the conclusions of the Luxemburg Council<sup>13</sup> which actually state that if a certain level of rule adoption is observed, the track of progress can start. This is why the 1998 Progress Report for Turkey is also included in the analysis. Within the report, the right to asylum is explained under the Justice and Home Affairs section of the Sectors of the Acquis Covered by the European Strategy. Turkey's geographical reservation to the 1951 Geneva convention and its 1967 protocol is described as the reason why the asylum machinery in the country is ineffective. This

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<sup>12</sup> This is also known as the Ankara Agreement. Article 28 states that "as soon as the operation of this Agreement has advanced far enough to justify envisaging full acceptance by Turkey of the obligations arising out of the Treaty establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community".

<sup>13</sup> The December 1997 Luxembourg European Council decided to draw up a strategy for preparing Turkey for accession by bringing it closer to the European Union in every field. The European Council added that "the strategy will be reviewed by the Association Council in particular on the basis of Article 28 of the Association Agreement in the light of the Copenhagen criteria and the Council's position of 29 April 1997" (Article 33).

geographical reservation maintained importance in all progress reports due to the recommendation that it be lifted. Turkey's alignment with the rules enforced in the EU is seen through the removal of this reservation. Additionally, a significant improvement is requested in the procedure for scrutiny of asylum requests, particularly the deadline to submit residence permit applications, which was five days according to an amendment introduced to the 1994 Asylum Regulation, and the treatment of asylum seekers.

In December 1999, Turkey was officially announced as a candidate state. The effect of this declaration was immense for political reforms. There have been eleven political reforms between 2001 and 2004: nine constitutional packages, a new civil code, and a new penalty code (Muftuler-Bac, 2005). The impulse of democratic conditionality played a significant role in these achievements (Icduygu, Aksel, 2013; Saatcioglu, 2010; Acikmese, 2010; Önis, 2008; Tocci, 2005; Ulusoy, 2005; Muftuler-Bac, 2005). In fact, the Commission stated that:

*“The decision on the candidate status of Turkey in Helsinki in 1999 has encouraged Turkey to introduce a series of fundamental reforms. A major constitutional reform was introduced in October 2001 aimed at strengthening guarantees in the field of human rights... A new Civil Code was adopted in November 2001. Three sets of reform packages were adopted in February, March and August 2002. ... The adoption of these reforms is an important signal of the determination of the majority of Turkey's political leaders to move towards further alignment with the values and standards of the European Union. The August reforms were adopted under difficult political and economic circumstances and are particularly significant as they impinge upon traditionally sensitive issues”* (Progress Report, 2002:44-45).

The conditionality effect observed in the progress report sustains the argument present in the Europeanization debate that the dominant logic of conditionality, or external incentives, corroborates the actor-based rational-choice approach to the study of Europeanization (Hereitier 2001:3). As Börzel and Risse argued (2003), the reason why the adoption phase was quick confirms rationalist

expectations of external incentives effect where social institutionalism could have predicted more inertia.

The period of residence permit application for asylum seekers was extended from five to ten days, and for those aliens whose applications are refused, the time for appealing was extended from ten to fifteen days by an amendment in 1999 (no.98/12243). Therefore, the commission declared that some positive changes are observed in the conditions under which the asylum procedures were handled. It is suggested that there was a need for “a department specifically intended to handle asylum cases”, which should also be able to “gather and evaluate figures on the number and origin of asylum seekers and on the reasons for refusal of asylum” (Progress Report: 1999:36). It is mentioned in the report that Turkey contributed significantly to crisis management operations in the Western Balkans<sup>14</sup>. The cooperation between Turkey and the UNHCR in the field of training the Turkish staff on the asylum issue continued to develop and maintain its strength during the process which resulted in the LFIP.

In 2000, Justice and Home Affairs started to be handled in Chapter 24: Co-operation in the Field of Justice and Home Affairs under the Chapters of the Acquis in the Ability to Assume the Obligations of Membership as a section in Criteria for Membership. As the content analysis showed, the 2000 progress report has a higher percentage of asylum-related parts via Chapter 24 than those of other years by 40 percent (see the graph 2 in section 5.2). In 2000, the commission observed that efforts with capacity building started in close cooperation with the UNHCR, and equipment in asylum headquarters and provinces had been upgraded in order to improve and accelerate asylum status determination procedure. Turkey took all asylum requests into consideration and worked together with the UNHCR on parallel procedures on examination of

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<sup>14</sup> During the Kosovo crisis Turkey accepted several thousand Kosovo refugees.

asylum cases. It is stated in the progress report that in most of the cases, the conclusions of the UNHCR and the Turkish Ministry of Interior (MOI) on granting refugee status are identical (2000). There was a three-year project drafted by the MOI in cooperation with the UNHCR that covered the period between October 2000–October 2003. The aim was to train personnel dealing with asylum and refugee issues, to improve technical assistance and to track the changes which occurred in the national and international field of asylum and refugees. It was suggested by the commission that the programme would improve the awareness of the Land Forces on the issue of refugees and asylum seekers, since many asylum seekers enter the country by the green borders where surveillance is carried out by the Land Forces (2000). An emphasis on this point is especially given to the East and South-Eastern areas of Hakkari, Agri and Van (the map is available in Appendix 2). The accommodation facilities for refugees and asylum seekers were criticized and setting up proper reception centers was suggested. At the time, refugees and asylum seekers were in many cases accommodated by the local population as a result of the local tradition of hospitality and solidarity (Ibid:64). Additionally, they benefit from the Governors' offices and the municipalities. However, those efforts were not seen as compatible with possible challenges from a regular influx of refugees and asylum seekers (Ibid).

In November 2000, the EU announced the first Accession Partnership Document for Turkey (APD), which was adopted on 8 March 2001<sup>15</sup>. The Justice and Home Affairs section of the APD stated that “adopting the EU acquis on asylum will be an integral part of Turkey’s accession process” and also emphasized the importance of lifting the geographical reservation from the 1951 Convention. This document is significant because it showed that the EU included

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<sup>15</sup> “The purpose of the Accession Partnership is to set out the priority areas for further work identified in the Commission's 2000 regular progress report for Turkey towards membership of the EU in a single framework” (The Council of the EU, 2001: no.235/EC).

Turkey to the accession partnership as with other candidate countries, which increased the credibility of prospective membership. This inclusion provided an evidence for Turkish authorities that the steps they took are considered by the EU. Turkey favorably responded to the APD and the regular progress report by its National Programme for the Adoption of the Acquis (NPAA) in April 2001, which was adopted on 19 March 2001. Surprisingly Turkey stated its willingness to lift the geographical reservation on the 1951 Convention by prioritizing the issue in the NPAA. Turkey considered the removal of the reservation in a manner that would not “encourage large-scale refugee inflows from the East”, and made the lifting conditional to the “introduction of legislative and infrastructural measures when necessary” and “the attitudes of the EU Member States on the issue of burden-sharing” (National Programme, 2001). Additionally, the programme proposed further developments on the accommodation facilities and on social support for refugees with the assistance of the UNHCR, the International Organization for Migration (IOM) and the NGOs<sup>16</sup>. These developments sustain Schimmelfenning and Sedelmier’s argument on cost-benefit balance, which states that the credibility of promises and size and speed of rewards are the factors that affect the actors’ choices (2007:90). The EU perceived this plan as a significant progress. With this progress in 2001, Turkey began an intensive process of studying the acquis and preparing necessary legislative changes for harmonization. With this in mind, several committees and working groups were established in the Turkish government<sup>17</sup>(Progress Report, 2001).

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<sup>16</sup>The Programme gives priority to single women, women as “heads of household”, orphans and separated or unaccompanied children, as well as other especially vulnerable individuals such as the infirm or the victims of domestic violence (NPAA, 2001).

<sup>17</sup>The working group is to prepare a comprehensive strategy and timetable for the harmonization of Turkish law and practice with the acquis in the areas of border management, asylum and migration. In addition to 800 staff members trained in 2001, 550 staff members of the MOI were trained on illegal migration, asylum and forgery issues in the first eight months of 2002.

Turkey's willingness to lift the geographical reservation, which is linked to several conditions, is seen as a positive development in the progress report since it would increase Turkey's ability to cope with refugee inflows and to receive support from the European Community (Ibid). In 2001, an improvement in reception facilities for refugees is observed in two existing Refugee Guesthouses at Yozgat and Kirklareli, and the Turkish government decided to adopt and review new legislation on asylum (Progress Report). The Turkish government identified the need for constructing refugee centers in eleven provinces in addition to the two guesthouses (Ibid). According to the international experts operating in the field, accommodation practice was approved in 2001, and the local guesthouses were described as more "secure" compared to crowded refugee centers which are exposed to criminal activities (Ibid). The training activities in cooperation with the UNHCR were improved by a cooperation framework adoption on asylum and refugee law with the National Plan. While the conditions Turkey adopted in order to lift the geographical reservation created several concerns, the main concerns are listed as: "the fate of non-European asylum seekers, the time limitations attached to the registration of asylum claims, the situation of asylum seekers waiting for the determination of their cases and the deficiencies of the appeal arrangements for rejected asylum applicants" (Ibid:85). It is stated that there is an important need in setting up an independent asylum appeal board, and a nation-wide screening mechanism to identify asylum seekers among detained illegal immigrants (Ibid).

The working group established in 2001 was responsible for developing a new strategy in accordance with the acquis in the asylum field. The MOI issued a circular to the governors in July 2002 regarding health care services to asylum seekers who were recognized by the Turkish authorities. Since then, these asylum seekers have gradually been provided with green cards for their medical expenses. Training of personnel continued successfully in 2002 regarding asylum and refugee law in cooperation with the UNHCR. However, the time limits for asylum seekers on filling in their applications and identification requirements continued to be problematic. In order to carry out refugee status

determination, the Turkish government suggested the creation of a professional body with the necessary institutional and technical capacity indicated by the EC (Progress Report, 2002).

The Commission encouraged the Turkish government to systematically apply to the 1951 Convention, especially on work permits to those non-European asylum seekers who fulfill the criteria of the refugee definition in the Convention. Thereof, a new legislation providing the minimum standards for the employment rights of refugees, as set in the 1951 Convention, was strongly recommended (Ibid). Since the last request, the establishment of a nation-wide screening mechanism could not have met in 2002. It is stated in the report that it is very important to not deport genuine asylum seekers alongside irregular migrants (2002). Moreover, it is pointed out that coverage of screening should be extended not only to those presenting themselves to the authorities but also to those who are arrested as illegal immigrants (Ibid). Further efforts were suggested by the EC to Turkey to align its legal framework by adopting the EU acquis in the area of asylum and migration. As a response to previous requirements and to address these needs, a special Task Force was formed in 2002 (Ibid). The Task Force was inter-ministerial and responsible for the preparation of the overall strategy for alignment with the EU acquis. It is stated in the report that efforts were taken to raise awareness about the legislation and practices of the EU in the area of asylum and illegal migration through developed information and awareness programmes along with the training programmes on Community Law and the Community Acquis in the asylum area (2002). Furthermore, the implementation of the asylum and migration twinning projects started under the EU 2002 Financial Cooperation Programme. The main aim was to develop the operational capacities of institutions responsible in the asylum field, such as the training of the national police, supporting asylum and migration policies, and exporting EU funds.

The establishment of the Task Force strengthened the path of alignment with the EU acquis and facilitated the progress. The twinning projects on asylum and migration involved Austria, Denmark, Germany and the United Kingdom. They helped to construct Turkey's institutional capacity and to develop EU

acquis-oriented training programmes. It proved that these twinning projects had a socializing effect on bureaucrats and officials (Kirisci, 2007:26). This development sustains the thesis present in the institutionalist approach that socialization and a collective learning process result in norm internalization, hence Europeanization by domestic change.

The Task Force has developed three strategy plans in 2003, one for alignment in the area of asylum and migration<sup>18</sup>. The strategies were meant to guide the legislative and institutional work for the medium-term. They anticipated the establishment of a specialized and civilian unit for migration and asylum issues under the MOI, which would be responsible for receiving and concluding requests for residence permits of foreigners and asylum applicants. It also foresaw the establishment of a separate and independent Appeal Board to assess the appeals against the asylum decisions of the specialized unit (Progress Report, 2003). The strategy documents on three main subjects constituted the basis of the LFIP.

The Law on the Work Permit of Foreigners (no.4817) was adopted in 2003 by the Turkish parliament to align with the provisions of the Geneva Convention concerning the employment of refugees. The law introduced a centralized system for work permits for foreign nationals, which authorized them to work as domestic workers unlike the previous law. The necessary secondary legislation for the implementation of the law was adopted in the same year<sup>19</sup>. Social support provided to refugees and the schooling situation of the children of refugees and

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<sup>18</sup>The Strategy Documents:

The Strategy Document on Protection of Outer Borders in Turkey (April),  
The Strategy Document on the Studies Proposed in the Field of Asylum within the Accession Process of Turkey to the European Union, also known as Asylum Strategy Document (October),  
The Strategy Document Contributing to the Migration Management Action Plan in Turkey (October).

<sup>19</sup> Directive for the Implementation of the Law on the Work Permit of Foreigners (Official Journal, 2003)



asylum seekers improved in 2003<sup>20</sup>. The strategy on asylum foresaw the establishment of permanent training structures for the specialized unit. Turkey continued its intensive training of law enforcement officers and judiciary on asylum issues in cooperation with the UNHCR. The legislative framework regarding asylum was pointed out in the report as requiring revision to ensure the full implementation of the Geneva Convention and to achieve conformity with the EU acquis (2003). However, the establishment of an independent appeal procedure and the development of refugee status determination capacity were appreciated by the EC (Ibid).

The second NPAA was issued in 2003. It was welcomed as a commitment of harmonization with the EU acquis in the area of asylum and it set asylum as a priority in the Justice and Home Affairs section. Article 24.1 states that:

*“In the 2003 National Accession Partnership Document, harmonization with the EU Legislation in the field of asylum has been determined to be top priority and it is proposed to develop administrative and technical capacities in the field, namely development of accommodation and social support mechanisms for the refugees. Upon entry into force of the Draft Asylum Law administrative arrangements will be made in the relevant field and the studies being carried out for harmonization with the EU legislation will continue”.*

In accordance with the framework of strategy papers on the EU harmonization process, a series of activities for training, restructuring and legislation on the issue of asylum were organized. The 2003 NPAA had a clear schedule as requested by the Commission: the schedule for necessary legislative changes, necessary institutional changes, financing requirements and determining

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<sup>20</sup> “Direct aid was provided under the coordination of provincial governors by the Turkish Red Crescent, state hospitals, municipalities and the Social Solidarity and Assistance Foundation in the form of cash money, food, clothing, health services and heating material. The schooling situation of children of refugees and asylum seekers: the MOI intensified its efforts in cooperation with the offices of governors to ensure a 100% schooling rate in the 2003–2004 school year” (Progress Report, 2003).

sources for financing the changes. This article clearly proves that the main motivation of the domestic authorities to change the asylum policy was to be harmonized with the EU legislation, which prioritized the issue.

In 2004, work started on drawing up a National Plan in order to implement the Asylum Strategy Document which was adopted in 2003. An internal directive on the handling of asylum applications was introduced by the MOI (no. B.05.1.EGM.0.13.03.02/16147). The directive served as a bridge between the current regulation and the new asylum law that aimed to be adopted in 2005. The EC interpreted the directive as more positive and protection-oriented, which matched with the minimum standards of the *acquis* on asylum procedures (Progress Report, 2004). Even though it is appreciated in the report that the directive introduced an accelerated procedure for asylum applicants, the lack of clarity on the “accelerated procedure” raised concerns (Ibid:140).

It was reported that foreigners arrested away from the border were not always allowed to hand in their asylum applications since they were considered as *acting in bad faith* (Ibid). The UNHCR, in that regard, faced some difficulties reaching those persons in detention (Ibid). Even though the UNHCR is the main body responsible for the needs of non-European refugees, Turkish authorities continued assisting them in the form of cash, health services, food and so on (Ibid). This behavior shows the willingness of Turkish authorities to support non-European asylum seekers by welcoming them although the refugee status is not granted. If non-European asylum seekers are granted temporary asylum seeker status, they can receive medical assistance from the Turkish state hospitals as well. Additionally, children of those asylum seekers have the right to attend state-run primary schools. The importance of the full implementation of the Geneva Convention and the EU *acquis* was highlighted in the 2004 progress report.

### **5.1.1. Reflection to the Period**

The period before the beginning of negotiations can be called reformist. The facilitating factors on domestic level are observed in this period as a mediating

effect. Amendments issued by the MOI, the response to the APD by the NPAA, the circular in 2002 to governors regarding asylum seekers' health care, the 2003 strategy document on asylum, the enactment of Law on the Work Permit of Foreigners without any veto, the National Programme in 2003 and the directive on the handling of asylum applications and such legislations facilitated the process of adjustment. Therefore, there were no veto points or difficulties in domestic structure regarding these developments. As Schimmelfennig and Sedelmeier argued (2007), the promised reward of membership status and its credibility highly motivated Turkey to adjust its asylum policy in line with the EU. The improvements in conditions of the reception centers and in the asylum status determination procedure, maintained training of personnel, the prioritization of the asylum issue by the NPAA, social support to refugees, established working groups and committees, beginning of the twinning programme and such progress are explained above. The democratic conditionality before the beginning of negotiations relies on the presence of credible EU membership incentives, and the domestic political costs of adoption for incumbent governments (Ibid:91).

Turkey as a candidate country with a single party government which set EU membership as an overall goal, underwent considerable reforms in this period (Icduygu, Aksel, 2013; Saatcioglu, 2010; Acikmese, 2010; Önis, 2008; Tocci, 2005; Ulusoy, 2005; Muftuler-Bac, 2005). Önis labels the period between 2002 (when a one-party government obtained power) and 2005 as the “golden age of Europeanization” (2008:38). In this period, we do not observe any strong domestic obstacles for asylum policy adjustments. This period is when EU membership was credible and the adjustment costs were not over the benefit of prospective EU membership.

Moreover, socialization was an important aspect of this period. The twinning programme is the main example of the socialization process. As SI suggests, Europeanization leads domestic changes through socialization and collective learning processes. The socialization of Turkish and EU personnel and authorities played a significant role in norm internalization.

In December 2004, the European Council stated that:

*“The European Council welcomes the decisive progress made by Turkey in its far-reaching reform process and expressed its confidence that Turkey will sustain that process of reform [...]. Turkey sufficiently fulfils the Copenhagen criteria to open accession negotiations [...]. The European Council invites the Commission to present to the Council a proposal for a framework for negotiations with Turkey with a view to opening negotiations on 3 October 2005”* (Brussels European Council: 5).

## **5.2. Period between 2005-2013**

The Turkish National Action Plan on Alignment with the EU Acquis on Asylum and Migration was adopted in March 2005 with a timetable. However, the progress report criticizes the plan, stating that several provisions, including the establishment of the asylum and migration authority<sup>21</sup>, are not clear (2005:111). Application of non-refoulement to foreigners at the borders and the cooperation with the UNHCR on asylum applications were maintained in 2005. The progress report emphasized establishing procedures for asylum seekers at international airports as a necessity since there were some observed cases<sup>22</sup> (Ibid:112). The Turkish state’s assistance to non-European asylum seekers along with the UNHCR was evaluated in 2005. Unaccompanied minor asylum seekers, as observed, would be cared for by the Social Services Child Protection Agency. Overall, progress was observed in the Turkish effort to align with the acquis in the area of justice and freedom in 2005.

On 3 October 2005, the accession negotiations with Turkey started. It is the second cornerstone in the accession process of Turkey since it represents a new era with the *acquis communautaire*. As argued by Schimmelfennig and

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<sup>21</sup> This concerns the composition and functioning, temporary protection, mass influx and accelerated procedure (Ibid:111).

<sup>22</sup> Some European asylum seekers faced considerable difficulties with submitting their applications, particularly Belarusians and Chechens.

Sedelmeier, once accession negotiations start, the focus of conditionality shifts from general democratic and human rights norms towards more specific EU rules of the *acquis communautaire* (2007:95). We can observe in this *acquis* conditionality period that the EU's impact was pervasive (Ibid:92). However, with the decline of the credibility of the reward (EU membership), the general progress is dramatically dropped<sup>23</sup> (Acikmese, 2010; Saatcioglu, 2010; Önis, 2008; Ulusoy, 2005). The declining trend of Europeanization only had a small impact on asylum policy since the rational choice to obtain a comprehensive migration and asylum policy in line with the EU *acquis* had been established by the actors who first started socializing with their European counterparts. Additionally, the necessary steps had already been taken through the establishment of Task Force, the strategy plan on asylum, NPAA and such. Therefore, the progressive motion has kept.

In 2006, the National Action Plan on Asylum and Migration started being implemented. However, the progress report criticizes that the National Plan did not include the deadlines for transposition of the *acquis*, and that the efforts to strengthen the administrative capacity for implementation, particularly on the establishment of a specialized body, remained (2006:63). Several amendments were introduced to the 1994 Regulation in January 2006. Through one of these amendments, the ten-day asylum application period was lifted<sup>24</sup> and the authority to decide on asylum applications was given to selected Governorates, which was previously held by the MOI (no.2006/9938). Decentralization—the authority transfer from central to local actors—is another facilitating mediating factor. The Commission stated that no ad hoc forum was set up for the effective implementation of the Action Plan on Migration and Asylum and wanted Turkey to specify the future institutional arrangements (Progress Report, 2006:63). It

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<sup>23</sup> The main reason is the EU's failure to resolve the Cyprus problem.

<sup>24</sup> Article 4 states that “Those who do not apply as soon as reasonably possible must explain the reasons for the delay and cooperate with the relevant authorities in this regard” (Translated by the author).

emphasized that new legislation was required in order to ensure that all asylum seekers have access to a fair and uniform implementation, particularly in the international airports (Ibid). While the intention of the full implementation of the 1951 Convention and its 1967 Protocol was under preparation to lift the geographical reservation by 2012, the Commission requested Turkey to detail the institutional responsibility for the management of the reception centers (Ibid).

Limited progress is observed in the decentralization of asylum procedures, reception conditions and accommodation arrangements in 2007 (Progress Report, 2007). The 2007 progress report evaluated that new brochures were published in seven different languages to improve applicants' information<sup>25</sup>. Additionally, the Commission recognized that the children of asylum seekers have the right to attend Turkish schools and primary schools can be attended free of charge<sup>26</sup> (Ibid). However, the awareness of asylum seekers about the education opportunities to which they are entitled (and which are required by the EC) needed to be improved (Ibid).

2007 saw a sixty-five percent increase in asylum requests compared to 2006. With this rise in the number of applications, the importance of reviewing the existing Asylum Law and establishing the new asylum unit was pointed out in the 2008 progress report. In 2008, the department for foreigners, borders and asylum in the Turkish National Police (TNP) started to embrace the country of origin information system. In order to establish an asylum management unit, which would be a dedicated authority for both receiving and integration of asylum seekers, the MOI initiated internal administrative procedures. The need to decrease the waiting times and to eliminate the differences between cities are pointed out in the report (2008). It is suggested in the report that reducing the six-

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<sup>25</sup> English, Russian, French, Somalian, Arabic, Persian and Kurdish.

<sup>26</sup> 29.8 percent of children at school age of asylum seekers are enrolled in education (312 out of 1045) in 2007.

month residence permit fee could help improve the self-reliance of refugees (Ibid). On October 2008, just as the National Action Plan assumed, which was adopted in 2005, the Development and Implementation Office for Asylum and Migration Legislation and Administrative Capacity<sup>27</sup> was established. The main responsibility of the office is to handle work on legal and institutional infrastructure for migration management, to analyze and classify the requirements for harmonization with the EU laws, and to identify the necessary steps for further development. The works of the office resulted in the LFIP in 2013 (no.6458) which is perceived as an outcome of the Europeanization process of Turkey's asylum policy driven by its EU accession process.

In detention, it is observed that asylum seekers experience some limitations to access to procedural rights and this results in several examples of illegal deportation or refusal of entry (Progress Report, 2009:31). The resources of the Asylum and Migration Bureau is very limited in relation to its tasks (Ibid:73). In the formation of uniform implementation of the legislation, the Task Force for Asylum and Migration has significant importance and with the cooperation of the new bureau, the task force met in May 2009 for the first time since 2007. The number of asylum seekers doubled in 2008 (from 2007) and the Turkish government maintained its expenditure on the basic needs of all asylum seekers, including “temporary asylum seekers” or “guests” along with recognized asylum seekers (Ibid). Screening of apprehended illegal migrants has started to identify persons in need in an inconsistent manner. There were only “six centers established for reception, screening and accommodation of the asylum seekers, two centers for illegal migrants and a new set of procedures and management rules for these centers” (Ibid:74).

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<sup>27</sup> Also called Asylum and Migration Bureau

Since the pressure of high migration inflow affects Turkey's asylum and migration system, it is important for Turkey to reorganize its system and conclude readmission agreements. The document analysis on progress reports revealed that it is a priority for the EU, as well, to conclude the readmission agreements with Turkey. It is highly recommended for Turkey to maintain the improvement on readmission agreements by the EC in almost every progress report. Within this process, Turkey signed several readmission agreements and continues to work on this issue.

There was limited progress observed by the Commission in the period between October 2008 and September 2009. A mechanism to keep the staff trained on asylum and migration in the system was missing (Progress Report, 2009). The residence permit fee was found as an obstacle for those asylum seekers who were recognized by the UNHCR to resettle in third countries since the fee is high (Ibid). Asylum seekers must pay the fee and the interest if they cannot make the payment on time. If they do not pay, they cannot depart from Turkey. The issue is pointed out in the report—using highly vulnerable individuals and unaccompanied minors as examples—which states that they do not have any means with which to pay the fee (2009).

It is noted by UNICEF that in order to ensure the rights of the children of asylum seekers to healthcare and education, some efforts have been issued (Progress Report 2010:36). It is reported that unaccompanied minors do benefit from the Child Protection Agency, but “only about a quarter of asylum seekers and refugee children aged 7 to 14 attend school regularly, due to a mixture of financial, language and bureaucratic constraints and lack of demand” (Ibid)<sup>28</sup>. The Task Force for Asylum and Migration prepared a comprehensive revision of the law on foreigners in a close cooperation with the IOM and the UNHCR in 2010.

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<sup>28</sup>Efforts to locate the families of unaccompanied children are carried out by the UNHCR and the Turkish Red Crescent (Ibid).



An amendment to the regulation implementing the Law on the Work Permit for Foreigners (No.4817) was adopted and published in the Official Journal on 21 January 2010 (no.27469). The amendment resulted in softer conditions under which asylum seekers can apply for work permits<sup>29</sup>. Furthermore, a circular from MOI regarding the residence permit fee for refugees and asylum seekers (no.B.050.ÖKM.0000.11-12/631) lifted the burden on applicants who lack the means to pay the fee<sup>30</sup>. Since the circular was retroactive, it was expected to help those who had already obtained the approval to resettle to a third country but could not depart because of unpaid fee and fines (Progress Report, 2010). Additionally, a circular (no.B.02.1.SÇE.0.09.01. 00/) was issued by the Directorate General for Social Services and the Child Protection Agency in 2010 for asylum seekers who receive accommodation in the directorate's institutions. The circular included several issues such as social and general health insurance, data protection and access to UNHCR facilities. It is specified that the circular encompasses unaccompanied minors, people with physical disabilities and the elderly. The establishment of an asylum unit and the drafting process of a law on asylum were officially launched by the Task Force on Asylum and Migration in early 2010 with the help of academics, UNHCR Turkey and representatives of NGOs working in the field (Progress Report, 2010). Cooperation with and mobilization of NGOs and local authorities constitute an impulse to achieve integration of the asylum seekers. On 15 March 2010, the Turkey Refugee Rights Coordination was founded by several civil society

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<sup>29</sup> Article 4 of the amendment states that the: “valid period of residence is not requested from those foreigners who are granted refugee status by the Ministry of Interior. Necessary measures should be taken to finalize the work permit decision as soon as possible while evaluating the work permit requests of individuals of this status” (Translated by the author).

<sup>30</sup> The circular states that some applicants have difficulties paying the fees and the interest rate. They cannot resettle since they cannot pay the fee and the interest, which results in delays. So, the circular declares that for “those who are students or who can prove that they do not have means to pay the fee, the evaluation of the case should be concluded in fifteen days” (Translated by the author).

organizations and this is a good instance of the civil power that can influence administration.

About the period, the Commission concluded that *“the landmark reforms to provide Turkey with a modern, efficient and fair management system in line with core international and European standards are still at an early stage. The finalization of a roadmap on asylum and migration is key. The Turkish institutions have an only limited capacity and, most importantly, no ownership of the refugee status determination process for non-European asylum seekers. Thus, the UNHCR, despite not having formal status in Turkey, is virtually the sole authority capable of carrying out and managing asylum procedures”* (Ibid:82-83).

For the period between October 2010 and September 2011, some progress was reported by the Commission. There was an increase observed in the number of satellite cities where persons recognized as in need of international protection were accommodated<sup>31</sup>. On 15 July 2011, the MOI issued a document (no.B.05.1.EGM.0.13.49548) delegating authority to conclude asylum applications to the governorates of Ankara, Kırklareli, Izmir, Gaziantep, Van, Erzurum and Kayseri. Here again, the document analysis on progress reports showed that the local actors are empowered, the authority is decentralized and the asylum seeker determination procedure is facilitated. With this step, not only facilitating domestic factors are observed but also diffusion of norms and ‘way of doing things’. This sustains Radaelli’s take on Europeanization which this thesis employed. It is also important to point out that the governorate of Istanbul was on the list, as well, to make decisions about the applications taken at the Atatürk Airport Border. With this, Turkey fulfilled the requirement of the Commission repeated in several regular progress reports.

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<sup>31</sup> From 31 to total of 51. They are selected by the MOI generally in Central and Eastern Anatolia regions where is considered unproblematic in terms of security (Sert, Yildiz, 2011:184).

It is suggested by the Commission that the overall capacity of the asylum satellite city system should be enhanced and more balanced distribution of those asylum seekers across the country should be obtained (Progress Report, 2011:91). It is also observed that there are no standardized physical conditions for the refugees who are granted the residence permit (Ibid). The implication of the circular issued in 2010 regarding the refugees exempted from paying the residence fee (no.B.050.ÖKM.0000.11-12/631) found uneven by the EC. However, those circulars issued in 2010 produced several positive results regarding the practices of law enforcement officials and central and local administrations (Ibid:43). Draft of the LFIP is prepared in 2011; the year an increase on the asylum application occurred. With the beginning of Syrian conflict, Turkey hosted more than 18,000 Syrian nationals who were in search of protection (Ibid:91). Even though the UNHCR continued regular consultation with the authorities, there only had discontinuous direct access of the UNHCR to the persons in camps (Ibid:91-92). It is reported that unaccompanied children faced the risk of detention and could not access to State Child Protection Services (Ibid:43).

During 2011, the Turkish authorities were working on a legislation regulating the status of asylum seekers, refugees, and regular and irregular migrants in Turkey (Ibid:90). The prospective legislation facilitates alignment with EU and international standards, ensures the rights and protection of refugees and migrants, and establishes a regulatory framework between any foreigner in Turkey and the Turkish administration (Ibid). Several consultations took place with the IOM, UNHCR, EC and these efforts were perceived by the EC as the willingness of the Turkish authorities to attain a more open and transparent process (Ibid). This willingness reinforces the thesis in the Europeanization debate since Europeanization can be evaluated in relation whether it is voluntary in the sense of domestic actors' willingness to be embraced (Bache, 2002; Bache and Jordan, 2006). Training of the TNP personnel continued in the asylum and migration area as a result of the national will and effort, along with the financial

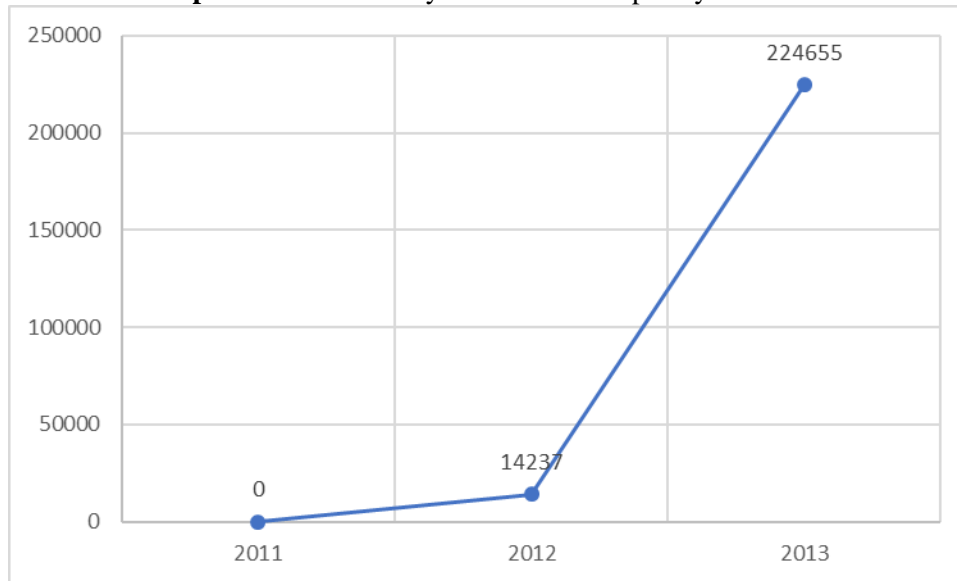
support of the EU projects in 2011. The personnel trained in this sense can be identified as belonging to the “professional category” (Progress Report, 2011:90).

In May 2012, the LFIP, which is in line with EU *acquis* and international standards, was submitted to the parliament. In the progress report covering the period between October 2011 and September 2012, improvements in treatment and detention conditions in the removal centers are pointed out (2012:35). With the start of the Syrian conflict in 2011 the flow of persons seeking protection to Turkey continued. Turkey maintained an open border policy with Syria and successfully provided humanitarian assistance to Syrian refugees who were hosted in camps located in southern provinces<sup>32</sup> (Ibid). At the end of October 2011, an open-ended *Temporary Protection* status was granted to all camp residents. The status of temporary protection was seen as a solution to manage the conditions of those Syrian citizens who could not be granted refugee status because of the geographical reservation and could not be sent back to Syria either. The protection status sought to fill this gap by providing humanitarian aid, by refraining from forcibly returning of Syrian citizens and by keeping the Syrian border open (Ibid). This part of the report presents the willingness of the Turkish authorities to contribute solutions to the crisis and to act appropriately. According to Olsen’s observations on acting appropriately (2004), the Turkish authorities filled the gap in a rapid way based on mutual understandings of what was true, reasonable, natural, right and good. Graph 1 shows the number of Syrian citizens under temporary protection.

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<sup>32</sup> During 2012, Turkey supplied all basic needs. Yet, with the exponential increase of incoming Syrian citizens, Turkey demanded support from the United Nations. That resulted in the involvement of Turkey with the development process of the UN’s Regional Response Plan (RRP) in the late 2012 (UNICEF, 2015).

**Graph 1: Numbers of Syrians under Temporary Protection**



*(The number reached to 2.814.631 as of 22.12.2016. Source: DGMM, 2016)*

The practices of law enforcement officials and local administrations improved between 2011 and 2012 along with the general living conditions at the camps, which were praised by a number of international observers<sup>33</sup> (Progress Report, 2012). However, difficulties in obtaining satisfactory work, health<sup>34</sup>, accommodation, education and integration supports were reported by the Commission (Ibid). While a sharp increase in the number of asylum applications became critical for the authorities and for the capacity of the reception centers, the EU financed seven reception centers' construction for asylum seekers and refugees. These financial supports, construction of new reception centers, TNP training and twinning projects sustain the argument of this thesis that the EU had a significant effect on the process by its incentives and contribution. The Commission concluded in its report that "Turkey is successfully providing

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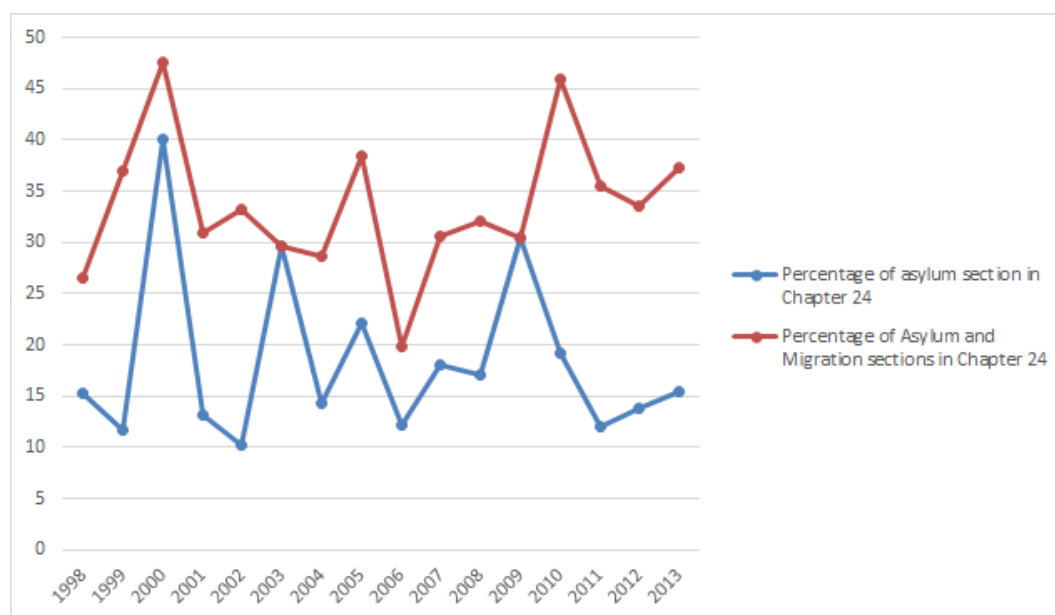
<sup>33</sup> The UNHCR and European Community Humanitarian Office (ECHO)

<sup>34</sup> Asylum seekers who could not qualify for free general health insurance were charged monthly fees under the new Social Security Law (no.5510/ attachment no.4/4/2013-6458/123 md), which were reportedly "unaffordable for those without employment" (Progress Report, 2012:35).

humanitarian assistance to the Syrian refugees, however, its asylum system continues to be far from the EU standards” (2012:79).

Document analysis showed that each progress report represents the importance of the asylum issue for Turkey, which has a direct effect on the region as well. When we look at the percentage of the asylum and migration sections in Chapter 24 of each report attained from content analysis, we see that the issue is crucial for the accession process of Turkey. On average, the asylum and migration issue covers 33.57 percent of Chapter 24 between 1998 and 2013. Some years, such as 2000 and 2010, the percentage exceeds 45 percent. Considering that the chapter includes 8 other issues<sup>35</sup>, this is a reasonably high amount.

**Graph 2: Percentages of Related Sections in Chapter 24**



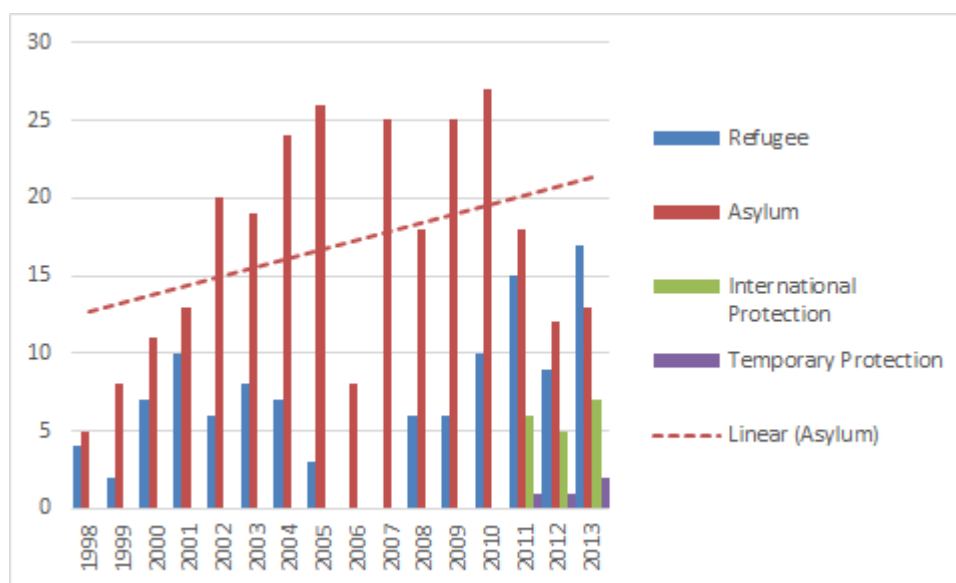
*(In years 2003 and 2009, asylum and migration issues are handled as a one section)*

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<sup>35</sup> Visa policy, external borders and Schengen, judicial cooperation in criminal and civil matters, police cooperation, the fight against organized crime, the fight against terrorism, the fight against drugs, customs cooperation

Additionally, when the related words are counted, as seen in the Graph 3, the word *asylum* is used dominantly. The trendline shows the incremental line for the usage of the word *asylum*. The content analysis proved that the asylum and migration area occupies a significant amount of space in Justice and Home Affairs Chapter.

**Graph 3: Word Counts of Related Statuses**



The LFIP was adopted in 2013 and brought Turkey in line with EU and international standards (Progress Report, 2013:16). However, the differing definitions of refugee status were maintained in the line of geographical reservation to the 1951 Convention. The establishment of the Directorate General of Migration Management (DGMM), as a civilian institution is an achievement for the Europeanization process of Turkish asylum policy. As Radaelli described, this achievement reinforces the thesis present in the Europeanization debate that one of the features of Europeanization is the effect of its institutionalization on formal and informal rules, procedures, policy paradigms, styles and ways of doing things (2003:30). DGMM suggests a transformation of the security-oriented approach to a more humanitarian one. It is suggested by the Commission that the responsibility should be slowly transmitted from the TNP to the DGMM for asylum management (Progress Report, 2013). The system is also suggested by the

Commission to be further developed particularly in regards to refugees' rights through the implementation of legislation (Ibid).

Although all registered Syrian citizens are granted temporary protection and receive an ID card valid for one year which lets them receive medical and other material assistance, the situation on the ground was found to be critical by the Commission, and construction of new camps to the cities of Mersin, Malatya, and Sanliurfa has been suggested (Ibid:65). More detailed arrangements on the management of removal centers were deemed necessary, including “structured psychosocial services” for irregular migrants staying in the centers (Ibid). It is also reported that the formal registration of international NGOs is difficult, slow and sometimes blocked (Ibid).

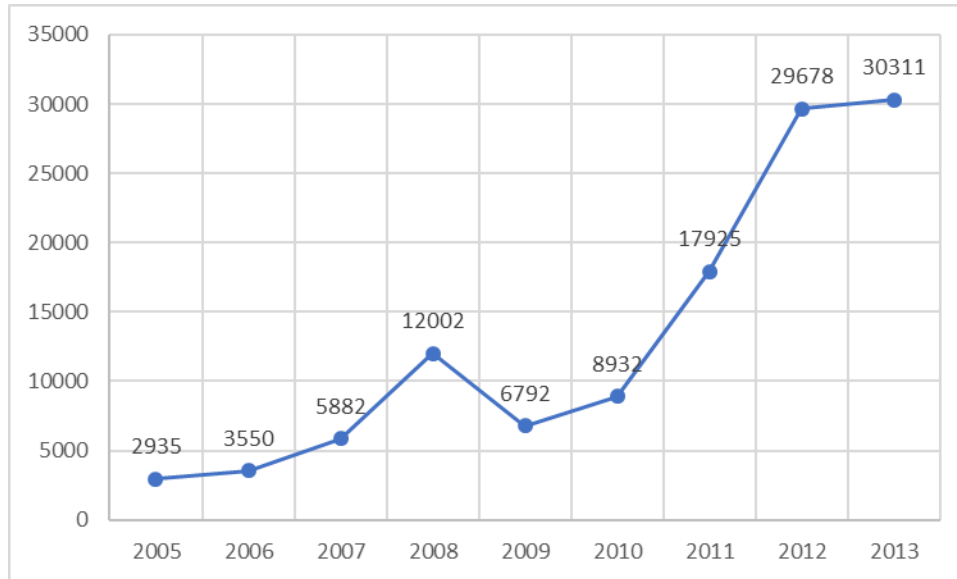
There has been a sharp increase observed in asylum applications by non-Syrian asylum seekers<sup>36</sup>. (See graph 4 for total amount). Unfortunately, due to poverty, language barriers or problems with IDs and the concept of *compulsory places of residence*, some children could not receive social and health services. It is noted in the same report that “the processing of the asylum applications is cumbersome and needs to be streamlined” (Ibid). This fact affected the resettlement chances of those persons due to the difficulty of finding resettlement country that was willing to host documented refugees.

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<sup>36</sup> 14.758 applications were lodged only in the first half of 2013 as compared with 14.051 in the whole 2012 (Progress Report, 2013:65).



**Graph 4: Number of International Protection Applications per Year**



(Source: DGMM, 2016)

**Table 3: Cumulative number of International Protection Application per Year**

	2005	2006	2007	2008	2009	2010	2011	2012	2013
Cumulative:	2.935	6.485	12.367	24.369	31.161	40.093	58.018	87.696	118.007

(The cumulative number for 2015 is 216.351. Source: DGMM, 2016)

The overall conclusion of the Commission in 2013 is:

*“Significant progress can be reported on the legislative framework on refugees and asylum seekers, with the adoption of the Law on Foreigners and International Protection. The adoption of the implementing legislation is now crucial. Detailed provisions on the management of removal centers are needed. Turkey has maintained an open border policy with Syria and has been providing considerable assistance to an increasing number of Syrian refugees living in camps. The situation of the refugees staying outside the camps requires attention”* (16).

The last two sections analyzed and discussed the evolution process of Turkish asylum policy in light of the Europeanization phenomenon by applying the three-step model and the RCI and SI branches of the new institutional theory. The mediating factors are determined to be positive and facilitating. No veto

points were observed in the analyses. Even though a slowing-down of the Turkish Europeanization process, in general sense, is observed after the beginning of the negotiations because of the fading credibility of the EU membership, we see no effect of this decrease on the area of asylum and migration. The logic of appropriateness, socialization of officers, and the willingness of the Turkish authorities to reach the European and international standards in this contemporary issue kept the Europeanization process in this area alive. The next section analyzes and discusses the LFIP as an outcome of Turkey's Europeanization process on asylum policy.

### **5.3. Law on Foreigners and International Protection**

The works by the office resulted in Law 6458 on Foreigners and International Protection, which was adopted by the Turkish Grand National Assembly on 4 April 2013 and published in the Official Journal No. 28615 on 11 April 2013. The LFIP can be named as an outcome of the Europeanization process of the Turkish asylum policy. The EC gladly welcomed the LFIP, which came into force in the middle of a major refugee crisis. The law provides a single and coherent legislation regarding the rights of refugees, migrants, people in need of protection and foreigners related to Turkey (Progress Report, 2013). It is the first time that Turkish legislation has been revised regarding international protection. With the LFIP, international protection was redesigned and came into alignment with the EU in terms of human rights standards and requirements. It presents vital safeguards such as respect of the principle of non-refoulement, access to refugee status determination procedures for persons in need of international protection, and introduces detailed arrangements on deportation and administrative detention. Effective application procedures and principles are introduced and time limits are applied to the decision-making mechanism.

Even though migration is classified into legal and illegal in most legislations around the world, the LFIP classifies migration into three categories: regular, irregular and international protection. This alone proves that the law

considered the issue as a management matter instead of a security one. This feature is found remarkable for some scholars (see; Sagirolu, 2016:45). There are three types of international protection described in LFIP: refugee, conditional refugee, subsidiary protection.

The law maintains the *refugee* description as stated in the 1951 Geneva Convention, yet limits it with the geographical reservation to the convention and its 1967 Protocol. LFIP categorizes those asylum seekers according to their country of origin and guarantees *conditional refugee* status to those coming from non-European countries. Article 62 describes a conditional refugee as:

*“A person who as a result of events occurring outside European countries and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it, shall be granted conditional refugee status upon completion of the refugee status determination process. Conditional refugees shall be allowed to reside in Turkey temporarily until they are resettled to a third country”.*

The *subsidiary protection* is guaranteed to those who can neither be qualified as a refugee nor as a conditional refugee, and cannot return to the country of origin (or country of former) because of the reasons described for refugees (LFIP, article 63).

It is the first time that temporary protection status emerged. With this status, these persons from outside of Europe who cannot be granted refugee status because of the geographical reservation are enabled to officially receive protection immediately in an emergence of a mass influx. Article 91 states that *“temporary protection may be provided for foreigners who have been forced to leave their country, cannot return to the country that they have left, and have arrived at or crossed the borders of Turkey in a mass influx situation seeking immediate and*

*temporary protection*”. A special mechanism for vulnerable and unaccompanied minors is also formed in section four of the law.

The law stipulates in article 103 (1):

*“The Directorate General for Migration Management has been established under the Ministry of Interior with a view to implement policies and strategies related to migration; ensure coordination between the related agencies and organizations in these matters; carry out the tasks and procedures related to foreigners’ entry into, stay in, exit and removal from Turkey, international protection, temporary protection and protection of victims of human trafficking”*.

The DGMM is a branch of MOI and has independent departments such as the Foreigners Department, the International Protection Department, the Harmonization and Communication Department, Protection of Victims of Human Trafficking Department, the Migration Policies and Projects Department among others. For the organizational scheme, see Appendix 3. Additionally, new boards like the Migration Policies Board (MPB), the Migration Advisory Board (MAB), the Coordination Board and Combating Irregular Migration Board were established. International Protection Assessment Committee (IPAC) was also founded as a permanent committee. The DGMM aimed to be organized in 81 provinces, 148 districts and outside of Turkey, establishing both local and overseas organizations. Moreover, the law declares the establishment of refoulement, reception and accommodation centers, and shelter houses for victims of human trafficking. The establishment of the DGMM is crucial. This progress constitutes a great example of institutionalization and construction of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and diffusion of belief and norms—in other words: Europeanization.

In the overall rationale, the DGMM emphasizes the importance of the EU accession process in addition to other international factors. It points Chapter 24 in the negotiations and the Asylum and Migration National Action Plan issued in line with the 2003 National Program for the Adoption of EU Acquis. In light of the progress explained in previous sections such as the National Plans and Programmes, the overall rationale states that:

*“Our international protection system and practices to that effect should be in parallel with EU Acquis, and institutional organization should be completed in the field of migration, until Turkey is granted full EU membership” (DGMM, 2015(a)).*

#### **5.4. Connecting the Dots**

The institutionalist approach supported the analysis by focusing on why and how institutions emerge in a certain way within a given context. The RCI and SI branches of the theory contributed to explaining the process. With the influence of the credible EU conditionality, the prospective membership and the external incentives from the EU, Turkish authorities underwent a significant reform process between 1999 and 2005. Turkey’s efforts to adjust its asylum and migration policy to EU requirements can be categorized as neither retrenchment, where national policy becomes less *European* than it was, nor inertia, where there is no change. Even though the credibility of the reward, which is full membership, declined after the beginning of negotiations because of the EU’s failure regarding the issue of Cyprus (Ulusoy, 2008), the progress maintained its strength.

The policy changes adopted during the process resulted in the LFIP constituted an absorption phase. The Turkish effort in its relationship with the EU in the asylum area is observed as adjusting to the EU *acquis communautaire* and responding to the requirements. Rule adoption via external incentives is generally more likely to be contested than if it has resulted from social learning (Schimmelfennig and Sedelmeier, 2007:95). However, we cannot observe sole rule adoption without also observing socialization in this case. That is why the adoption has not been contested in this case. The mediating factors in this process played a facilitating role and no veto points or opposition factor was observed. The process tracing proved that the analyzed process is occurred as the three-step model predicted. Therefore, the this sustains the Europeanization debate by the applicability of the three-step approach. Moreover, I demonstrated that the model is applicable to an EU candidate state as well.

The adoption of the LFIP is vital in that it shows that all of the progress made over a period of fifteen years has resulted in a comprehensive single law on asylum and migration and new institutions in line with EU standards and human rights. As argued by Laird (1999), institutions should be brought into the analysis since the focus on transformation which Europeanization leads is perceived as an institutional development. Thereof, the institutional context of this progress analyzed in this thesis is crucial. The institutional and normative changes of the asylum structure with the adoption of the LFIP indicate pieces of evidences that make it possible to name this outcome as a transformation, as Radaelli calls it (2003). The evolution of the asylum policy from ethnocentrism to security, and from security to management and of the changes in norms, styles and the ‘way of doing things’ is incredible. When we employ the process of transformation argued by Laird (1999), we can observe in this case that political experience (interaction) through negotiations, socialization of officials, meetings and other instances strengthened and formulated the institutional structure of asylum. Through equilibrium, as well, the Turkish asylum policy transformation was institutionalized during crises, such as the massive Syrian refugee crisis, encouraging institutions to rethink their preferences (Ibid). The changed discourse around the given legislation is the evidence of the changed perspective on the issue as it became more humanitarian and more management-related. When we look at the picture from this angle, we can claim that the Europeanization process of the Turkish asylum policy has ended with a transformation.

However, when we look at the overall outcome, Turkey’s adherence to the geographical reservation to the 1951 Refugee Convention and its 1967 Protocol is still the case in the LFIP. Although necessary steps are taken to manage an immediate mass influx and to advance the rights and conditions of non-European asylum seekers, the geographical reservation blocks the LFIP to be a transformational outcome of the Europeanization process of Turkish asylum policy. However, the adoption of the LFIP is labeled as *refreshing* in a period identified by anti-immigration and asylum policies and debates in some EU member states (Sagiroglu, 2016:51). Heritier argues that domestic structures and

policy legacy may provide resiliency as well as flexibility so that they absorb certain changes while preserving the core (2001). The maintained geographical reservation prevents this research from naming this outcome of Europeanization as a transformation. The outcome can be named as absorption, where change is adaptational. Yet, the conditions Turkey set to lift the reservation presents a willingness to fully transform the asylum policy. That is why the outcome can be positioned between absorption and transformation. If EU accession gains credibility again, the Turkish authorities seem ready to lift the geographical reservation as well. Therefore, Europeanization can produce a significant change, in contrast to what Ladrech claims (2010).

## **6. Conclusion**

The contemporary refugee crises and the tragedies that occurred in the Mediterranean and the Aegean seas constituted the main catalyst of this thesis. Turkey's geopolitical position signifies its position affecting the refugees, the EU and itself. With the EU as the target land of the journey, Turkey serves as a transit country and is rapidly becoming a country of immigration due to its economic and political developments. However, the lack of a comprehensive migration and asylum law and adherence to the geographical reservation of the 1951 Refugee Convention and its 1967 Protocol have constituted a sizable misfit between the EU and the domestic level, and it is perceived as an obstacle in the accession process.

The attainment of candidate status at the 1999 Helsinki Summit and the beginning of the negotiations in 2005 are two main factors that affected the Turkish Europeanization process. The asylum and migration issue was one of the main issues Turkey that needed to be adjusted to the EU acquis. The thesis argued that the EU accession process had an immense impact on the evolution of Turkey's asylum policy. The Europeanization phenomenon is studied by a three-step model to explain the evolution process of Turkish asylum policy and the formation of the LFIP since it contributes an aspect that reveals the causal relationship. By this element, the thesis contributed to the Europeanization field where most of the studies are conducted on EU member states and do not mention a causal relationship. An intensive case study was designed for this purpose by employing process tracing, which enabled comparison between the theoretical pattern acquired from the three-step model and the empirical one. In this regard, document and content analyses are applied to the asylum sections of Justice and Home Affairs chapters of the sixteen selected regular progress reports for Turkey by the European Commission. The time frame of the analysis was between the 1999 acquirement of candidate status and the 2013 adoption of LFIP. The progress report of 1998 is also included in the analysis since it is the very first progress report that Turkey received. Additionally, the analysis led me to other



documents for further study, such as related amendments, laws and circulars, which I analyzed as well.

The institutionalist approach is employed, because it focuses on how institutions emerge within a given context. Two branches of the new institutionalist theory are applied to underpin the causal relationship and to attain a better theoretical understanding of the processes of rational choice and social institutionalization. The findings showed that a presence of a credible EU accession highly motivated the domestic actors' preferences and the process between 1999 and 2005. The membership conditionality and the domestic political costs of adoption, which were lower than the overall reward, along with the appropriate choice and socialization of the Turkish authorities and officials with their European counterparts played a significant role in this process. As Europeanization studies suggested, external incentives, also termed as conditionality, are the main tool of the EU for inducing national domestic change. The analysis shows that the process is supported by the EU through the twinning projects, the training activities of law enforcement officers and judiciary, intense consultation and the funding of the construction of necessary facilities such as reception centers. Important adjustments took place in the area of asylum in line with the EU reports during this period.

After the beginning of the negotiations, the focus of conditionality shifted to specific EU rules of the *acquis communautaire*. The findings proved that although a slowing down has occurred in the general process of Europeanization because of the fading credibility of EU membership, the progress in the area of asylum maintained its strength. It was because of steps that Turkey had already taken, the socialization of the officials, and the rational decisions on maintaining the progress in the asylum area. In other words, Turkish authorities' perception of what is good and logical and their interaction with European authorities motivated them to pursue the Europeanization of asylum policy and to improve the legislation to EU and international standards. In this regard, the analysis proved that the accession process to the EU influenced domestic change

significantly. The thesis constitutes an evidence of applicability of the three-step model to an EU candidate state, therefore sustains the Europeanization debate.

The interactive progress resulted in the Law on Foreigners and International Protection. With the adoption of the law, the separate specialized unit of the Directorate General of Migration Management was established and the Turkish legislation came into alignment with the EU *acquis* and was therefore Europeanized. As Radaelli defined in 2003, the asylum policy, rules, procedures, and norms defined in the EU level are constructed, diffused, and institutionalized in Turkey, resulted in a change in the Turkish asylum policy. However, Turkey maintained its refusal to grant refugee status to those from non-European countries with its adherence to the geographical reservation to 1951 Geneva Convention and its 1967 Protocol. Although the new law supplies active solutions to any mass influx and grants conditional refugee status and subsidiary protection, the geographical reservation still needs to be lifted for full transformation. If Turkey's conditions to remove the reservation can be realized and the EU membership credibility can gain its strength again, I believe that full transformation could be achieved in the Europeanization of Turkish asylum policy. Therefore, Europeanization driven by the EU accession process can result in an enormous domestic change. The willingness of Turkish authorities declared in several official documents, such as the NPAA and the Asylum Strategy Document, strongly supports this conclusion.

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## 8. Appendices

### Appendix 1: The Data Collected through Content Analysis

Years	Word count of chapter 24	Word count of asylum section in Chapter 24	Word count of migration section in Chapter 24	Word count of asylum and migration sections in Chapter 24
1998	551	84	62	146
1999	1091	127	277	404
2000	883	354	66	420
2001	2606	344	462	806
2002	3871	393	891	1284
2003	4588	1360	This section is combined with asylum section	1360
2004	4127	587	596	1183
2005	2412	534	393	927
2006	1673	203	129	332
2007	1976	356	248	604
2008	2280	389	342	731
2009	2601	794	This section is combined with asylum section	794
2010	3586	690	957	1647
2011	4207	503	991	1494
2012	2664	370	523	893
2013	2315	356	509	865

Years	Portion of asylum section to Chapter 24	Portion of migration section to Chapter 24	Portion of asylum and migration sections to Chapter 24
1998	15.24500907	11.25227	26.49728
1999	11.64069661	25.38955	37.03025
2000	40.09060023	7.474519	47.56512
2001	13.20030698	17.72832	30.92863
2002	10.1524154	23.01731	33.16972
2003	29.64254577	This section is combined with asylum section	29.64255
2004	14.22340683	14.44148	28.66489
2005	22.13930348	16.29353	38.43284
2006	12.13389121	7.710699	19.84459
2007	18.01619433	12.55061	30.5668
2008	17.06140351	15	32.0614
2009	30.52672049	This section is combined with asylum section	30.52672
2010	19.2414947	26.68712	45.92861
2011	11.95626337	23.55598	35.51224
2012	13.88888889	19.63213	33.52102
2013	15.37796976	21.98704	37.36501

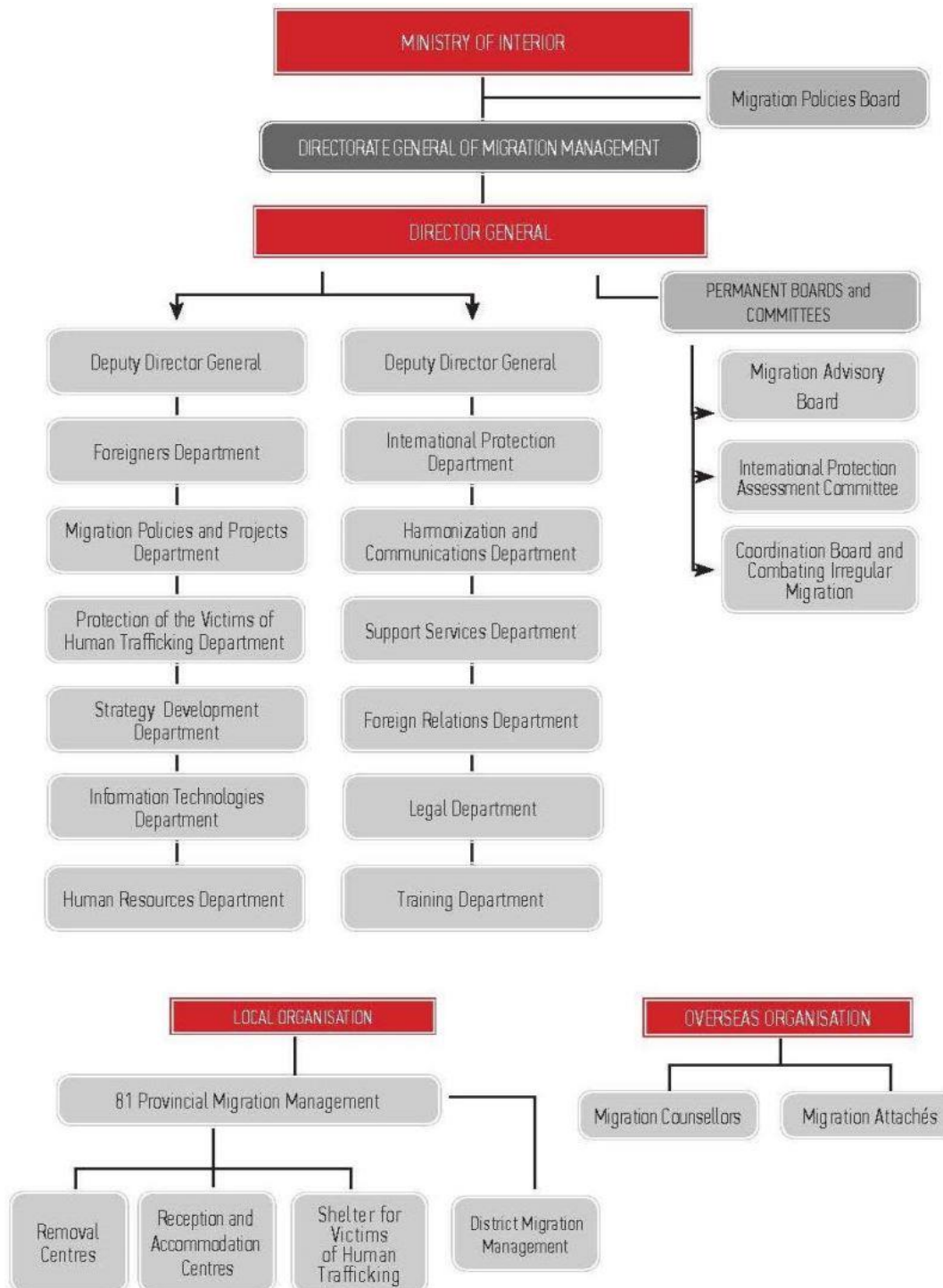
Years	Refugee count	Asylum count	International protection count	Temporary protection count
1998	4	5	0	0
1999	2	8	0	0
2000	7	11	0	0
2001	10	13	0	0
2002	6	20	0	0
2003	8	19	0	0
2004	7	24	0	0
2005	3	26	0	0
2006	0	8	0	0
2007	0	25	0	0
2008	6	18	0	0
2009	6	25	0	0
2010	10	27	0	0
2011	15	18	6	1
2012	9	12	5	1
2013	17	13	7	2

## Appendix 2: Political Map of Turkey



(Source: Maps of World, 2014)

**Appendix 3: Organization Scheme of the Directorate General of Migration Management**



(Source: DGMM, 2015(b))