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The CEAS and the Europeanization of Turkey's Asylum Policy after the Syrian Crisis

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Although the European Union (EU) has a Common European Asylum System (CEAS), the policy stance of the Member States towards the Syrian crisis caused some problems in the implementation of the CEAS. Within this context, Turkey has turned into the most important partner of the EU due to the fact that it prevents the entrance of the asylum-seekers into the territory of the Member States. Therefore, the Syrian issue has become a bargaining chip between Turkey and the EU. This article examines the Europeanization process of Turkey's asylum policy as well as the development of the CEAS and its implementation with respect to Syrian refugees within the EU.

Introduction

The Common European Asylum System (CEAS) has been one of the most contentious subjects on the agenda of the European Union (EU) since 1990. Although the EU has made some efforts to establish a well-functioning CEAS, it has not yet reached the level required for a uniform common EU policy. The Syrian crisis since 2011 has provided a good example of the failure of the EU to deal with refugee crises. Given that Turkey is a candidate for EU membership as well as a transit country for illegal immigrants to the EU (Kirisci 2007, 91), the EU has assumed that a close relationship with Turkey would minimize the perceived political, social and economic costs of asylum-seekers. Turkey has considered the same issue as a bargaining chip with the intention to revive the accession negotiations frozen since 2006 and to achieve visa-free travel to the EU for Turkish citizens.

The main aim of this article is to examine the Europeanization process in Turkey's asylum policy in the context of the Syrian crisis. The first section analyses the development of the CEAS and its implementation towards Syrians. In the second section,

the Europeanization of Turkey's asylum policy is scrutinized before and after the Syrian crisis in order to evaluate the EU's impact on Turkey's asylum policy.

Development of the European Asylum System

The main aim of the EU was to build a single market with the members of the EU. Maintaining a single market requires the protection of external borders. Otherwise, the single market could become a potential area for drug trafficking, organized crime and terrorism. Before the Balkan Wars, the asylum issue was regulated by an intergovernmental approach in line with the Dublin Convention. Yet the Balkan Wars brought the issue into the EU's framework via the Maastricht Treaty, keeping intergovernmental cooperation under the Justice and Home Affairs Pillar (Kaunert and Leonard 2012, 7). Developments in Central and Eastern Europe after the end of the Cold War confronted the EU with the threat of a mass influx (Juss 2005, 759). The issues regarding the free movement of persons, such as visa, immigration and asylum, within the first Community-Pillar were addressed by the Amsterdam Treaty with the objective to create an 'Area of freedom, security and justice' (Kaunert and Leonard 2012, 8–9). These amendments triggered the idea at the Tampere European Council (1999, para.14–15) to build the CEAS in the EU in two stages. The first stage was accomplished by harmonizing Member States' legal frameworks on the basis of common minimum standards (Council of the European Union 2009, No.14863/1/09), and was considered a success (Kaunert and Leonard 2012, 13) through the adoption of (1) European Dactyloscopy (Eurodac);[1] (2) the Temporary Protection Directive (TP);[2] (3) Dublin II Regulation;[3] (4) the Reception Conditions Directive[4] (for discussions, see Guild 2004, 213–218); (5) The Asylum Qualification Directive[5], and (6) the Asylum Procedures Directive[6] (APD).

The second phase started in 2004 with the adoption of The Hague Programme. This was more like an evaluation of the first phase instruments and a preparation stage for establishing 'a common asylum procedure and a uniform status for those who are granted asylum or subsidiary protection'[7] with a deadline of 2012 (Commission of the European Communities 2008; Peers 2013, 1).

The adoption of the Lisbon Treaty in 2009 was an impetus for the fulfilment of the second phase of the CEAS. The objectives of the CEAS have gained a legally binding status and become part of the primary law of the EU under Article 78 of the Treaty on the Functioning of the EU (TFEU) (for comments of the international and non-governmental organizations, see Chetail 2016, 18–19). Furthermore, since

1. Council Regulation (EC) 2725/2000 of 11 December 2000, OJ L 316/1, 15 December 2000.
2. Council Directive 2001/55/EC of 20 July 2001, OJ L 212/12, 7 August 2001.
3. Council Regulation (EC) 343/2003 of 18 February 2003, OJ L 50/1, 25 February 2003.
4. Council Directive 2003/9/EC of 27 January 2003, OJ L 31/18, 6 February 2003.
5. Council Directive 2004/83/EC of 29 April 2004, OJ L 304712, 30 September 2004.
6. Council Directive 2005/85/EC of 1 December 2005, OJ L 326/13, 13 December 2005.
7. Council of the European Union, The Hague Programme: Strengthening Freedom, Security and Justice in the European Union, 13 December 2004, OJ C 53/1.

the entry into force of the Lisbon Treaty, the Charter of the Fundamental Rights of the EU (Charter) that includes provisions reiterating the respect of the right of asylum and the non-refoulement principle under Article 18-19 has become legally binding. Last, the European Parliament (EP), through the joint decision-making power in asylum and the Court of Justice of the EU (CJEU), has reinforced its powers with regard to asylum policy (Kaunert and Leonard 2012, 15). These legal developments paved the way for the adoption of the Stockholm Programme in 2009. The main aim of this Programme was to establish 'a common area of protection and solidarity based on a common asylum procedure and a uniform status for international protection'.[8] It brought two dimensions into the CEAS. The first dimension is related to protection, as the Stockholm Programme intended to establish a common asylum procedure for those who are granted asylum or subsidiary protection by 2012 (Council of the European Union 2009), except for the TP, all the secondary legislation adopted during the first phase was recast[9] until 2013. The Regulation establishing a European Asylum Support Office (EASO) was adopted in 2010, and the EU's long-term Residents' Directive and the EU's Refugee Fund were also amended. The second dimension is concerned with the principle of solidarity, in which 'the Council and the EP are required to intensify their effort to establish a common asylum procedure and a uniform status for asylum or subsidiary protection'.[10]

The Need for an Amendment to CEAS: The European Agenda on Migration

Apart from the legal developments above, there has been legislation on asylum-seekers in the EU since the establishment of the CEAS. Yet, the main question is whether the EU has an efficient, uniform and functioning common asylum system or not. Although some of the reforms have had a positive impact on the asylum policy, there has been a lack of uniform asylum procedure when it comes to implementation. The Syrian issue is a good example for the failure of the CEAS. The main reason for this failure is that the member states still have a decisive role in the implementation of the CEAS (Hatton 2015, 615). In particular, except for the Dublin III Regulation, the member states have a discretionary power on how to apply all the other legal instruments, thereby making for different implementations

8. European Council, The Stockholm Programme – An Open and Secure Europe Serving and Protecting the Citizens, 4 May 2010, OJ C 115/1.
9. Directive 2011/95/EU of the European Parliamet and of the Council of 13 December 2011, OJ L 337/9, 20 December 2011 (Recast Qualification Directive); Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013, OJ L 1980/96, 29 June 2013 (Recast Reception Conditions Directive); Directive 2013/32/EU of the European Parliament and the Council of 26 June 2013, OJ L 180/160, 29 June 2013 (Recast Asylum Procedures Directive); Regulation (EU) No. 604/2013 of the European Parliament and the Council of 26 June 2013, OJ L 180/31, 29 June 2013 (Recast Dublin Regulation); Regulation (EU) No. 603/2013 of the European Parliament and the Council of 26 June 2013, OJ L 180/1, 29 June 2013 (Recast Euodac Regulation).
10. European Council, The Stockholm Programme – An Open and Secure Europe Serving and Protecting the Citizens, 4 May 2010, OJ C 115/1.

of the EU *acquis* (Den Heijer *et al*. 2016, 610). By implication, the discretionary power of the member states to enhance the minimum standards has resulted in diversity in implementation rather than in a common asylum policy throughout the EU (Den Heijer *et al*. 2016, 609; Hatton 2015, 615).

Moreover, the Dublin III Regulation has also caused the CEAS to malfunction. It determines the responsible member state for examining an asylum application and also provides protection for the applicant until a decision is taken. Article 13 of the Dublin III Regulation states: '... an applicant has irregularly crossed the border into a Member State by land, sea or air having come from a third country, the Member State thus entered shall be responsible for examining the application for international protection. ...'

Since the outbreak of the civil war in Syria, nearly 11 million Syrians have fled their homes to escape war and to secure international protection. Syria figures in Annex II of Council Regulation (EC) 539/2001 of 15 March 2001, listing the third countries whose nationals must have a visa when crossing the EU external borders (Peers 2012, 227). This has forced Syrian asylum-seekers to enter the EU through irregular means (Den Heijer *et al*. 2016, 616). When a Syrian asylum-seeker has irregularly crossed the sea, air or land border of a member state coming from a third country, the State that the asylum-seeker has entered becomes the member state responsible for the registration and examination of an asylum application. This provision is one of the most controversial ones in the Dublin III Regulation because of the heavy burden it puts on the frontline member states. Irrespective of the final decision on the application, the same member state is under the responsibility to offer public services. Furthermore, even if a Syrian asylum-seeker moved to another member state without waiting for a conclusion on her or his application, or without putting in any application, he/she should be sent back to the State of first arrival. It is obvious that this provision puts frontline member states into a disadvantageous position.

Due to the lack of a burden-sharing system in the Dublin III Regulation, the frontline member states have tried to escape the first arrival rule by not registering asylum-seekers (Den Heijer *et al*. 2016, 612), as well as by preventing asylum-seekers from entering their territory. Such policy stances of the member states have not only endangered the lives of refugees but also constitute a violation of the non-refoulement principle of the EU and of international law (Bilgin 2017, 76–77). The number of Syrians entering the EU peaked in 2015. The increased number of Syrian asylum-seekers has forced some member states to ignore their responsibilities under the CEAS, which is also considered a violation of the Schengen agreements (BBC News 2016). These shortcomings in the functioning of the CEAS forced the EU to adopt a European Agenda on Migration Policy (EAMP) in 2015.

The first novelty brought by the EAMP is the establishment of an emergency procedure, which includes a relocation and resettlement framework under Article 78/3 TFEU on mass influxes to the EU (for more detail, see Ivanov 2015). This framework aims not only to reduce the burden on the frontline states but also to provide a legal structure for the resettlement and relocation of asylum-seekers. Although the

emergency procedure provided a temporary solution, it poses a threat to the solidarity principle and the fulfilment of the responsibilities of the member states.

The hotspot approach is the second important development enshrined in the EAMP (Carrera *et al*. 2015, 7). It does not only provide for the registration of the asylum-seekers but also prevents discretionary practices by frontline member States to register them.

The adoption of the regulation establishing a common safe third country list is the third measure resulting from the EAMP (Carrera *et al*. 2015, 7), amending Article 39 of APD as follows:

> Member States may provide that no, or no full, examination of the application for international protection and of the safety of the applicant in his or her particular circumstances …, that the applicant is seeking to enter or has entered illegally into its territory from a safe third country according to paragraph 2.

This provision enables all member states to examine international protection applications and to decide to send the applicant back to the country where she/he passed through if that country provides international protection for the applicant. So, in accordance with Article 39 (2), a third country can only be accepted as a safe third country if,

> it has ratified and observes the provisions of the Geneva Convention without any geographical limitations; it has in place an asylum procedure prescribed by law; and it has ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and observes its provisions, including the standards relating to effective remedies.

While Article 39 APD reduces the burden on the frontline Member States stemming from the 'first country of asylum' principle enshrined in Article 13 of the Dublin III Regulation and has a deterrent effect on asylum-seekers planning to go to the EU, due to the risk of repatriation, the common safe third country list causes controversial situations, because of the countries it includes, such as Turkey (for more detail, see Roman *et al*. 2016).

The EU has also adopted a number of Action Plans and a Recommendation to prevent smuggling and irregular migration.[11] The transformation of Frontex into a European Border and Coastal Guard Agency was the last output of the EAMP. As Carrera *et al*. (2015, 11), specify, this transformation is needed to 'facilitate the development and implementation of common EU border management and operationally support frontline EU Member States whose national border authorities are not effectively coping with the challenges on the ground.'

11. European Commission (2015) EU Action Plan Against Smuggling, 27.05.2015, COM(2015) 285 final; European Commission (2015) EU Action Plan on Return, 09.09.2015, COM(2015) 453 final; European Commission Recommendation of 27.09.2017 eastablishing a common 'Return Handbook' to be used by member states' competent authorities when carrying out return related task C(2017) 6505.

The CEAS and the Syrian Refugees

In accordance with Article 1 of the Convention, Syrians who fled the conflict and sought safety in EU Member States should be accepted as refugees. All EU member states have an obligation to protect refugees, including the non-refoulement principle stemming from the Geneva Convention, its 1967 Protocol and the Charter under Article 18. Although the EU has had an asylum policy since the 1990s, it has failed to cope with the mass influx coming from Syria. Therefore, the increased number of refugees, mainly from Syria, has forced the EU to amend its asylum policy. These amendments were basically designed to protect the EU borders rather than the asylum-seekers.

As part of the EU's policy to protect its borders, the EU has signed several readmission agreements and a refugee deal with Turkey as well as mounted push back operations by Frontex in order to minimize the number of asylum seekers entering the EU. Such a policy stance towards asylum-seekers has been criticized on the grounds of the protection of human rights. Under the existing framework of the EU's asylum policy, even if a Syrian manages to enter the EU, the treatment of asylum-seekers still varies from one member state to another in terms of the length of asylum procedures, and also in terms of the reception conditions.

It is clear that the Dublin III Regulation and the reforms brought by the EAMP neither provided for an establishment of a common asylum policy nor contributed to the legal status of Syrians. Therefore, the EU Commission proposed the Dublin IV Regulation as a means of burden-sharing and harmonizing the reception conditions in the member states.

In conclusion, the CEAS has been used to achieve a fair allocation of asylum-seekers among member states and to keep asylum-seekers away from the EU by enhancing border-controls and signing readmission agreements with third countries as well as a refugee deal agreement with Turkey (Karakoulaki 2018). As a second best approach, Turkey, as a transit country for refugees, was considered by the EU a suitable candidate to which to transfer the risk and the cost associated with refugees. As part of this approach, the EU has sought to reactivate EU–Turkey relations through a Europeanization process. The next section analyses the Europeanization process of Turkey's asylum policy.

Europeanization Process of Turkey's Asylum Policy

During the period between the establishment of Turkey in 1923 and the end of the Cold War, Turkey's asylum policy was shaped by two concerns: security and national identity. As Biehl (2009, 3) explains,

> Concerns over strengthening national identity and maintaining national unity had a strong impact on the immigration practices of nation states. Since the founding of the Turkish Republic in 1923, the immigration policies of Turkey have showed very clear tendencies in this respect.

Similarly, for İçduygu (2015, 3), 'Kinship-based flows dominated Turkey's immigration and asylum system for decades following the creation of the Republic of Turkey

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in the 1920s. These flows were encouraged by nationalistic immigration policies aimed at solidifying the nation-building process.'

This policy stance of Turkey is largely explained by the historical legacy of the Ottoman Empire, starting from the view that the Ottoman Empire collapsed because of its multi-ethnic and multi-cultural nature. Therefore, Turkey's asylum policy gave priority to Muslim Turkish speakers and people from the Balkans who could be easily integrated into Turkish society (Kirisci 2007, 93). The policy was designed to minimize the perceived impact of asylum on a society based on homogeneity and to reduce the number of refugees through geographical limitation. The Law on Settlement of 1934 was an indication of Turkish concerns over strengthening national identity. As Kirisci (2000, 4) puts it, 'It is a piece of legislation that the Government designed as a tool for constructing a homogeneous sense of national identity based on the precepts of modernism and secularism.'

Similar concerns can be seen in Turkey's approach to the Geneva Convention in which Turkey grants refugee status to people from Europe (İçduygu and Keyman 2000, 384). However, due to international developments since the end of the Cold War, Turkey's asylum policy has been subject to change. Two main factors lie behind this change: (1) political instability in the Middle East and in the Balkans, and (2) the Europeanization process. Turkish policymakers realized that Turkey's asylum policy was not only insufficient to cope with a mass influx, but also failed to comply with EU norms. As previous experiences indicated, political instability and civil wars in the Balkans and the Middle East have caused Europe and Turkey to become the main destinations for asylum-seekers. More recently, the report of the UN Refugee Agency (UNHCR 2017) announced that: 'Turkey continued to host the world's largest number of refugees under the UNHCR's mandate, with 3.4 million Syrian and 346,800 refugees and asylum seekers of various nationalities'. In light of these developments, the Syrian crisis and the prospect of EU membership have led to reforms in Turkey's asylum policy. Since the EU Helsinki Summit of 1999, Europeanization has become a popular discourse in Turkish domestic and foreign policy (for a detailed analysis, see Arikan 2006). Although the concept of Europeanization has been subject to debate, it has mainly concerned institutional, political and legal changes imposed by European integration (Exdaktylos and Radaelli 2009, 508). From this perspective, the EU has applied a policy of conditionality, involving 'stick' and 'carrot' instruments to influence Turkey to undertake some policy reforms in harmony with the EU norms. Conditionality and the Europeanization process seemed to be taken seriously by Turkey because of the perceived political, economic and security benefits of having a close relationship with the EU.

Europeanization Process of Turkey's Asylum Policy until the Syrian Crisis

Political instability and conflicts in the periphery of the EU have generated a mass influx, thus posing a threat to the security of Europe in the form of refugees. From this perspective, the EU considers Turkey an important front zone and a transit

country for refugees. In the early years of the post-Cold War era, the impact of the EU on Turkey's asylum policy was rather slight. For example, although the EU continued to pressure Turkey on the issue, Turkey was not only reluctant to lift a geographical reservation to the Geneva Convention of 1951, which only grants refugee status to people from European countries, but also refused to conclude any readmission agreements with the EU (European Commission 1998). The Helsinki process of 1999 not only made Turkey more susceptible to EU influence; it also provided leverage to the EU to encourage policy reforms in Turkey's asylum policy. Indeed, the effect of prospective membership on the harmonization process of Turkey's asylum policy with EU norms became more apparent: for instance, Turkey accepted the Turkish National Programme for the adoption of the *acquis*, which contained proposals for legal and institutional reforms to bring improvements in the asylum regime of the country (Turkish National Programme 2001, 447). Turkey even offered to give a green light to lift the geographical reservation on the Geneva Convention when all the conditions are met in the long run. As the National Programme (Turkish National Programme 2001, 447) states:

> Lifting the geographical reservation on the 1951 United Nation Convention Relating to the Status of Refugees will be considered in a manner that would not encourage large-scale refugee inflows from the East, when the necessary legislative and infrastructural measures are introduced, and in the light of the attitudes of the EU member states on the issue of burden sharing.

Similarly, when the EU proposed an accession commitment for Turkey at the Copenhagen Summit in 2002, Europeanization become an even more powerful instrument in Turkey's asylum policy. Turkey adopted a National Action Plan for the Adoption of EU Acquis in the Field of Asylum and Migration, including the establishment of asylum and migration authorities, family unification, long-term residence and training programmes (Icisleri Bakanligi 2005). Furthermore, Turkey opened negotiations with the EU in the context of a readmission agreement (European Commission 2005). Even without an accession commitment, the EU started accession negotiations with Turkey in October of 2005. This further increased the EU's leverage on Turkey (for a detailed analysis, see Arikan 2006). In line with these negotiations, the EU listed a number of areas where Turkey needed to take measures in order to align its legislation with the *acquis* in the areas of justice, freedom and security (European Commission 2005). In fact, Turkey, to a large extent, reacted positively to EU concerns and criticism. Turkey made progress in simplifying and making uniform the implementation of asylum procedures and in improving accommodation facilities and border control conditions.

As the EU Commission in its report (2005) underlined: 'Turkey continued to make progress in aligning its legislation with the acquis and EU practices in the area of justice freedom and security, and Turkish legislation is aligned to a certain extent with the EU acquis.'

As stated above, even with the lack of membership carrot, accession negotiations had brought a new dynamism and further developments in Turkey's asylum policy.

Yet, lifting the geographical reservation of Turkey on the Geneva Convention remained a key issue. Turkey took a reluctant approach towards the EU's claim on this issue, because it raised not only concerns over security, but also included cost and risk factors that caused a great deal of economic, social and political concerns in Tukey. Because of its proximity to unstable regions such as the Middle East, Asia and North Africa, Turkey has become not only an important destination for political refugees, but also a transit country for those who are seeking political asylum in EU countries. In particular, the outbreak of civil war in Syria has brought the refugee issue to the agenda of EU–Turkey relations (İçduygu 2015, 2). The EU member states and institutions, including the European Parliament, underlined the need for a working relationship with Turkey to deal with the growing humanitarian dimension of the Syrian crisis (European Parliament 2012).

Europeanization Process of Turkey's Asylum Policy after the Syrian Crisis

The initial policy of Turkey to the refugee crisis was that Syrian refugees would return to Syria within a year, in the expectation that the Syrian War would be over soon. Therefore, Turkey launched an open door policy towards Syrian refugees within a legal framework of temporary protection (for a detailed analysis, see Kirisci 2014). However, the continued mass influx from Syria since 2011 and intensive international pressure compelled Turkey to rearrange its asylum policy. As a result, the Law on Foreigners and International Protection[12] (LFIP) was adopted in the Turkish Parliament in 2013.

Until the adoption of LFIP in 2013, there were two kinds of status envisaged for asylum-seekers by the 1994 Asylum Directive.[13] One was the refugee status granted to qualified asylum-seekers from Europe.[14] The other was the asylum-seekers status for people who also qualify but come from outside of Europe. In accordance with the 1994 Asylum Directive, asylum-seekers had only the right to ask for temporary residence until they applied for refugee status in another country, while refugees have the right to stay in Turkey until a durable solution is found. The 1994 Asylum Directive also distinguishes between individual and mass influx refugees/asylum-seekers.

The main difference is that if there is a mass influx to Turkey, both those that seek to get a refugee status in Turkey and the asylum-seekers, irrespective of where they come from, are accepted under the protection of Turkey during the period they stay in the country without need for an application.[15]

The second difference between the individual and mass influx refugees and asylum-seekers is that while individual applicants, irrespective of being a refugee

12. The Law on Foreigners and International Protection. Available at https://en.goc.gov.tr/kurumlar/en.goc/Ingilizce-kanun/Law-on-Foreigners-and-International-Protection.pdf (accessed 12 February 2019).
13. 1994 Asylum Directive. Available at http://www.multeci.org.tr/wp-content/uploads/2016/12/1994-Yonetmeligi.pdf (accessed 12 February 2019).
14. 1994 Asylum Directive, Articles 3, 10, 6 and 12.
15. 1994 Asylum Directive, Articles 3, 10, 6 and 12.

or asylum seeker, stay in guesthouses if their application is accepted, mass influx refugees or asylum-seekers stay in camps until sent back to their country. Given that asylum and refugee issues were regulated by administrative circulars in the past, the LFIP is important in a sense that it constitutes the first comprehensive domestic law relating to migration and asylum. Within the context of LFIP, types of international protection were classified as refugees, conditional refugees and subsidiary protection. As the definitions of refugee and conditional refugees coincided with the statuses of refugees and asylum-seekers defined under the 1994 Asylum Directive, the only difference brought by the LFIP was re-naming the status of asylum-seekers. In other words, foreigners who were entitled to the status of asylum-seekers under the 1994 Asylum Directive were gathered under the status of conditional refugees after the adoption of LFIP. On the other hand, one of the remarkable changes brought by the LFIP was the acceptance of subsidiary protection extended to foreigners who cannot return to their countries for the same reasons as refugees and conditional refugees but who do meet the conditions to obtain those statuses. While these statuses envisaged individual applicants, Syrians are not entitled to those statuses, but temporary protection. As Article 91/1 of the LFIP states: 'Temporary protection may be provided for foreigners who have been forced to leave their 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.'

Under Article 91/2, LIFP also stipulates that the rights and the obligations of foreigners under temporary protection, the duration of their stay in Turkey, cooperation and coordination among national and international institutions and organizations, and the duties and mandates of the government towards them, will be regulated by a Directive of the Council of Ministers. The Temporary Protection Directive (TPD) was adopted and entered into force in 2014 and has been retrospectively applied to all Syrians arriving in Turkey individually or in mass since 28 April 2011[16].

From the institutional perspective, the LFIP established the Directorate General for Migration Management, with the objective of developing legislation and administrative capacity.[17] With the adoption of the TPD, the 1994 Asylum Directive, which encompassed all refugees and asylum-seekers arriving in Turkey individually or in mass, was annulled. Although the rights enshrined in the 1994 Asylum Directive for foreigners arriving in Turkey in mass and in the TPD are similar, the TPD not only regulates them in detail but also enhances and facilitates the procedures to benefit from them. So, the first positive impact of the new legislation is to resolve the confusion about the definitions and the types of international protection towards foreigners, and to develop comprehensive and steady measures for them. In this respect, the legal status of Syrians who arrived in Turkey after 28 April 2011 can be classified as foreigners under the temporary protection of Turkey and they are

16. Temporary Protection Regulation Interim Provisions Provisional Article 1. Available at https://www.goc.gov.tr/kurumlar/goc.gov.tr/Gecici-Koruma-Yonetmeligi-Ingilizce.pdf (accessed 12 February 2019).
17. The Law on Foreigners and International Protection, Article 103.

subject to both LFIP and TPD. Second, improvements have been made on the implementation of rights, but nothing has changed regarding the limited stay, which is until they return to their countries or move to another country as a refugee.

Nonetheless, these legal and institutional reforms on asylum have not satisfied the EU: it has expressed once again its disapproval about Turkey's geographical limitation of the Geneva Convention and its criticism on the grounds of Turkey's unsatisfactory implementation of international standards, including a readmission agreement (European Commission 2014). This is because the EU has concerns regarding not only the economic implications of refugees, but also regarding the social and political implications for the domestic politics of member states.

Given the disagreements among member states over the distribution of the increased number of refugees and about burden-sharing throughout 2015, the ongoing refugee crisis became a hot-button issue with the EU. This problem and the timing of the EU–Turkey Summit of November 2015 were not purely coincidental. On 15 October 2015, Turkey and the EU agreed on a Joint Action Plan, which included not only joint cooperation for the support of Syrians under temporary protection, but also a commitment to a reinforced dialogue with Turkey, including on visa liberalization (European Commission 2015). On 7 March 2016, an EU–Turkey Summit was held to strengthen cooperation between both parties on the migration and refugee crisis and to discuss the implementation of the existing Joint Action Plan. They also agreed on new proposals, including the return of all new irregular migrants crossing from Turkey to the territory of Greece, the speeding up of the visa liberalization process, the payment of €3 billion for Syrian refugees, and the opening of new chapters in the Turkish accession process to the EU (European Council 2016). This Summit decision seemed to be calculated diplomacy to find a middle ground acceptable to both parties. While the EU intended to reduce the costs and risk factors of mass influxes from Syria through sending illegal migrants back to Turkey and through efficient border management to stop irregular migration from Turkey to the EU, Turkey sought to reactivate its relations with the EU through the visa liberalization dialogue and by opening new chapters in the accession process. The latest EU Commission report on Turkey made reference to Turkey's commitment to an effective management of migratory flows via the Mediterranean route and the implementation of a visa liberalization roadmap (European Commission 2018).

Conclusion

First, although the EU is deemed to have a CEAS, the Syrian crisis proved that it is still dysfunctional due to the reluctance of the member states to implement it. The EU's failure to establish a common asylum policy with an appropriate legal framework throughout Europe can be primarily explained by the costs and risk factors associated with the refugee issue.

Second, the limited impact Europeanization has had on the Turkish asylum policy can be explained by (1) a lack of accession 'carrot' in the EU's policy towards

the prospect of Turkish membership; (2) insufficient 'carrot' instruments to satisfy Turkey; (3) a credibility dilemma in the EU's asylum policy.

Third, Turkey has changed its asylum policy in the aftermath of the Syrian crisis. The change of the Turkish asylum policy cannot be explained only by the Europeanization process; in fact, the main factors behind the change have to do with the challenges Turkey itself has been facing since the Syrian crisis.

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