THE IMPACT OF THE EU ON ASYLUM POLICIES OF TURKEY AND JORDAN IN THE LIGHT OF THE 'SYRIAN REFUGEE CRISIS'

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ABSTRACT

THE IMPACT OF THE EU ON ASYLUM POLICIES OF TURKEY AND JORDAN IN THE LIGHT OF THE 'SYRIAN REFUGEE CRISIS'

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The Syrian Refugee Crisis became to be known as such after the irregular mass refugee/migrant flow of mostly Syrians to Europe in 2015. However, the greatest challenge of receiving the Syrians fleeing the outbreak of the Syrian conflict in 2011 belonged to the neighbouring countries to Syria. The asylum foundations and policies and their compatibility with international standards in these countries have come under scrutiny following this. The 'crisis' brought to the light the discrepancies and deficiencies in the international protection regime, in which countries of the Global North bear the minimum of responsibility sharing for refugees while countries of the Global South, as the first receivers of the refugees bear the maximum challenges. This thesis is a comparative analysis aiming to explore the changes the asylum policies of Turkey and Jordan went through as a result of the impact of the EU policy of externalization of immigration and asylum policy and its instruments after the 'Syrian Refugee Crisis', with the conditionality principle as a main strategy. While there are many factors effecting the formation of a country's asylum policy, the emphasis in this thesis will be the role of international factors. The analysis will conclude that even though domestic factors remained the most determinant ones for asylum policies in

Turkey and Jordan, the EU, in attempts to stop the mass flow through migration diplomacy and different agreements, was able to introduce acceptance and action by both of these countries to a previously taboo aspect of asylum policy: integration of refugees.

Keywords: EU Conditionality, Turkey, Jordan, Asylum Policy, Syrian Refugee Crisis

ÖZ

‘SURİYELİ MÜLTECİ KRİZİ’ IŞIĞINDA AB’NİN TÜRKİYE VE ÜRDÜN’ÜN İLTİCA POLİTİKALARI ÜZERİNDEKİ ETKİSİ

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‘Suriyeli Mülteci Krizi’, 2015 yılında çoğu Suriyelilerden oluşan kitlesel mülteci/göçmen akımının yasadışı bir şekilde Avrupa’ya gitmesiyle bu şekilde anılmaya başlandı. Ancak, Suriye’de 2011 yılında başlayan çatışmadan kaçan Suriyelileri kabul etme zorluğunu en çok Suriye’ye komşu ülkeler çekmiştir. Bu süreçten sonra, bu ülkelerin iltica temelleri ve politikaları ve uluslararası koruma rejimine uyumlulukları mercek altına alınmıştır. Bu kriz, Küresel Kuzey ülkelerinin mülteciler için minimum sorumluluk paylaşımı üstlendikleri ve mültecileri ilk kabul eden Küresel Güney ülkelerinin bu zorlukları maksimum şekilde üstlendikleri tutarsız ve yetersiz bir uluslararası koruma rejimini gün ışığına çıkardı. Bu tezin amacı, AB’nin göç ve iltica politikasını dışsallaştırma araçlarını ve stratejilerinden şartlılık ilkesini temel alarak, Suriyeli Mülteci Krizi’nden sonra Türkiye ve Ürdün’ün iltica politikalarında olan değişikliklerin üzerindeki etkisini karşılaştırmalı bir şekilde araştırmaktır. Bir ülkenin iltica politikasının oluşumunu etkileyen birçok faktör olmasına rağmen, bu çalışmada uluslararası faktörlere odaklanacaktır. Bu araştırma, Türkiye ve Ürdün’ün iltica politikalarında en çok iç etkenlerin belirleyici faktörler

olmaya devam etmesine rağmen, AB'nin bu akımı durmak için göç diplomasisi ve farklı anlaşmalar kullanarak, bu iki ülke için iltica politikaları içinde tabu olan mültecilerin entegrasyonunu, Türkiye ve Ürdün'e kabullendirmekte ve bunun için onları harekete geçirmekte başardığını sonucuna varacaktır.

Anahtar Kelimeler: AB'nin Şartlılık İlkesi, Türkiye, Ürdün, İltica Politikası, Suriyeli Mülteci Krizi

To my father

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LIST OF ABBREVIATIONS

AFAD- Disaster and Emergency Management Presidency

AFSJ- Area of Freedom, Security and Justice

APD- Accession Partnership Document

ASC- Asylum Seeker Certificates

CAMM- Common Agendas for Migration and Mobility

CEAS- Common European Asylum System

CHP- Republican People's Party

DCFTA- Deep and Comprehensive Free Trade Area

DGMM- Directorate General of Migration Management

EASO- European Asylum Support Office

ECtHR- European Court for Human Rights

EEA- European Economic Area

EaP- Eastern Partnership

ENP- European Neighbourhood Policy

ENP AP- EU-Jordan European Neighbourhood Policy Action Plan

EU- European Union

EURA- EU Readmission Agreements

EURODAC- European Asylum Dactyloscopy Database

FADO- False and Authentic Documents Online

FAFO- Norway's Institute for Labour and Social Research

Frontex- European Border and Coast Guard Agency

GAM- Global Approach to Migration

GAMM- Global Approach to Migration and Mobility

HCSP- Host Communities Support Platform

HDP- People's Democratic Party

HLWG- High-Level Working Group on Asylum and Migration

IOM- International Organization for Migration

JHA- Justice and Home Affairs

JRP- Jordan Response Plan

JRPSC- Jordan Response Platform for the Syria Crisis

LFIP- Law on Foreigners and International Protection

MFA- Ministry of Foreign Affairs

MHP- Nationalist Movement Part

MLSS- Ministry of Labour and Social Security

MOI- Ministry of Interior

MoPIC- Ministry of Planning and International Cooperation of Jordan

MOU- Memorandum of Understanding

MP- Mobility Partnerships

NAP- National Action Plan for the Adoption of the EU Acquis in the Field of Asylum and Migration

NGO- Non-Governmental Organizations

NPAA- National Programme for the Adoption of the Acquis

PKK- Kurdistan Workers' Party

PLO- Palestinian Liberation Organization

RDPP- Regional Development and Protection Programmes

RPP- Regional Protection Programmes

RSD- Refugee Status Determination

SCIBA- Strategic Committee for Immigration, Border and Asylum affairs

SRAD- Syrian Refugee Affairs Directorate

TP- Temporary Protection

TPR- Temporary Protection Regulation

UNDP- United Nations Development Programme

UfM- Union for the Mediterranean

UNHCR- United Nations High Commissioner for Refugees

UNRWA- United Nations Relief and Works Agency for Palestinian Refugees in the Near East

US- United States of America

VFA- Visa Facilitation Agreement

VLAP- Visa Liberalization Action Plan

VLD- Visa Liberalization Dialogue

3RP- Regional Refugee and Resilience Plan

CHAPTER 1

INTRODUCTION

The ‘Syrian Refugee Crisis ‘of 2015 has become one of the most discussed and studied aspects of the Syrian conflict which started in 2011, first with peaceful protests leading to a violent crackdown by the Syrian regime and then to a civil war that turned to a regional proxy war. The forced movement of Syrians escaping the violence to the neighbouring countries of Turkey, Jordan and Lebanon started well into the middle and end of 2011. However, this forced movement of Syrians which gradually increased to reach numbers that created challenges to these receiving countries, did not come to be labelled as a crisis until 2015, when the number of irregular migrants, the majority of which were Syrians, reaching Europe hit record numbers. Stories and images of Syrians willing to take the illegal and dangerous route by sea from the Turkish shores to Greek shores became the center of this intense mobility that became a crisis. Even though the majority of Syrians still remained in the receiving countries of the region, the small number that attempted to and succeeded in reaching Europe became the source of the ‘crisis’. According to the United Nations High Commissioner for Refugees (UNHCR) data, today there are still 5,576,422 registered Syrian refugees, with 3,643,704 of them in Turkey, 865,531 in Lebanon and 662,790 in Jordan (UNHCR, 2020a).

Even though most of the Syrians moving to Europe mostly used the Mediterranean route from Turkey, some of them came to Turkey from different countries where they had stayed before (other than Syria) and used Turkey for transit, deciding to move on to Europe (Crawley et al, 2016: 5). The ‘crisis’ therefore also led to increased focus on the reasons Syrians who had been staying in neighbouring countries chose to risk their lives to travel to Europe under extreme conditions. The conditions of reception, accommodation, institutional and legal frameworks for asylum of neighbouring countries with high numbers of Syrians such as Turkey, Lebanon and Jordan were

scrutinized in this attempt to find the causes of this forward migration. The attempts to contain this irregular flow of Syrians by the European Union (EU), has led to a series of enhanced negotiations and cooperation in the field of asylum and immigration with the neighbouring receiving countries to Syria. The EU's effort of containment is not unique to the 'Syrian Refugee Crisis' and is not new. Through its externalization of asylum and immigration policy, the EU has developed several evolving instruments and strategies to control unwanted migratory flows through third countries.

1.1. Research Question

The purpose of this study is to explore the impact of the EU externalization of immigration and asylum policy, especially the strategy of conditionality, on the asylum policies of Turkey and Jordan after the so-called Syrian Refugee Crisis. The main research question will therefore be 'What has been the impact of the EU externalization of immigration and asylum policies on asylum policies of Turkey and Jordan after the Syrian Refugee Crisis?'. In order to answer this question, I had to answer the following sub-questions: 1) What are factors shaping asylum policies in Turkey and Jordan prior to the Syrian Refugee Crisis?; 2) How did the EU externalization of immigration and asylum policy develop and what are its instruments and strategies?; 3) What were the dynamics of EU-Turkey and EU-Jordan relations in the field of asylum before the Syrian Refugee Crisis?; 4) Did these dynamics change after the crisis and if they did, did they have a significant impact on the asylum policies of Turkey and Jordan?

1.2.Case Selection

I have chosen Turkey and Jordan as cases to be analyzed and compared due to their role in receiving Syrian refugees as neighbouring countries to Syria, as well as their relative stability compared to other regional countries involved in the 'crisis'. Turkey and Jordan are different in terms of system of government, population, economic strength and growth, and these of course have an impact on the asylum policy applied by these countries. However, I will be exploring their approaches, tactics and strategies prior to, during and after the 'Syrian Refugee Crisis' within the specific context of the role of EU.

By the end of 2019, Turkey by hosting 3.6 million Syrians and Jordan 663 thousand Syrians, rank 5th and 4th respectively worldwide in the largest number of refugees hosted relative to their national population (UNHCR, 2019). Turkey is a signatory to the 1951 Refugee Convention and its 1967 Protocol and Jordan is not. Yet, by holding the geographical limitation to the Convention in only granting refugee status to Europeans, Turkey is similar to Jordan in that refugees coming from non-European countries are not recognized. Both countries adopted the discourse of 'guests' to refugees coming from the Middle East. Until the 'Syrian Refugee Crisis', both did not have any institutional or legal framework on asylum.

Turkey and Jordan have a long-standing relationship with the EU. Their relationship in principle is different, with Turkey being a candidate country for membership and Jordan being a significant partner within the European Neighbourhood Policy (ENP). However, with the prospect of Turkey being a member increasingly becoming difficult, the attitude and strategy of the EU towards both countries is becoming similar. We will explore this similarity in the area of asylum and immigration in this study. The larger purpose behind using Turkey and Jordan as case studies is to explore the extent to which asylum policies of countries of the Global South can be impacted by international factors.

The research in this study is based on the collection and analyses of data obtained from related official and policy documents. Documents analyzed consist of primary sources, including Turkish and Jordanian legislative documents, action plans, and EU legislative documents, communications, council presidency conclusions and action plans. Secondary sources consist of the literature on EU externalization policies, Turkish and Jordanian asylum policies and on literature looking into relations between both countries and the EU within the context of asylum.

1.3. Literature review

I conducted a literature review for this study on comparative studies on the 'Syrian Refugee Crisis' in Turkey and Jordan; studies on asylum policies in Turkey and Jordan and their interactions with the EU in the field of asylum and studies on EU

externalization of immigration and asylum policy as well as conditionality in the field of migration in its relations with Turkey and Jordan.

1.3.1. Comparative Studies on Turkey and Jordan

Most of the comparative studies on asylum and the 'Syrian Refugee Crisis' I found compared Turkey, Jordan and Lebanon- as the three major receiving countries of Syrian refugees- on different aspects of the refugee influx and presence in these countries. Very few compare only Turkey and Jordan.

One of these, titled 'A comparative study of data on Syrian refugees in Turkey and Jordan' by Lilian Maria Tonella Tüzün (2018). This 10 page article aimed at studying the refugee host policy, work and education, does not seem very consistent in its objective and concluding findings, since while stating the mentioned as the objective of the paper, in the conclusion states 'this paper explored how the political guidelines of the European Union, in addition to the war in Syria, shaped migration, and consequently, the flow of current refugees in the countries under investigation' when the paper mentions nothing about the EU guidelines and how these effected Turkey and Jordan's policies (Ibid: 27). Additionally, the paper concludes that the right to work of Syrians is not found in national legislation of the two countries (Ibid: 33), which is not true at least for Turkey. The study provides data on the number of refugees in Turkey and Jordan and concludes that refugees are now 'scattered everywhere', education is a growing problem as well as the language barrier in Turkey (Ibid: 34). There is also no mention of the EU-Turkey Statement and the Jordan Compact.

Another comparative study between Jordan and Turkey, was a working paper by Charles and van Genugten titled 'Livelihoods for Syrian Refugees: Transitioning from a Humanitarian to a Developmental Paradigm Labour Market Integration in Jordan and Turkey' (2017). The study analyses the change in approaches by Turkey and Jordan towards Syrians from a humanitarian temporary one to a semi-permanent development-based approach by incorporating them in the job market and emphasize structural economic and political barriers to this approach and highlight the role of the EU and the international community in making this approach successful.

There has been a surge in comparative studies on the 'Syrian Refugee Crisis' and its impact on Turkey, Jordan and Lebanon as the main receiving countries, especially after the crisis became more of an EU issue after 2015. Achilli et al in a study named 'Neighbouring Host-countries' Policies for Syrian Refugees: The Cases of Jordan, Lebanon and Turkey', provide an individual assessment and evaluation of each country's management of the crisis by looking into their developing policies and drew recommendations based on their evaluation (2017). They come to the conclusion that the presence of the Syrians in these countries and Europe's insistence on keeping them at 'arms-length' (Ibid: 9), has strained these countries and the strain continues due to these countries being highly dependent on international support as well as finding short-term solutions in which the Syrians are perceived as a 'temporary problem' and a 'burden' (Ibid: 49). This situation will accordingly impact the perception of the local communities in that they will see the refugees as competition in accessing resources and economic opportunities. They also state that the EU solution of financially supporting these countries only to contain the 'crisis', is not a sustainable nor adequate solution mechanism and suggest a leniency in universal human rights compliance (Ibid).

In a study name 'Local Politics and the Syrian Refugee Crisis: Exploring Responses in Turkey, Lebanon, and Jordan' Betts et al, explore the refugee responses of these countries at the sub-national level and highlight the role of municipalities as local actors in responding to refugee presence and integration. Based on studies they made in some important cities effected by Syrian refugee inflow in these countries, their findings highlight two sets of factors explaining variations in local response in the same country as- identity-based and economic factors. Accordingly, these broad factors suggest that in Turkey political parties and in Jordan tribalism matters in local decision-making, as well as the perception of elite decision-makers on whether they will win or lose if they provide inclusive or restrictive responses (Ibid: 28). Other significant findings of their research include the different impacts of international policies, such as the EU-Turkey Statement and the Jordan Compact, have at sub-national levels in these countries depending on each city's local identities and interests. Considering that a majority of the refugees in these countries now live in urban areas, they emphasize that municipalities and their mayors are as important actors as national

governments and that they should also be regarded as important partners to the international community.

More recently, Içduygu and Nimer explored the future of Syrians refugees in Turkey, Jordan and Lebanon with a study titled 'The politics of return: exploring the future of Syrian refugees in Jordan, Lebanon and Turkey' (2020). They argue that the option of return for Syrian refugees in these countries has increasingly become part of the political discourse, effected by public opinion and international and domestic politics, with decreasing chances of resettlement and unwillingness of integration (Ibid: 425). With the safety of returning to Syria questionable under the circumstances, they suggest that a framework must be created in which these countries act in collaboration with international actors, including the Syrian regime, if return is to be considered and that the options of integration and resettlement should be considered more by all actors involved (Ibid: 426).

The most comprehensive study comparing refugee governance in Turkey, Jordan and Lebanon and the changes it went through between 2011 and 2018 as a result of the Syrian Refugee Crisis is that of Mencutek (2018). Mencutek applies a proposed model of multi-pattern and multi-stage refugee governance to identify differences and similarities between the three countries. She argues that these countries go through different policy patterns and stages when applying their refugee governance and the range of economic, domestic and international factors that influence policy making. As we shall see in Chapter 2, she identifies three broad macro-level explanations that drive the national governance of mass refugee migration as 1) international politics explanation 2) the security and domestic politics explanation; and 3) the economic-development explanation and concludes that in the case of Turkey, the impact of international politics factors, in Jordan international political economy-development factors and in Lebanon both national security/domestic politics and economy/development factors are stronger in explaining policy-making (Ibid: 244).

1.3.2. Studies on Asylum Policy in Turkey and Jordan

Studies on the asylum policy of Turkey in general highlight the lack of national legislation in this field in Turkey the impact of the geographical limitation Turkey

holds to the 1951 Refugee Convention on refugees. There are the studies that identify the early driving factors of asylum policy as security and nationalism (Ülker, 2008; İçduygu & Aksel, 2013; Kirisci, 1996a; Kirisci, 1996b; Kirisci 2000). These studies also highlight the impact of the lack of any national legislation on asylum on non-European refugees coming to Turkey. The reaction of Turkey to mass refugee influxes from Iraq after the war with Iran in 1988 and then after the first Gulf War in 1990, also was discussed (Latif, 2002; Kaya, 2009; Danış, 2011). Even though Turkey eventually passed its first regulation on asylum in 1994, the studies mention that by not recognizing non-European refugees as such due to the geographical limitation, Turkey's asylum policy remained influenced by nationalist and security-based factors causing a two-tier asylum system in Turkey that separates between Europeans and non-Europeans.

I have observed that although the pre-accession negotiations with the EU in 2005 did lead to changes in Turkey's asylum policy due to it having to adopt the acquis in the field of immigration and asylum, its experience in that was highlighted mostly in studies after the start of the mass forced movement of Syrians to Turkey. The increase of studies on Turkey's asylum policy during this period could be attributed to the enhanced negotiations and action by the EU as a result of the start of the Syrian refugee mass forced movement. The studies during this period highlight Turkey's reaction to receiving the Syrians (Kirisci, 2014; İçduygu, 2015; Corabatir, 2016; Memisoglu & Ilgit, 2017; Balci, 2017) the conditions leading to the passing of the first national legislation by Turkey in 2013 and its implications on the Syrians in Turkey (Ineli-Ciger, 2015; Toğral Koca, 2016; Bürgin & Aşıkoğlu, 2017; Ineli-Ciger, 2017; Sahin Mencutek, 2019; Yılmaz Eren, 2019). Although the passing of the law in 2013 is seen as a significant step, the granting of temporary protection to Syrians is emphasized as a reason for the precarity and insecurity of their situation in Turkey, with limited chances of permanency and normal livelihoods.

The signing of the EU-Turkey Statement on refugees in 2016 also saw a boost in studies on this statement and its implications. The evaluation of the statement in these studies converge on its effectiveness in reducing the number of irregular migrants arriving in Europe from Turkey. While the statement could be seen as an opportunity

to re-vitalize relations between the EU and Turkey on various platforms (Kale, 2016), most scholars are less optimistic and question the legality of the statement based on Turkey's classification as a safe third country and highlight its shortcomings and failure in protecting refugees (Poon, 2016; McEwen, 2017; Lehner, 2018; Paçacı Elitok, 2019).

With regard to Jordan's asylum policy, like a lot of the other Arab countries, as country that was not a signatory of the 1951 Refugee Convention and its 1967 Protocol, it did not recognize refugees and had no legal or institutional framework for handling refugee issues. These were handled by the UNHCR under a Memorandum of Understanding signed with Jordan, a situation similar in most Arab countries leading the UNHCR to become called as surrogate state within these countries (Kagan, 2012). Before the establishment of a UNHCR office, refugees coming to Jordan were treated as foreigners and their issues regulated under the Law on Residence and Foreigners' Affairs. The Palestinian refugees were registered separately prior to that under the UNRWA. Therefore, literature on Jordan's asylum policy was mostly on its handling of mass refugee movements and the situation of these refugees; firstly, that of the Palestinians after the 1948, 1956 and 1973 Arab-Israeli wars (Al-Abed, 2004; Reiter, 2004; Dal Pra, 2017; Gabbay, 2014) and after that the Iraqi refugees (Olwan, 2009; Dalen and Pederson, 2007; Stevens, 2013). Chatelard provides an evaluation of determinants of asylum and immigration policy in Jordan in a historical perspective as being both political and economic within the ideological context of Arab nationalism (2010). He argues that within this context, Jordan has chosen a minimal institutional framework for handling refugees, leaving it to international organizations and donors. He continues by stating that this situation leads to migrants or refugees to further travel to Europe, leading Europe to start pressuring Jordan to control this flow. De Bel-Air also provides an analysis with a historical perspective and argues that Jordan applies a state policy towards refugees is determined on its changing political and economic interests and influenced by Arab nationalism in following an open-door policy initially to Arabs fleeing war such as the Palestinians and Iraqis (2007). However, he states that its policy is also motivated by rent-seeking from international actors and learning from its experience with Palestinians, to whom it applied selective integration, it avoids to provide any permanency to any future Arab refugee flows.

The response of Jordan to the Syrian mass forced movement was studied in the light of the above-mentioned. Studies on the response of Jordan highlight the challenges both Jordan and the Syrian refugees there face due to limited resources and lack of legal and institutional frameworks in handling the situation (Shteiwi et al; 2014; Achilli, 2015; Francis, 2015; Carrion, 2015; Fakih & Ibrahim, 2016; Beaujouan & Rasheed, 2020). These studies highlight the initially open-door policy towards Syrians which gradually turned into a selective and closed-door policy due to the major pressure the presence of Syrians had on its resources and infrastructure. The role of the UNHCR is also highlighted here. Jordan's policy was not only dependent on domestic changes, but also on the international aid it received. Kelberer argues that Jordan has learnt from its previous experience in receiving refugees to seek international rent as support for keeping these refugees, and has adopted this refugee-rentier behaviour as part of its foreign policy (2017, 158).

The role of the EU has been significant in policy changes in Jordan towards the Syrians. Serious bilateral relations between Jordan and the EU started by the signing of an Association Agreement in 1997 and its entering into force in 2002. Before that Jordan had become a member of the regional Euro-Mediterranean Partnership established in 1995. The launch of the ENP saw action plans be adopted to for Jordan to meet certain requirements in the political and economic areas to benefit from incentives by the EU. Asylum and immigration were not a high priority on the agenda until after the so-called Arab Spring and the 'Syrian Refugee Crisis'. However, the 'crisis' led to accelerated action in this area, with a Mobility Partnership signed leading to the EU-Jordan Compact in 2016. Discussions and literature on the EU-Jordan Compact as a migration-focused agreement from the EU side and an economy-related agreement from the Jordanian side saw an increase naturally. These studies analyse the implementation and consequences of the Compact (Lenner & Turner, 2018; Arroyo, 2018; Huang & Ash, 2017; Grawert, 2019; Alrababa'h et al, 2020; Barbelet et al, 2018; Lenner; 2020). Although they do see the compact as a positive initiative in that it changed Jordan's policy in resisting to provide integration to the Syrians, they also highlight the problematic implementation and difficult conditionality benchmarks stated in the compact.

1.3.3. Studies on EU Conditionality towards Turkey and Jordan

Since there is a massive literature on the EU externalization of asylum and immigration policy, I have searched for literature regarding the EU externalization of asylum and immigration policy and its gradual formation as well as that of its instruments with a focus on conditionality as a strategy. As we will see in Chapter 3, the EU started cooperation in the field of immigration and asylum internally initially and then, realizing that that is not enough to control and manage migratory flows, turned its attention to transferring its policies to third countries using the strategy of conditionality in many of its instruments. Conditionality can be described as conditions set by the EU in policy adaptation areas to be met by target countries for them to receive rewards (positive conditionality) in the form of financial assistance, some kind of institutional association or membership, with the EU usually punishing those countries who do not comply by withholding those rewards or incentives (negative conditionality) (Schimmelfennig and Scholtz, 2008: 190).

While most literature on conditionality concentrates on membership-based conditionality, the literature on countries with no prospects of membership concentrates mostly on the European Neighbourhood Policy (ENP) and its conditionality-based instruments. When it comes to countries of the South Mediterranean- which include countries of the Middle East- the studies are mostly on conditionality in the political field and the effects of conditionality in these countries trying to adapt EU norms and regulations in their political arena.

Schimmelfennig and Scholtz (2008) have looked into how effective and relevant the EU political conditionality is in promoting democracy in third countries. By conducting a comparative analysis of 36 countries within a time period of 13 years (from 1988-2002) to measure the effectivity of EU political conditionality by controlling economic development and transnational exchanges. They found that only EU political accession conditionality proved to have a strong and significant impact on democratization (Ibid: 207). On the other hand, ‘association and partnership conditionality did not perform consistently better than no or weak conditionality’

(Ibid) and that its impact depends on the credibility of incentives. They also found that the impact of conditionality varies according to the level of democratization of the countries; with it being less effective in those countries that are autocratic or already achieved a high level of democracy less impacted and more effective in countries that have already experience some level of democratization (Ibid). Regarding the countries of the Mediterranean (including countries of the Middle East), these countries were offered incentives with no strict political conditionality and no membership perspective after the launching of the Barcelona Process in 1995 (Ibid: 195-196). Although the period they have studied was before the launch of the ENP, they conclude based on their typology that the ENP would be a low-credibility association policy due to it excluding membership and high political standards for participation (Ibid: 211).

Lavenex (2008) has looked into an emerging alternative to conditionality within the ENP- network governance. She argues that the EU has been pushed to adopt a less hierarchical and vertical mode of integration for countries with no membership prospective with a more inclusive, horizontal network governance in which these countries can become part of the process of adopting norms and regulations in particular sectors through 'softer', non-hierarchical means (Ibid: 951). However, she does point out that this becomes more relevant in 'more technocratic and unpoliticized policy areas' (Ibid: 952). In a highly politicized and controversial area such as immigration, for instance, she highlights that the theme remains hierarchical with the inclusion of conditional readmission clauses in Association Agreements for example (Ibid: 951).

Turkey has a unique relationship with the EU as a candidate member country having been in official accession negotiations with the EU since 2005 and with its prospect of being a member increasingly becoming unlikely with time. There have been several studies that concentrated on the impact of EU conditionality in the political area in Turkey, whether in its domestic policy (Eralp, 2006; Saatcioglu, 2010; Kucibek, 2011; Akgül AçIkmese, 2010; Saatcioglu, 2011; Içduygu, 2011a) or foreign policy (Aydin & Akgül AçIkmese, 2009; Emerson & Tocci, 2004; Müftüler-Baç & Gürsoy, 2010). Although there have been studies on the adoption of acquis by Turkey in the area of asylum and immigration and Turkey's progress in this field prior to the 'Syrian

Refugee Crisis' (Kirisci, 2007; Kaya, 2009; Içduygu, 2011b), we can see a substantial increase in these studies after the 'Syrian Refugee Crisis', which can be attributed to the increased diplomacy between the EU and Turkey during that period. These studies mostly highlight how EU conditionality has played a role in changing Turkey's system of asylum and immigration (Demiryontar, 2020; Gokalp Aras, 2019; Kale, 2018). However, with the 'Syrian Refugee Crisis', while accession conditionality remained the basis of the relationship, conditionality shifted to other areas leading to a change from top-down asymmetrical conditionality to that of negotiations in the framework of migration diplomacy through issue linkages, which culminated with the 2016 EU-Turkey Statement (Demiryontar, 2020). The 'Syrian Refugee Crisis' has also has been described as a game-changer in relations been Turkey and the EU, with Turkey using migration as a policy tool to oppose EU conditionality and by using conditionality itself against the EU, especially after the 2016 statement by threating to allow Syrians to go to Europe (Gokalp Aras, 2019; Ott, 2017). This change in the relationship after the 'Syrian Refugee Crisis' will be emphasized in this study also.

Literature on EU conditionality in its relations with Jordan is mostly as mentioned above, on its impact on achieving political progress, mainly democracy (Youngs, 2002; Youngs, 2008; Pace, 2009; Del Sarto & Schumaher, 2011; Seeberg, 2016). Mostly in these studies the scholars question how effective EU conditionality is in promoting democracy and human rights in Jordan. Some these studies do so comparatively between countries of the Middle East- including Jordan- and emphasize the incoherency in policies by the EU in these countries and the lack of proper application of conditionality, especially negative conditionality. In the case of Jordan, Youngs argues that conditionality especially on issues of political reform, democratization and human rights is not applied by the EU since geostrategic factors such as security issues, stability and having a loyal ally seem to exceed the willingness to change the status quo in Jordan (2008: 43). Del Sarto and Schumaher come to the same conclusion by comparing EU policy applied in Tunisia and Jordan, stating that the ENP action plans with these countries are superficial and lack any serious benchmarking for democratization and claim that by committing to democratization, the EU has chosen to co-opt the governments of these countries for the sake of stability (2011: 948). Seeberg also argues that the relationship between the EU and Jordan,

follows a more traditional foreign policy based on security and stability rather than it being part of an integration process with conditionality as a principle (2016: 182).

We will explore how Turkey and Jordan navigate around the different instruments used by the EU in the fields of immigration and asylum. While initially most of these instruments seem to have an asymmetry with the EU having the leverage of applying strategies such as conditionality and issue-linkage, we will see that Turkey and Jordan are also active players in the equation and use their own leverage using migration diplomacy, to reach domestic and foreign policy goals.

1.4. Proposed Contribution to Literature

This thesis aims at contributing to literature on asylum policies in countries of the Middle East and how they are partially shaped within the context of international factors. Most literature on asylum and refugee policies concentrates on countries of the Global North, as desired destinations for migrants seeking better lives. However, the vast majority of refugees are concentrated in the Global South and the Middle East countries, as part of the Global South, are first asylum countries for the refugees of the region. International protection, although legally is still practiced under the 1951 Convention on Refugees and the 1967 Protocol which followed, it has seen many changes in practice by states. Crafted within the context of World War II, these two international agreements seem to be difficult to apply to the current movement of people seeking protection. The global protection system has shifted to what Cueller (2006: 3) called the grand compromise between the developed Global North and developing Global South and the UNHCR and the refugees themselves negotiating between them. Accordingly, the Global North, due to its geographical, logistical, financial and legal barriers, bears limited burdens in the form of aid to the hosting countries of the Global South to keep the refugees there, while Global South, through a network of refugee camps, bears the major part of the burden (Ibid: 28-31). In fact, as of June 2020, there are 26 million refugees in the world and 85% of them are hosted in developing countries, with less than one percent being resettled to countries of the Global North (UNHCR, 2019).

Most of the countries of the Middle East are not signatories to the 1951 Refugee Convention and its 1967 Protocol (hereby Refugee Convention and Protocol), which regulate international protection. In fact, signatories are mostly countries of North Africa; Egypt, Algeria, Morocco, Tunisia, Mauritania and Yemen being the only country signatory country in the Gulf, in addition to Turkey and Iran (UNHCR, 2015). However, being a signatory does not mean that the Refugee Convention and Protocol are being implemented in these countries. Most of these countries have not ratified the Refugee Convention and Protocol, while Egypt (Sadek, 2013: 2), Turkey and Iran (UNHCR, 2020b) have ratified them with reservations. Except for Turkey, all these countries still do not have any national comprehensive legislative framework and efficient administrative institutions for the protection of refugees and asylum-seekers and like the other non-signatory countries of the Middle East, are immensely dependent on the United Nations Higher Commissioner for Refugees (UNHCR) in all aspects of protection.

The Syrian Conflict that started in 2011 and led to the gradual mass entry of refugees to neighbouring countries in the region, slowly turned from a regional event to an international one with the so-called Syrian Refugee Crisis of 2015. By studying the international aspect of changes in the asylum policies of two important countries of the region- Turkey and Jordan- as a result of this forced movement, I am hoping to contribute to literature on asylum policies in the Middle East. The 'Syrian Refugee Crisis', which has been labelled as the EU's crisis, according to Arar (2017: 299) has changed the global protection system for it to become what she calls the new grand compromise, in which the host countries of Syrian refugees in the Global South were given the opportunity to negotiate with the donor states of the Global North the value of their hosting capacity (Ibid). I will explore this change by comparing Turkey and Jordan, as two countries of the Middle East and the Global South and countries with a long-standing but different relationship with the EU as part of the Global North. The comparison will be within their asylum policies and the impact of the EU externalization of immigration and asylum policy on these policies in the light of the 'Syrian Refugee Crisis'. The EU externalization of immigration and asylum policy of containment and prevention of migrant and refugee movement to the EU through third countries has become more significant after the 'Syrian Refugee Crisis'. Although as

mentioned the core of the relationship between Turkey and the EU and Jordan and the EU are different in principle, we will explore how the EU has used similar instruments and strategies towards the two countries with the purpose of migrant and refugee containment and prevention. By this, I would like to put forward that through its strategy of externalization, the EU is causing a trend in countries such as Turkey and Jordan in which asylum and refugee issues are being instrumentalized and becoming a source of migration diplomacy with the EU, with all sides seeking their own benefits and interests and not those of the refugees. By this, while all sides jointly highlight the humanitarian side of refugee issues, in practice they mutually securitize refugee issues.

1.5. Outline of the Thesis

The thesis starts with the second chapter which looks into asylum policies of Turkey and Jordan in a historical context. The purpose of the chapter is to determine factors and trends that have influenced asylum policy in these countries prior to the 'Syrian Refugee Crisis'. At the end of the chapter, a comparison of the asylum policies is also provided.

The third chapter describes the evolution of the EU externalization of asylum and immigration policy in a historical context firstly. Later, the different instruments and tools in the form of agreements and partnerships are discussed.

The main chapter of the thesis is the fourth chapter, in which I attempt to explore the impact of the EU on the asylum policies of Turkey and Jordan. I try to do so by looking into Turkey and Jordan's evolving relationship with the EU in the field of asylum and immigration before and after the 'Syrian Refugee Crisis'. In this chapter we will look into how the EU used and still uses its instruments of externalization of asylum and immigration policy in Turkey and Jordan and how conditionality plays a role in this context.

The last concluding chapter, in addition to summarizing the previous chapters, will provide a comparison of the actual changes that the asylum policies of Turkey and Jordan have been through. The actual role of the EU in these changes will also be

analyzed. The overall implications on Syrians in Turkey and Jordan as well as future migratory flows will also be shortly discussed.

CHAPTER 2

ASYLUM POLICIES OF TURKEY AND JORDAN PRIOR TO THE 'SYRIAN REFUGEE CRISIS'

The Refugee Convention of 1951 and its additional Protocol of 1967 form the international refugee protection regime as the legal basis for handling cases of protection. However, there are many countries, including those in the Middle East, such as Jordan and Lebanon, who have not ratified the Refugee Convention and the Protocol, citing concern over erosion of their sovereignty (Sahin-Mencutek, 2018: 42) and emphasizing national interests instead. These countries who do not provide the standard form of protection as designated by the Refugee Convention, usually partially and selectively adopt some rules and norms of the international protection regime, such as temporary protection, comprising the elements of non-refoulement and granting some basic rights that does not include any form of permanency (Ibid: 43). As Sahin-Mencutek states, this flexibility of rules and less institutionalization seems to be the common approach by countries of the Global South (Ibid: 46-47).

There are several factors that shape the responses of governments and therefore their asylum policies towards refugee flows. In trying to explain these factors in countries of the Global South facing mass migratory flows, Sahin-Mencutek highlights that there are international policy, national security and domestic policy and economy-developmental policy factors. Accordingly, with regard to international policy, the host country's relations with the country of origin of the refugees as well as the interactions of the host country with allies, international donors and organizations are significant in shaping asylum policy. Firstly, the relations of the host country with the country of origin of refugees before the conflict may impact the response to refugee flow, depending also on whether the host country becomes involved or not. If a country becomes involved, whether politically or militarily, it may apply a selective policy in

allowing the entry of refugees depending on the side it is supporting (Ibid: 75). Secondly, the host states tend to act in accordance with their allies in mass refugee situations and use this situation as a tool of negotiations, known in the literature as migration diplomacy, with international actors, with the purpose of enhancing their humanitarian image as a form of soft power and at the same time leverage burden sharing and linking the refugee situation with other benefits in areas such as foreign policy and development- known as issue-linkage (Ibid: 75; Betts, 2008: 161).

With regard to national security and domestic policies, factors pertaining to national security, stability and identity are crucial drivers in asylum policy. National security is a significant part of refugee response common to both the Global North and South. Since receiving countries of mass refugee flows are usually neighbouring countries to the country of origin of the conflict, there is always the danger of the conflict spilling to the host country and with the refugees being active actors in the conflict across the border, causing security concerns in the host country (Ibid: 78). Despite kinship, religious and ethnic commonalities in a region such as the Middle East, it is also a region with highly sensitive perceptions of ethnic, religious and political differences. Therefore, mass flows to the national border, which mostly involve irregular crossings, pose a threat to the host country's sovereignty (Ibid), depending on whether it perceives the refugees as a threat to national security or not. In such instances, the law enforcement members on the borders of the host country may push back the flow of refugees (Ibid).

In relation to security concerns shaping the asylum policy, identity and national interest in domestic politics also are significant. Since mass refugee flows cause a substantial increase in the population in a very short time period, it tends to cause a challenge to the social balance, especially if there are ethnic or/and religious differences between the refugees and the host communities (Ibid: 79). The hosting state and its citizens may have sensitivities over national identity; prejudices towards the ethnicity and religion of the coming refugees or just sensitivities towards refugees in general connected with negative memories of previous refugee flows that lead to an impact on the perceptions and therefore policy towards receiving these refugees (Ibid).

The third and final factors effecting asylum policy are the economic factors. As mentioned, mass refugee flows cause an increase in population which directly impacts the economy of the hosting country negatively. Especially if the hosting country's economy is not a strong one before the arrival of the refugees, the negative impact is seen in the form of increased unemployment rates and inflation and also puts a pressure on the infrastructure of public sectors such as health and education (Ibid: 81). Under such circumstances, host country governments intentionally shape their policies in light of this negative impact and try to reduce competition between the refugees and citizens in access for livelihoods like limiting access to the labour market or restricting their movement (Ibid). In order to reduce the negative economic impact of refugee influxes on their country, hosting states have also stressed financial international burden sharing (Ibid). The Global North has developed the financial burden sharing issue for refugees for it to become a development-based issue rather than a humanitarian one within the context of the migration-development nexus (Ibid: 82). Accordingly, development assistance is to be provided to the Global South for strengthening protection capacity of refugee hosting countries, promoting self-reliance and integration of refugees in the hosting countries, to prevent them from further migrating to the countries of the Global North (Ibid). This new approach to refugee assistance in the Global South has led to the asylum policies of hosting countries to become an integral part of their foreign policy.

These countries have started to use the refugees and their refugee policies as leverage in asking for more aid and threatening to withdraw protection or limit access to services for refugees and in some cases allow for the movement of the refugees to the Global North if their demands concerning refugee assistance or other political or economic areas are not met. This approach by some host countries has been named by Kelberer as 'refugee rentierism' and defined as 'the phenomenon of using host status and refugee policy as primary mechanisms of international rent-seeking' (2017: 157). Greenhill has also described countries that exploit a migration crisis or mass refugee flow for their own gain by threatening for instance to close borders if a desired action is not taken in the way they desire or if they do not receive side payments as 'opportunists' (2010: 30). As we will see, Turkey and Jordan have both used this strategy.

It is important here to stress that in light of the above factors, the asylum policy of a country is not static or stable but changes based on and within different refugee situations and circumstances. As we will see below, an asylum policy towards a certain refugee situation or flow may start as an open one and turn more selective or restrictive depending on international and domestic developments towards the refugee situation. Asylum policy defines a host country's action in three main areas: border control, reception/protection and integration (Sahin-Mencutek: 58). We will start below in looking at Turkey and Jordan's asylum policy experiences before the Syrian flow started.

2.1. Turkey

2.1.1. Asylum policy since the establishment of the Republic

Before the establishment of the Republic of Turkey, the Ottoman Empire with its vast lands in different regions, was known for its multi-culturality and ethnicity and had received many Muslim immigrants as well as Christian and Jewish refugees, with the non-Muslim refugees and immigrants given a right to integrate and become subjects of the Empire (Kirişci, 2000: 1). The collapse of the Ottoman Empire and the establishment of the Republic of Turkey in 1923, saw a complete change in this approach towards immigrants. The founders of the Republic started a modernist process of ethnically and culturally homogenizing a society, that was known for being multi-ethnic and multi-cultural, to form the Turkish state through a 'civic and territorially based formulation of Turkish nationalism' (Ibid). The breakdown of the Ottoman Empire, saw a wave of immigration of people from Greece and the Balkans of Turkish origin and emigration of non-Turks from Turkey to other countries started. The first law of the Republic to regulate this is considered the 1934 Law No. 2510 on Settlement, which served to facilitate the immigration and integration of migrants and refugees of Turkish origin and to prevent the entry of those who were not (İçduygu & Aksel, 2013). This law is considered to reflect the nationalist perceptions and security concerns of the early leadership of the Republic in the early stages of nation-state building.

In addition to Turkish roots, the use of the Turkish language seemed to be viewed as a significant parameter in defining the Turkish identity. With regard to citizenship and nationality granting, the law differentiated between those of Turkish origins and those that spoke Turkish as their mother tongue or had connections to the Turkish culture and those that did not. It also favoured Muslims over non-Muslims. Therefore, the law specified 'Pomaks, Bosnians, Tatars and Karapapaks'- who did not necessarily speak Turkish but were Muslim and 'Muslim Georgian, Lezgi, Chechen, Circassian, Abkhazian and other Muslims'- who were not Turkish but connected to the Turkish culture as worthy of settlement and citizenship, while denying 'foreign Kurds, Arabs, Albanians; other Muslims who speak languages other than Turkish and all foreign Christians and Jews' this right and considered them foreigners (Ülker, 2008).

This law, which was firstly implemented by the Ministry of Population Exchange, Development and Settlement formed in 1923 and abolished one year later and later by the Ministry of Interior, not only specified who could enter and leave the country, but also regulated where those coming were to be settled based on their ethnicities, with the land being divided into 'zones' where people where to be settled based on their Turkishness. There were three main zones specified in the law, with Type One zones to be inhabited by those having Turkish culture, Type Two zones for those whose assimilation into Turkish culture was desired and Type Three zones which were not to be inhabited due to several political, cultural or security reasons (Ibid: 7). Turkish speaking immigrants were to be settled in the Type One zones and given preferential treatment for instance by being given land, while non-Turkish immigrants whose assimilation was deemed necessary were forbidden from settling in regions close to railways, highways, frontiers and rich in natural resources due to the high security risk around these places (Ibid: 10). The Council of Ministers was to decide who was to be admitted, based on their belonging to the Turkish culture (Kirişci, 2000: 6) and where they would be settled. Therefore, the government decides on who falls under the category of belonging to the Turkish culture and descent.

The nationalist, security based and selective immigration policy of the newly founded Turkish republic may have seemed necessary at those very critical and existential circumstances of nation-building post World War I. However, this policy did set the

foundation for the future immigration policies-and therefore also the asylum policy-of the country, which continued to be influenced by nationalist ideology and security concerns, as it did for most of the newly formed states of the Middle East.

From what literature there is on the immigration policies of Turkey until the end of World War II, it seems that Turkey continued its immigration policy based on the Law on Settlement. From what there is on this period, it mostly concentrates on the continued immigration of Muslim Turks from Bulgaria, Romania, Greece and former Yugoslavia due to those countries' policies against them and on the fact that due to their ethnic, historical and religious ties to Turkey, they benefited from protection and integration programs. During WWII, Turkey also became a transit country to Jews fleeing Europe, Iran and Syria to go to Palestine (Kirişci, 2000: 10). According to Kirişci, although there are no official statistics on the number of asylum seekers coming to Turkey and what their fate had been covering the period from the establishment of the Republic until 1969, more than 840,000 people migrated to Turkey between 1923-1945 (Ibid: 7).

It is important to emphasize here that Turkey is one of the drafters and signatories of the 1951 Geneva Convention relating to the Status of Refugees and later the accompanying 1967 Protocol. The 1951 Geneva Convention was approved and became part of national law through Law number 359 in 1961 and the 1967 Protocol was approved and became part of national law through a decision by the Council of Ministers in 1968. However, Turkey first maintained the geographical and time limitation based on Article 1 Section B (1) (a) which refers to the definition of a refugee as a result of events occurring in Europe before 1 January 1951. By signing the 1967 protocol, it lifted the time limitation but the geographical limitation remained. This means that Turkey would only grant refugee status as defined in the convention for asylum seekers coming from Europe and did not grant that status to non-European asylum seekers. However, according to Kirişci, even when Turkey granted refugee status to asylum seekers coming from the Soviet Union and Eastern Europe, they were expected to resettle in third countries eventually (Kirişci, 2000: 11).

In order to highlight the difference in the Turkish government's policy towards Turks and non-Turks, it is significant to mention that there were two mass flows of Bulgarian Turks from Bulgaria to Turkey that took place; one was in 1950-1951 and another in 1989 (Ibid, 8). In the period between January 1950 and November 1951, 154,000 Bulgarian Turks were forced to move to Turkey and Turkey opened the borders until November 1951 when they were closed (Kirişci, 1996b: 392). Although they were initially housed in temporary resettlements and refugee camps, they eventually became settled immigrants and were integrated and most of them got the citizenship (Ibid). In 1989, with the pressure to assimilate on Bulgarian Turks by the then Bulgarian government led to a second mass flow towards Turkey who again opened the borders in June 1989 and 311,862 Bulgarian Turks had entered Turkey by August, when Turkey, overwhelmed with the numbers, once again introduced the lifted visa requirement of June (Ibid: 393). They were also able to become settled immigrants and got a chance for citizenship.

The new Republic, being in a highly sensitive position between Europe and a conflict-prone Middle East, feared the risk of mass influxes of refugees from this newly formed fragile area. With increased tensions in the Middle East after the Iran-Iraq war and then the first Gulf war, Turkey came face to face with its fear which motivated its initial cautious attitude towards the convention. With no law or regulations specifically on non-European refugees, those coming to Turkey were regulated based on the general provisions of the 1934 Settlement law, the 1950 Passport Law No. 5682 and the 1950 Residence and Movement of Foreigners Law No. 5683. The Passport and Residence and Movement of Foreigners Laws concentrated on legal entries, registration with authorities and exit of foreigners entering Turkey, with no mention of asylum. Therefore, there were a lot of gaps in the laws and these were filled in with administrative measures, such as detention, imprisonment and deportation against those who did not abide by the rules of legal entry, residence or exit such as those that entered illegally or with no or forged documents of identity.

The UNHCR was established in Turkey in 1960 to cooperate and coordinate with the government on asylum and refugee issues. Initially, the relationship between Turkey and the UNHCR was successful, with Turkey leaving the handling, registration and

refugee status determination (RSD) of non-European refugees to the UNHCR, with the end purpose of them being resettled to third countries. However, events of conflict and war in the Middle East gradually led the Turkish government to realize that the current legislation and the handling of UNHCR were not sufficient or efficient in regulating the increasing numbers of people fleeing these conflicts.

2.1.2. Mass Refugee Flows from the Middle East and Turkey's Reaction

The first wave of people escaping conflict came from Iran following the Iranian Revolution and the establishment of the Islamic Republic in 1979. Kirişçi defines Turkey's policy towards these Iranians as pragmatic and flexible (1996a: 297), with them being dissuaded by the government to apply for asylum and were allowed to enter and exit Turkey as long as they had valid passports and means to support themselves. They were encouraged to move to third countries and few were given residence permits to stay in Turkey. Those that insisted on applying for asylum did so through the arrangement between the Turkish government and UNHCR on RSD and the resettlement of these refugees to third countries, and therefore they were allowed to stay temporarily in Turkey. There are no official statistics on the number of Iranians whom came to Turkey during this period, but Kirişci puts the number of Iranians coming to Turkey in the period between 1980-1991 at 1.5 million (Kirişci, 2000: 11).

From Iraq only, Turkey had to face two mass forced movements of refugees in 1988 and 1991. The first took place at the end of the Iran-Iraq war, which started in 1980 and ended in 1988 (Kaya, 2009: 6). The end of the war marked a military campaign by the Iraqi government forces under Saddam Hussein on the Kurdish forces in northern Iraq who took control of Halabja and Hurmalin and the Iraqi forces were claimed to use chemical weapons (Ihlamur-Oner, 2013: 195). This led to the fleeing of Kurds to the border with Turkey. Although Turkey initially closed the border not wanting the entry of Kurdistan Workers' Party (PKK) militants or peshmerga into Turkey, responding to international and domestic pressure, it allowed the entry of Kurds (Ibid). However, the 51,542 who entered Turkey were not granted refugee status but asylum seeker status and were referred to as 'temporary guests' and were placed in camps (Kirişci, 2000: 12). Despite Turkey did seek international support for refugee relief, due to the UNHCR defining the Iraqi Kurds as refugees, Turkey chose not to

collaborate with them in handling the situation (Ihlamur-Oner: 196). Turkey's reaction was motivated by security concerns over the PKK peshmerga infiltration, since the arrival of these refugees also coincided with the increased activities by the PKK (Latif, 2002:10). Additionally, the arrival of large numbers of Kurds to Turkey increased the concern for an aggravated Kurdish problem, with the Turkish state continuously denying the existence of a separate Kurdish identity (Kirişci, 2000: 13). While Turkey criticized Europe for lack of burden-sharing, Turkey was criticized by human rights groups for not granting the Kurds refugee status and for mistreating them (Latif: 10).

The Iraqi invasion of Kuwait in 1990 also led to a second wave of Iraqi civilians and soldiers as well as third country foreigners in Iraq to Turkey, with about 7,489 Iraqi citizens applying for asylum and were housed in camps and guesthouses (Ibid:11). When Iraqi army in Kuwait was defeated after the United States of America (US) intervention in January 1991, the Kurds in the north rebelled again and took many cities, after which had to face another major attack by the Iraqi forces which led to another mass entry of fleeing Iraqi Kurds to Turkey (Ibid: 12). This time Turkey, having learned from its 1988 experience and having the same concerns, closed its borders with Iraq, even considered military intervention to stop the flow and demanded the UN Security Council to act on the issue (Ibid). The UN Security Council then adopted a resolution asking the Iraqi regime to stop its attacks on the Kurds and allowing international aid to the refugees, after which Turkey agreed to open its borders and temporarily settle refugees in camps, as a result of which 250,000 refugees entered Turkey and were placed in camps close to the border (Ihlamur-Oner: 198). At the same time, the then Turkish President, Turgut Ozal, started advocating for the establishment of a safe zone in Northern Iraq for the Kurdish refugees and succeeded in convincing the U.S. and Europe and through the U.S.-led Operation Provide Comfort a safe zone was created to which 460,000 refugees were moved including those in Turkey (Ibid). Turkey was more successful this time in mobilizing the international community to act in a way that was in its favour. It must be noted here that during this refugee crisis, Turkey did practice a selective policy towards the refugees coming from northern Iraq by providing 50,000 Turkmens fleeing from Mosul and Kirkuk with preferential treatment in housing them in a separate camp in

the interior of the country instead of on the border with the Kurdish refugees and later granting most of them residence permits (Kirişci, 2000: 14).

The events mentioned above marked a period of unwanted refugee movements into Turkey and to tensions between Turkey and the UNHCR on situations for instance in which UNHCR granted refugee status to individuals who entered and remained in Turkey illegally (without registering with Turkish authorities) and would therefore face issues when they attempted to leave Turkey when resettled. Furthermore, this was a period during which Turkey faced the issue of increased numbers of irregular migrants, who would either stay illegally and therefore also try to work illegally in the informal market or use Turkey as a transit country and stay for a period of time until they moved on to Europe in irregular ways. With increasingly restrictive refugee policies of the EU, these immigrants or refugees would be returned to Turkey where they either are detained or repatriated or continue to stay illegally, leading Turkey to believe that it was becoming a buffer zone for immigrants escaping the conflict-ridden Global South to reach the Global North. The necessity for and conviction of Turkey to solve all these issues culminated with the passing of the Republic's first ever asylum regulation of 1994.

2.1.3. The First Asylum Regulation

The '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' (hereafter 1994 Asylum Regulation) that was approved on 14th September 1994 by the Turkish government and put into force on 30th November 1994, is considered a breakthrough with regard to asylum and refugee procedures in Turkey, since it is the first of its kind in officially documenting regulating and controlling foreign entrances with the purpose of asylum. The regulation consists of five sections and 33 Articles that encompasses processes and procedures to be followed in cases of asylum. Accordingly, the first section-Article 2 states the scope of the regulation as 'all measures, procedures, applications, decisions and authorities to cooperate with and their duties and all principles that all foreigners, whether coming through legal or illegal routes to apply for asylum or to get permits to apply for asylum

in other countries, foreigners who have come to our borders or have entered our borders with the purpose of mass asylum or protection and for all future population movements'.

Article 3 of section one provides the definition of a refugee, by stressing the geographical limitation, as:
'A foreigner who as a result of events occurring in Europe and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.'

The asylum seeker is also defined right after the refugee, with the only difference being the removal of the phrase 'as a result of events occurring in Europe', meaning all other nationalities. In this sense, the regulation was the first in regulating the 'non-European' asylum seekers.

The second section, in four articles, outlines the authorities that will receive the individual applications for asylum, the duties of those authorities, the decision-making authorities and the organizations with which to cooperate. Accordingly, those that enter legally will have to apply at the governorates of the provinces from which they first entered Turkey, while those that entered legally had to apply at the governorates where they are residing, at the latest within 5 days from their arrival. The duty of the governorates would then be to identify the individuals and then collect fingerprints and photos, conduct interviews and send all relevant information and documents to the decision-making authority which has been stated as the Ministry of Interior (MOI) which is to make the decision after getting the opinion of the Ministry of Foreign Affairs (MFA) and other relevant ministries and organizations (Article 6). Asylum seekers whose requests are pending or have been accepted would be staying in centers or guesthouses deemed suitable by the MOI or reside in areas chosen again by the MOI. In Article 7, it outlines that through the MFA, cooperation will take place with

UNHCR and other international organizations with regard to accommodation, transport, food, third country resettlement, arranging passports and visas and especially with regard to transport, cooperation will be made with the International Organization for Migration (IOM).

Section three states the stance towards mass influxes to the borders of Turkey with the purpose of asylum. Such influxes are to be stopped at the borders and not to be allowed entry unless there is a government decision or international legal obligation to allow it.

The last section provides common provisions to be applied for asylum in general, whether individual or mass, through Articles 26 to 29. In the case of mass asylum seekers and refugees, they will be repatriated to their countries as soon as the conflict has ended. The repatriation will be carried out by the MOI in coordination with the MFA and the Turkish General Staff. Individual refugees and asylum seekers will be repatriated by the MOI. It also states that residence permits granted to foreigners present in Turkey for the purpose of resettlement to a third country, will not be extended if these foreigners are not resettled within a reasonable time and they would be invited to leave Turkey. Refugees and asylum seekers are allowed to work and study during the period they stay in Turkey. With regard to deportation, refugees and asylum seekers can deported by the MOI within the framework of the 1951 Geneva Convention or for reasons of national security and public order. They would have the right to appeal the deportation decision to the MOI within 15 days.

The regulation has provided significant improvements with regard to controlling and regulating non-European asylum seekers and refugees, with clearer procedures and defined authorities and responsibilities, as well as the recognition of the principle of non-refoulment towards non-European asylum seekers and refugees. By not only giving place for individual refugees and asylum seekers, as a result of what Turkey experienced from the Iraqi mass influxes, it does express, although not explicitly, the expectation of Turkey of the stay of these refugees and asylum seekers to be temporary.

However, the implementation of the regulation has caused some problems, especially with regard to the 5-day limit on application by the asylum seekers. In practice, this short period has been difficult to be met by those who had no previous knowledge or information about it and had to travel back to the provinces of first entry. The Turkish authorities would then reject applications for those who did not respect the 5-day rule and they would get deported. Another reason for deportation is that of those whose applications have been rejected by the Turkish authorities and those who have not been resettled within a 'reasonable time'. The regulation does not state what that reasonable time may be, leaving a vague interpretation by authorities on this issue. The issue of rejection of applications and the right to appeal these decisions has also become problematic since the appeals are administrative and not judicial in the sense that they are made by the MOI authorities and appealed to higher ranking officials of the same authority. This has led to either the asylum seekers avoiding to appeal and going into hiding or appealing and going into hiding before the appeal decision (Kirişci, 1996a: 304).

Another problem was regarding the responsibilities and duties of the UNHCR, which had previously been responsible for RSD. Now, it was the Turkish authorities who would be responsible for the status determination to see if they have a valid claim for asylum. While waiting for the Turkish authority's decision, individuals can register with UNHCR which will then decide if this individual is a refugee and then search for a country of resettlement. However, the UNHCR continued to perform de facto RSD on behalf of Turkey as long as the asylum seekers and refugees were also registered with Turkish authorities and were eventually resettled (Kirişci, 2012: 69). Despite that, there had been cases where Turkey rejected an application while UNHCR had decided that person to be a refugee and tensions arose due to the deportation of these individuals by Turkish authorities. Turkey was criticized by the UNHCR and Western governments as violating the non-refoulment rule in these cases.

These issues with the regulation have led to amendments being made twice; in 1999 and 2006. First the limit of five days was increased to 10 days in 1999 and then the limit was removed in the amendment in 2006, being replaced with applying 'without delay'. The amended article states that those that do not apply 'as soon as possible' are

obliged to explain this to the authorities and cooperate with them. The decision-making authority remained the MOI, but in the amendment, it no longer needed to get the opinion of the MFA and other relevant ministries and organizations (Article 6 of the 1994 regulation). Article 7 was amended to mention that the MOI, without having to do so through the MFA, can cooperate with other ministries and institutions and international organizations such as the UNHCR and IOM as well as Non-governmental Organizations (NGO). The timing of these amendments can be tied to Turkey's EU candidacy in 1999 and then starting of accession negotiations, which will be discussed in Chapter 4. The amendments can also be attributed to the increasing number of asylum seekers in Turkey during that period.

Turkey, although a significant ally to the US and a NATO member, its parliament refused the US use its base in Turkey during its invasion of Iraq from the northern front in 2003 (Kesgin & Kaarbo, 2010: 19). Turkey's concern was a refugee flow and the emergence of a Kurdish state in the north, two situations that would threaten its security, as has happened in the previous refugee situations from Iraq. In line with these concerns, Turkey was ready to build camps on the Iraqi side of the border and was prepared to not allow any Iraqis into Turkey. However, no major refugee movement took place contrary to what was anticipated. In fact, between 2003 and 2006 the UNHCR in Turkey suspended Iraqi asylum applications, despite the worsening security conditions in Iraq to go back again in 2006 and accept Iraqis from Southern and Central Iraq as persons of concern and that led to increased applications for asylum in 2007 with around 10,000 according to UNHCR (Danış, 2011). The number of Iraqis coming to Turkey is much higher of course, but most of them tend to use Turkey as a transit country to Europe. While the UNHCR mentions the number of Iraqi persons of concern in 2016 as 126,756 with 26,717 of them refugees (UNHCR, 2016a), according to the Directorate General of Migration Management of Turkey (DGMM), in 2019 the number of Iraqis with international protection in Turkey is 15,532.

The amended version of the 1994 Asylum regulation remained the main administrative tool for handling asylum and refugee matters in Turkey throughout the 2000s until the culmination of the issue with the passing of the first ever Law on Foreigners and International Protection on 11th April 2013. The period from 2000 until after the

Syrian refugee movement which began around 2012, is a period of significant negotiations between Turkey and the EU on issues of asylum and protection that started in the year 2000 with the accession negotiations of Turkey to the EU. The Turkish National Action Plan for the Adoption of the EU Acquis in the Field of Asylum and Migration was officially adopted by the Turkish government on March 25, 2005 and will be studied in the coming chapters.

2.2. Jordan

2.2.1 Asylum policy during the period from the establishment of the Kingdom- Arrival of Palestinian refugees

Jordan was established with full independency in 1946 as a constitutional hereditary monarchy called the Hashemite Kingdom of Jordan. Its borders were drawn by the British and under their mandate in 1921 (Chatelard, 2010) and was known as Transjordan. Situated just east of the Jordan river, Jordan had its borders with the West Bank, Israel, Syria, Iraq and Saudi Arabia and due to its critical position, has since its establishment experienced several waves of immigration (whether forced or voluntary) from its neighbours.

While the British were preparing to end their mandate in Palestine, in 1947 the UN General Assembly introduced a Partition Plan- Resolution181- for dividing Palestine into a Jewish State and an Arab State, with Jerusalem remaining under special international regime. The plan was rejected by the Arabs due to it offering the Jews 55% of the land although Arab population was much higher than that of the Jews (67% Arabs -33 % Jews) while the Jews accepted the plan and the state of Israel was declared on 14th May 1948, just one day before the ending of the British mandate. This led to a conflict with the Arabs and the neighbouring countries of Transjordan (at the time), Syria, Egypt, Lebanon and Iraq and ended with Israel occupying more land than was envisioned in the partition plan and Jordan annexing the West Bank and Egypt the Gaza strip (Rowley & Taylor, 2006: 79).

As a result of this war, 900,000 Palestinians were displaced from their homes and land to the neighbouring countries of Syria, Lebanon and Jordan, as well as the West Bank.

Although the number of Palestinians who came to Jordan at the time is hard to find, according to Chatelard (2010), within two years the population of Jordan increased from 500, 000 to 1.5 million, with one third of them being refugees, especially after the annexation of the West Bank. Most of the Arab countries who engaged in the war with Israel, did not have immediate plans in dealing with the forced movement of Palestinians that escaped the battles. Their assumption was a victory from the war and that those that were displaced would return to their homes soon. Some of the fleeing Palestinians who had family, relatives or friends were able to find housing in cities, while others were stranded close to the borders of the countries they fled to, including Jordan.

However, Jordan was the only Arab country to have chosen a different strategy towards the Palestinians. After the decision by King Abdullah to annex the West Bank in 1950, the new formed Kingdom of Jordan chose to integrate the Palestinians of the West Bank by giving them citizenship through the newly adopted Citizenship Law of 1954. According to the Article 3 (2) of the Jordanian Citizenship Law No. 6, "Any person who, not being Jewish, possessed Palestinian nationality before 15 May 1948 and was a regular resident in the Hashemite Kingdom of Jordan between 20 December 1949 and 16 February 1954" is deemed a Jordanian national. Through this law, although the Palestinians were given equal rights with the Jordanians, Palestinians, especially those from the West Bank, were treated differently in terms of access to high ranking employment positions, representation in government and subsidies goods from the government (Al-Aza'r, 2004: 17). The status of these Palestinians in Jordan was different in that while they were given citizenship with formal rights, they were also given the option to go back to Palestine whenever they got the chance to. The 'right of return' has remained a characteristic of the Palestinian refugees in the region, one that has affected their status in the Arab countries and remains a dilemma in their situation until today.

After the second Arab-Israeli war of 1967, Israel occupied the West Bank and this led to 400,000 Palestinians being displaced to Jordan and these were not considered refugees but internally displaced people and except for the 300,000 who came from the Gaza Strip (which had been annexed by Egypt post-1948 war and was occupied by

Israel in the 1967 war), all were granted citizenship (Chatelard, 2010: 4). This shows that Jordan applied a selective policy towards the coming Palestinians also by excluding those coming from Gaza, since, unlike the West Bank, the Gaza strip was never part of Jordan.

In order to provide Palestinians with accommodation and other services, in 1950, the Kingdom established the Ministry of Refugees and Ministry of Construction for setting camps and providing services. After the 1967 war, Higher Ministerial Committee on Occupied Territories was established to deal with the displaced from the West Bank and this committee later evolved into the Department of Palestinian Affairs in the 1980s (Dal Pra, 2017: 6). These institutions had worked and continue to do so in close cooperation and partnership with the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA).

Jordan is not a signatory of the 1951 Convention on Refugees and also did not sign the 1967 Protocol. However, Article 21 of the Jordanian Constitution does not allow the extradition of political asylum seekers, without granting them refugee status (Sahin-Mencutek, 2018: 189). Since it is not a signatory, Jordan did not treat the Palestinian refugees as refugees as defined in the Convention but chose to integrate those that came post-1948 until 1954. Although it had set departments and assigned Ministries for dealing with the displaced Palestinians, Jordan had no law or regulation on dealing with receiving, accommodating and providing aid services to the coming Palestinians, and shared this burden with the UNRWA- a subsidiary organ of the United Nations that was established under the UNGA Resolution 302 (IV), of 8 December 1949 to provide relief and aid to the Palestinian refugees in the Arab countries. The UN had established the United Nations Relief for Palestine Refugees in 1948 to extend aid and relief to Palestine refugees and coordinate efforts of NGOs and other UN bodies who were from before delivered by international organizations such as the International Committee of the Red Cross, League of Red Cross Societies and the American Friends Service Committee and the UNRWA inherited all the records of 950,000 persons and duties of these organizations and became the sole responsible UN agency for Palestinians (UNRWA, 2020a).

According to the UNRWA, the operational definition of a Palestinian refugee is any person whose "normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948 and who lost both home and means of livelihood as a result of the 1948 conflict" and any descendants of fathers fulfilling this definition. The UNRWA provides education, healthcare, relief and social services, camp infrastructure, microfinance and emergency assistance to Palestine refugees pending a just and lasting solution to their plight. Even though it does not state so directly, the UNRWA is in favour of the 'right of return' of the Palestinians and even though it was established temporarily, it continues to function today providing services to over 5.6 million registered Palestinian refugees. In Jordan, the UNRWA set up 4 camps post-1948 war and 6 camps post-1967 war. Currently, Jordan hosts about 2 million registered Palestinian refugees and 370,000 of them are settled in the ten recognized refugee camps (UNRWA, 2020b).

The situation of the Palestinians in Jordan was and remains precarious and unstable. Even though Jordan granted citizenship to the Palestinians coming post-1948, this citizenship seemed to have been conditional on the loyalty of Palestinians to the Kingdom and them not forming a threat against its rule. This was challenged after the establishment of the Palestinian Liberation Organization (PLO) in 1964 and with the organization choosing Jordan as its military base for launching its operations against Israel and its political headquarters for organizing and uniting different Palestinian guerrilla groups and parties. The situation culminated with clashes between the guerrillas of the PLO and the Jordanian army in 1970-1971-which became known as Black September- and ended with the expulsion of the PLO leaders from Jordan (Chatelard 2010: 5). Since then, the Jordanian society has been increasingly polarized, with individuals being pressured to identify themselves as Palestinian or Jordanian while accessing jobs and resources that were continuously scarce, in addition to attempts by the Jordan to curtail the political claims of Palestinians with Jordanian citizenship to prevent Jordan from becoming a 'replacement state' for Palestinians (Ibid). Additionally, in 1983, Jordan introduced a coloured card system to differentiate between Jordanian nationals of Palestinian origin. Those that resided in the West Bank were issued green cards to facilitate their movement from Israeli-occupied West Bank to the East Bank in Jordan and issued yellow cards for those of West Bank origins

residing in the East Bank, creating a system of two-tiers of citizenship rights to Jordanian nationals who were considered under the law to have equal rights (Human Rights Watch, 2010). Therefore, legally, there was no difference between the rights of the two card holders. However, in practice, this changed a lot as described below.

In 1988, King Hussein of Jordan decided to severe all legal and administrative links with the West Bank, after accepting the PLO as the representative of the Palestinian resistance and identity when he had plans to make the West Bank and Gaza strip as part of the Jordanian Kingdom. This resulted in the stripping of all Palestinians from the West Bank, the yellow card holders mentioned above, from their Jordanian citizenship (Al Husseini and Bocco, 2010: 265). These Palestinians, although were issued two year (today five) temporary Jordanian passports for travel, became stateless and were deprived of all rights they previously enjoyed as Jordanian citizens and the process of stripping them of the Jordanian citizenship seems to have been carried out in a random and arbitrary way, with no prior warning or justification (Gabbay, 2014). Those that have been stripped from the Jordanian citizenship also lost their national numbers, depriving them of access to education-since non-citizens cannot attend public schools-, public sector employment and difficulty in obtaining private sector employment and access to free health services (Ibid). This situation also created problems for Palestinians who were expelled from Kuwait after the 1991 Gulf war, with 300,000 Jordanians (most of them Palestinians) coming back to Jordan (Chatelard 2010: 3).

There are no definite statistics on the number of Palestinians who have been stripped of their Jordanian citizenship. However, according to a 2010 report by Human Rights Watch, Jordan withdrew the citizenship of 2,700 Palestinians between 2004 and 2008 and states that Jordanian authorities have cancelled the nationality numbers of Palestinian in a haphazard and arbitrary manner without previous warning. The report also mentions that these cancellations of citizenship are not based on any law but on the 1988 severance decision of the King and that it violates the 1954 Citizenship Law. This action is justified by Jordan in that they are maintaining the rights of Palestinian born in the West Bank to return after an agreement with Israel has been reached on the issue of return of refugees, especially after the PLO became a legitimate representative

of the Palestinians as a nation. However, the report states that the intention of Jordan was to 'rid itself' of the hundreds of thousands of Palestinians with Jordanian citizenships, which were increasingly viewed by Jordan as a source of political polarization and economic burden.

From what has been explained above, it can be observed how Jordan navigated its response and policy towards Palestinian refugees based on its foreign and domestic policy. Right after the Palestinian starting coming to Transjordan, the annexation of the West Bank to form a unity with the East Bank was seen as a solution by King Abdullah, one that was opposed by the Arab states and fully supported by Britain (Kattan, 2019: 11-12), a power at that time on which Jordan was very dependent on for support. King Abdullah's claim that Palestinians of the West Bank, which were very divided at the time, supported the annexation is disputed (Ibid: 12-13). However, since the annexation was a provisional one, that is until the Palestinians were able to form their own state, it seems to have been supported by the Palestinians until the West Bank was occupied by Israel in 1967. Although the integration of Palestinians could have been considered a success for a while, their unique situation and experiences in their quest to achieve a state, impacted their presence and status in Jordan. This led to their presence becoming an issue of sovereignty and identity for Jordan, making them change their policy towards them. Additionally, Jordan applied a selective policy of integrating Palestinians, by providing citizenship only to those that came to Jordan from the West Bank, therefore excluding the Palestinians from Gaza displaced in 1967. Granting citizenship, however, does not guarantee a continuity of holding it and rights, since as mentioned, Jordan has found a way of withdrawing this citizenship, leading them to become stateless and to their precarious situation. The events of Black September of 1970-71 led to a 'Jordanization' or 'de-Palestinization' to reduce the power of Palestinians in the political field, the public economic sector, army and press (Reiter, 2004: 74). Although there are no definite and reliable figures on the population of Palestinians in Jordan, it is estimated to be 50-60% of the population (Ibid). Despite them definitely not being a minority, they remain a political minority and politically underrepresented in the Jordanian parliament (Ibid). However, they have succeeded in being dominant in the economic private sector of the country, which has become one of the reasons for tension with Jordanians (Ibid). The UNRWA registered Palestinians,

on the other hand, since they are not citizens and are treated as foreigners holding residence permits (but also two-year Jordanian travel documents), face different difficulties such as not being able to buy property, register a car or business (Sahin-Mencutek, 2018: 186).

2.2.2. Law No. 24 of 1973 on Residence and Foreigners' Affairs

The Law of 1973 outlines the conditions under which foreigners enter and stay in the country and consists of 42 Articles and five chapters. After an introduction of three articles in which it is stipulated that a Department for Residence and Foreigners' Affairs will be established within the Directorate of Public Security in the MOI (Article 3 (a)) and that the law shall be applied through this department and its instructions shall be carried out by border officials (Article 3(c)), the first chapter consisting of seven articles (4-10) defines the conditions under which foreigners can enter the Kingdom. Accordingly, a foreigner can be granted entry into the country if he possesses a valid passport or travel document (including laissez passers issued to stateless people and refugees) and a visa when required, but some exemptions can be made by the Minister (Article 4). Any foreigner must enter the Kingdom lawfully through the border check-points, ports or airports (Article 5) and anyone who enters otherwise due to reasons of force majeure such as an emergency landing or entry where there is no border check-point or yet political asylum, should report to the nearest branch office of the Directorate or to any competent security post within 48 hours at the most (Article 6). A foreigner wishing to stay in the Kingdom for more than two weeks, should report before the end of that period to Directorate or to one of its branch offices or to the local police station and submit the special form to be filled out for this purpose as well as other documents supporting his statements (Article 11).

Foreigners changing their address of residence must give prior notice of the new address to the Directorate or one of its branch offices or to the local police station, and, where the person moves to another part of the Kingdom within 48 hours of his arrival at his new place of residence, report in person to the branch office of the Directorate or to the police station of the town to which he has moved (Article 12). Article 16 mentions that a foreigner cannot be employed unless he has a residence permit. Chapter three (Articles 18-28) is on the granting and validity of residence permits. It

is stipulated that a foreigner must obtain a residence permit in the Kingdom and must leave on its expiration if not renewed (Article 18). Complete authority is given to the Minister of Interior in granting, refusing or cancelling a granted residence permit without providing reasons for the decision (Article 19). A residence permit of five years may be granted to a foreigner (woman) if married to a Jordanian national and to any foreigner that has lawfully resided in the Kingdom for ten years (Article 22). A foreigner is granted residence permit if the competent authorities are convinced of his reasons for obtaining a residence permit and the conditions for obtaining a residence permit must be an employment contract, investment, study, proof if financial sustenance during their stay in Jordan, a diplomat and a disabled person or minor whose only provider resides in the Kingdom (Article 26).

The fourth chapter provides details on the foreigners who are exempt from the law and what is relevant here are foreigners 'exempted by the Minister on considerations connected with international or humanitarian courtesy or of the right to political asylum' (Article 29(h)). The final 12 Articles (31-42) in chapter five provide the penalties in cases of violations of legal residence. Accordingly, a foreigner may be expelled if they enter the country illegally or if they have committed a crime and the decision may be based on safeguarding the security of the state. Those that enter lawfully but fail to get residence permits or extend expired residence permits can be fined. The final article of the law assigns the implementation of the law to the Prime Minister, Ministers of Interior, Justice, National Economy and Social Affairs.

As can be seen, the law hardly mentions anything about asylum or refugees or about how refugee situations should be handled. It only mentions that in cases of foreigners applying for political asylum, the Minister would decide if they are to be exempted from the provisions of the law. This statement is very vague considering that Jordan does not recognize refugees as such and shows that their presence in Jordan is dependent on the Minister of Interior and not regulated by any national legislation.

2.2.3. Arrival of the Iraqi Refugees

The Arab-Israeli wars were not the only conflict that led to a refugee forced movement to Jordan. The location of Jordan in the Middle East proved to be problematic with

regard to migrant flows once again as a result of the Gulf Wars. Although the Iran-Iraq war of 1980 only led to thousands of Iraqis fleeing to Jordan, the second Gulf War of 1991 between Iraq and Kuwait and the US led invasion of Iraq in 2003 led to a much higher forced movement of Iraqis fleeing the conflicts. During these periods, Jordan continued to not use the term 'refugee' for any foreigners escaping conflict, leading to the status and conditions of Iraqis in Jordan, especially the less wealthy and vulnerable, to be precarious and unstable.

In 1991 it was not as much the Gulf War itself or the later US led attack on Iraq that led to the fleeing of the Iraqis but it was later the attacks of the Iraqi army on the Kurdish North and Shiite South of Iraq as a result of their revolts that led to the mass escape of Iraqis from these areas to neighbouring countries (Chatelard, 2010: 2). Jordan is one of the countries who kept its borders open for the Iraqis who escaped these attacks and at those times Iraqis were not required to have visas to enter Jordan and could stay for an initial period of two weeks that could be extended for three months (for those that enter legally with passports). However, as Chatelard mentions, it is difficult to find precise statistics to the number of Iraqis that fled to Jordan in the 1990s. Although the UNHCR started operating in Jordan in October 1991, there were still many Iraqis who did not register with the UNHCR for different reasons, such as transiting through Jordan to reach the Western countries or coming back and forth between Iraq and Jordan.

Jordan, like most Arab countries, to this day continues to avoid the term of refugees for people escaping conflict from around it and has left the burden of RSD and dealing with the refugees to the UNHCR. The main purpose of Jordan in doing so may be to avoid the option of integration of the refugees, therefore keeping resettlement and repatriation as the only options for the UNHCR. This seems to be part of its asylum policy impacted by policy memories and legacies, as Lenner puts it, connected to the Palestinian refugees (2020: 291). Although integrating the Palestinians seems to have been somewhat successful, the memories of Jordanians being demographically and economically side-lined (Ibid), makes Jordanian policymakers not willing to undergo the same process of providing permanency to yet another group of people that would alter the population balance and negatively impact the economic infrastructure.

A Memorandum of Understanding (MOU) was signed in 1998 between Jordan and the UNHCR which sets the parameters for the work to be done by the UNHCR, the highlight of which is the fact that recognized refugees must be resettled to a third country or repatriated within six months of recognition. Although a majority of the registered refugees have remained for a much longer period than the mentioned and the UNHCR admits having issues in finding a durable solution to them in the specified period, the Jordanian government has been patient and based on the MOU has respected the non-refoulement principle. However, it has clearly stated to the UNHCR that the integration or assimilation of Iraqi refugees is out of the question (UNHCR report, 2013). The objectives of the UNHCR are outlined as 'first, to maintain and expand the protection space in Jordan by ensuring that persons of concern have access to services (such as health and education); second, to provide safety nets in the form of cash for the most vulnerable; and third, to seek durable solutions by assisting refugees through vocational training and other activities' (Ibid). In accordance with its relations with the UNHCR, refugees in Jordan are divided into four categories; those recognized by the UNHCR, asylum seekers who are part of the UNHCR temporary protection programme, persons who were rejected by the UNHCR as refugees before 2003 but are legible to at least temporary protection and persons who fled persecution or violence but have not approached the UNHCR (Sahin-Mencutek, 2018: 189).

After the MOU with the UNHCR, a new office called the Refugee Issues Coordination Office was created within the Ministry of Interior to cooperate and coordinate with the UNHCR and other NGOs in issues relating to refugees in Jordan (currently mainly Iraqis and Syrians) (Ministry of Interior of the Kingdom of Jordan). However, no legislation or regulation on asylum and refugees had been enacted and therefore the Iraqi's- who were not registered by the UNHCR- arrival and presence continued to be regulated through the Law No. 24 of 1973 on Residence and Foreigners' Affairs. Accordingly, although Jordan has agreed in the MOU to treat asylum seekers and refugees according to internationally accepted standards (Ibid), as mentioned, anything towards permanency of the presence of refugees is blocked by legislation such as the mentioned 1973 Law as well as the Constitution. While the Constitution states that the right to work in Jordan is reserved exclusively to Jordanian citizens, the

1973 Law states that foreigners can work only if they have valid residence permits and only in limited professions and industries (Ibid).

The US invasion of Iraq in 2003 was another event which led to the forced movement of Iraqis to Jordan and other neighbouring countries. However, this was a gradual and not immediate movement due to the worsening conditions in Iraq after the overthrow of Saddam Hussein and the increasing internal conflict and insurgency. While in March 2003 there were 940 Iraqi refugees in Jordan according to UNHCR (Stevens, 2013: 4), the numbers that came to Jordan after the invasion and in the following years has been changing and as mentioned earlier it has been difficult to get definite and certain data. While international organizations tended to show the statistics at a lower level, the statistics given by Jordanian authorities always seemed to be higher, something that has been interpreted as a tactic to receive more international support and aid (Lenner, 2020). In order to find a solution for the Iraqi statistical problem, Jordan commissioned the Norway's Institute for Labour and Social Research (FAFO) to conduct a study and the report that was published in May 2007, while at first estimated the number of Iraqis at 161,000, it has been claimed that at the objections of the Jordanian government (Stevens, 2013: 5), the government's technical team was 'was tasked with reconciling the various and contradictory estimates of the size of the Iraqi community and has concluded that the number of Iraqis in Jordan is estimated at 450,000–500,000' (FAFO report, 2007: 8). However, as of 19 November 2019, the UNHCR states that there are 67,225 registered Iraqis in Jordan and if the estimates of the FAFO report are anywhere close to facts, this number is very small compared to the actual number of Iraqis present in Jordan.

Just around the invasion of the US to Iraq in 2003, the Jordanian government and UNHCR signed a letter of understanding on 15 April in anticipation of the refugee flow that would take place and in which they had agreed that a temporary protection (TP) regime would be applied to Iraqis arriving at a center to be established on the border area between Jordan and Iraq (Stevens, 2013: 9). However, the UNHCR tried to apply this regime outside the center and all-around Jordan, since it made its job easier due to it not having enough resources to conduct individual RSDs and also preferred the TP regime because it provided for temporary protection pending a long-

term solution, therefore not forcing UNHCR to resettle the refugees within six months. However, the Jordanian government refused applying the TP regime except for the Al Ruwaished camp on the border and wanted the UNHCR to abide by the MOU and that individual RSDs be applied to Iraqis and they be issued asylum seeker certificates and not refugee cards. The Kingdom continued its refusal of integration and assimilation, which was also mentioned in the letter of understanding, and even though it was lenient and patient with the Iraqis presence in Jordan, it wanted there be a solution for their presence in the form of resettlement or repatriation as soon as possible. These tensions culminated with the UNHCR suspending its activities for three weeks in March 2007 and its representative being replaced (Stevens: 12). Eventually, the UNHCR had to stop the TP regime within Jordan excluding the camp on the border and to abide to the MOU. Refugees recognized by the UNHCR were issued blue cards, with no right to work, and even though the Jordanian government did not recognize the Iraqis as refugees and referred to them instead as 'guests', due to pressure by NGOs and the UN as well as key allies and donors such as the US, Jordan started to make changes to allow Iraqis to access education and health services in 2007 (Sahin-Mencutek, 2018: 186).

Another change that the 2003 war caused was that while Iraqis as Arabs were allowed to enter Jordan visa exempt and allowed to stay as visitors (with no right to work) for three months that could be renewed, this changed after the bombing of three hotels in Amman in November 2005. After that Iraqis were either turned away from borders or were issued very short term visas and in 1 May 2007 Jordan started implementing a new selective visa regime to Iraqis through which they had to obtain a visa before coming to the borders and those that could apply had to be business people, government officials, students, those requiring medical attention, and those with an institutional guarantor in Iraq or Jordan (Stevens: 16), making the Iraqis the only Arabs having to obtain visas prior to entry.

Therefore, Jordan first applied an open-door policy towards Iraqis which then turned into a selective-restrictive one after the numbers started increasing. The reception and registration, as well as the provision of services, of the Iraqis who claimed asylum was left to the UNHCR and the government only intervened when the UNHCR did not

abide by its rules. Not wanting to repeat the experience of the Palestinians, Jordan completely refused the integration of Iraqis and citizenship was never an option. The Iraqis in Jordan, therefore, remained in a state of ambiguity with regard to their status and livelihoods and many started using Jordan as a transit to the West (Chatelard, 2010). Jordan, however, succeeded in channeling international financial aid to face the negative effects of the Iraqi flow to Jordan on its economy and infrastructure, starting a policy tradition which we will see repeated with the arrival of the Syrians. In this line, it also required all international humanitarian programmes for Iraqis to have quotas-around 25-50%- to assist needy Jordanians and also used this aid to meet infrastructure needs (Sahin-Mencutek, 2018:187). The flow of aid seemed to also impact the generousness of Jordan in providing services to the Iraqis (Ibid). The experience of Jordan with the Iraqis is significant in shaping its future policy towards the mass flow of Syrians. Jordan came to shape its policy towards refugees or its 'guests' with a major dependency on the international community and the aid and support, using the presence of the refugees as a bargaining card to get what it wants, whether in areas regarding the refugees or other areas.

2.3. Comparison

Both Turkey and Jordan, as countries located in a region with a high migratory potential, have faced different migratory flows since establishment. With regard to refugee recognition, there is a difference between Turkey and Jordan in that Turkey is a signatory of the 1951 Convention on Refugees and the later complementary 1967 Protocol and Jordan is not. However, with Turkey preserving the geographical limitation to the Convention and granting refugee status only to those coming from Europe, in reality and practice both Turkey and Jordan are the same in their treatment of persons seeking asylum from other regions in the world, especially the conflict-ridden Middle East.

If we are to summarize the similarities between the two countries' asylum and refugee policies from establishment until the Syrian migration crisis, we can see that there are several, with some differences motivated by different political stances and concerns. The following can be listed as similarities.

2.3.1. Lack of Asylum and Refugee National Legislation and Institutions

Turkey became a member of the United Nations in 1945 and Jordan in 1955 and both are signatories to several UN human rights conventions. However, as mentioned above, Turkey is one of the few countries in the Middle East who is a signatory to the 1951 Convention on Refugees but with a geographical limitation. Jordan has never ratified the convention and only recognized the Palestinians as refugees and supported their right of return and Palestinians are not covered by the conventions based on article 1(D) due to be under the mandate of UNRWA. Both countries have several political, economic and social reservations to their selective attitude towards refugees and asylum seekers.

Of the three durable solutions to the presence of refugees, both Turkey and Jordan did not accept the option of integration in their countries; Turkey for non-Europeans and Jordan for all nationalities except for Palestinians for a certain period of time (those coming to Jordan between 1948-1954). This stance has therefore motivated all steps these countries have taken towards refugee presence. All persons outside these categorizations were therefore viewed as aliens or foreigners or guests and their presence in the countries were regulated through legislations and laws on residence of foreigners and not specific refugee or asylum legislation. Turkey for long years regulated their presence through the 1934 Settlement Law and later the 1950 Residence and Movement Law. Jordan, although mentions refugees and asylum seekers in its Constitution in Article 21 (no extradition of political refugees), and other than the Article in the 1954 Citizenship Law on granting Palestinians citizenship, has regulated the presence of refugees through the 1973 Law No. 24 on Residence and Foreigners' Affairs.

The lack of specific legislation on refugees directly led to the lack of the establishment of special institutions to deal with such issues. In both countries, the MOI and border police and officials were responsible for receiving foreigners and issuing decisions on their residences in the countries. There were some departments within the MOI assigned to deal with these of course, but no special institution was established specifically for refugee or asylum issues until the UNHCR came to both countries. Until then, there were several (I)NGOs who were allowed to provide aid and assistance

to those foreigners who fled conflict and were in need. Although both countries were subject to mass forced movements of refugees during similar or different period of conflict, their stance towards refugees and their presence in their countries did not change but in fact strengthened their reluctance and refusal in receiving them, leaving these people in need of protection in precarious and difficult living conditions.

2.3.2. Presence and Role of the UNHCR

Due to the absence of refugee legislation and institutions and the unwillingness of both Turkey and Jordan to deal with those seeking refuge, both have delegated this task to UNHCR; Turkey since 1960 and Jordan since 1998. It can be seen that Jordan has resisted having the UNHCR for a longer period than Turkey. However, the fact that Jordan did not want to recognize any refugees but the Palestinians has caused the UNRWA to be present in the country long before the UNHCR in Turkey. Since the Palestinians fell out of the jurisdiction of the UNHCR, that might have been a reason for Jordan avoiding to have the organization in the country for that long. The Gulf War and the increased number of Iraqis in the country could be seen as an incentive for Jordan to accept that it was not only the Palestinians that had a refuge problem and therefore accepted the presence of the UNHCR.

The UNHCR in both countries took on the responsibility of conducting RSDs for asylum seekers and accepting them for resettlement, leading to a de facto shift of refugee policy responsibility from the state to UNHCR (Kagan, 2012). The responsibility of the Turkish and Jordanian governments in this equation would be to provide security and respect the principle of non-refoulement while the UNHCR would take on the responsibility to provide direct aid and assistance and seek a durable solution in the form of resettlement most of the time. Although this seemed to be the ideal solution to the issue of dealing with unwanted and unaccepted refugees for the governments of both countries, the relationship between the UNHCR and the governments did not always go smoothly. There were situations where either the UNHCR crossed the borders of its responsibilities and acted against the wishes and security and other concerns of the government (as in the case of the Iraqis being granted TP in the case of Jordan and the granting of refugee status to Kurdish peshmerga or to those present in Turkey illegally) which led to tensions between them

and to increased interference in UNHCR activities by the two host governments. This showed that both governments, even though were completely aware of the advantages and contributions the presence of UNHCR had to the refugee issue, they were only ready to accept that presence on their terms. Another source of tension, which led to criticism from the UNHCR, was the fact that both countries did not always abide to the principle of non-refoulment when they extradited individuals granted refugee status or submitted a claim for asylum for reasons such as not abiding by the residence law of either country.

2.3.3. Increasingly Restrictive Policies

Both Turkey and Jordan have followed a similar path when facing mass forced movements of refugees fleeing conflict or when they had security concerns with regard to their presence in the period before the 'Syrian Refugee Crisis'. The similarity can be seen in the reception of such refugee flows. Both had to face the Iraqis fleeing the endless wars their country went through and in the first such forced movement, did not prevent the flow of Iraqis, therefore following an open-door policy. However, with issues arising on the presence of the Iraqis, such as in the case of Turkey most of the Iraqis being Kurdish and in the case of Jordan the application of TP regime to all Iraqis, led the governments of both countries to close their borders to Iraq and adopt more restrictive, even preventive, regulative policies to Iraqis wanting to enter the country. Both countries declared security concerns in their selective policy decisions.

In addition to similarities in border control, Turkey and Jordan also show similarities in the reception and accommodation of the refugees in the form of
encampment. In the case of Iraqis, both countries set camps close to the border with Iraq and the movement of Iraqis from these camps were restricted. In Jordan, camps were also set for Palestinians, even though a majority who got the Jordanian citizenship did not stay in them. The camps were used as a means for attracting international attention to the refugee issue in these countries and also as a means to control and restrict the movement and activities of the increased number of unwanted refugees and as a show of 'temporary presence'.

While Turkey's asylum policy was motivated by nation-state and identity factors from its establishment with an emphasis on Turkishness, national identity and 'Jordanization' became a factor in Jordan after the experience of the Palestinian refugee flow. In Jordan, Arabs were always seen as brethren and were, and even after the Syrian refugee flow, are still welcomed. However, the divisions that resulted from the presence of Palestinians and the development of their national identity, helped in developing a Jordanian national identity separate than the Arab identity. This motivated a policy towards Arabs who came as refugees or economic migrants, that continued to welcome them as Arab brethren worthy of help and support, but never equal to a Jordanian. In that sense of protecting the national identity, both Turkey and Jordan are similar in their approaches towards refugees from the Middle East.

CHAPTER 3

THE EXTERNALIZATION OF THE EU IMMIGRATION AND ASYLUM POLICY AND ITS INSTRUMENTS

Although the initial purpose of forming the Union was economic in nature, the EU evolved to become a union in different policy areas from climate, environment and health to external relations and security, justice and migration (European Union). Immigration and asylum related issues have started becoming more and more prominent for the European Union (EU) since its establishment in 1993. Before that, the European countries have tried to find ways to control and restrict immigration after having quite lenient immigration policies in the 1960s and 1970s to meet the increased manpower needs of increasingly growing economies. Even though the Union may have brought a lot of advantages to the member countries, especially with the abolishing of border controls through the implementation of the Schengen Agreement of 1985 in 1995, it also brought several challenges. One of these challenges was increased forms of immigration from non-member countries. There were increased fears of irregular immigration and flow of refugees from countries of Central and Eastern Europe, Africa and the Middle East after different episodes of conflict in these regions during different periods. Especially after the Bosnian war, the flow of the refugees between 1992-1995 increased this fear (Koser and Black, 1999: 525) and the lack of a common policy to manage these flows led the EU to take action internally for harmonization (Sopariwalla, 2017: 134) and later externally to be able to stop these flows from third countries.

The cooperation in the field of asylum started through the establishment of the Ad Hoc Group on Migration in 1986 even before the EU was formed and whose work led to the adoption of the Dublin Convention in 1990 and it becoming effective in 1997, with it designating which state would take the responsibility of processing an asylum

application and making sure that one member state does so (Guild, 1999: 318). Although the Maastricht Treaty in its Article K did mention asylum as one of the 'matters of common interest' in Justice and Home Affairs (JHA) and that these had to be dealt with based on the 1950 European Convention on Human Rights and the Geneva Convention on Refugees (Kaunert & Leonard, 2012: 7-8), it was not until it was amended through the Amsterdam Treaty that entered into force in 1999 that cooperation in immigration and asylum in the EU took a more significant turn. Through nine articles (61-69) in the fourth Title of 'Visas, Asylum, Immigration and other Policies related to Free Movement of Persons', the union set a target of five years to harmonize and increase cooperation on issues of immigration within the Union (Duvell and Vollmer, 2009: 5). Actions to be taken included developing mechanisms and criteria in determining the member state which would receive and process an asylum application, procedures on the asylum process, minimum standards on refugee reception and definition of a refugee (Kaunert & Leonard: 9). During the period following the Amsterdam Treaty and the Tampere Conclusions, the EU was able to increase internal cooperation through legal instruments such as the Temporary Protection Directive (adopted in 2001), the Receptions Conditions Directive (adopted in 2003), the Dublin II Regulation (adopted in 2003) and the Asylum Qualification Directive (adopted in 2004) (Ibid: 10-12). Agencies such as the Strategic Committee for Immigration, Border and Asylum affairs (SCIBA) and EuroPol, the European Police (later became European Union Agency for Law Enforcement Cooperation) and databases such as the European Asylum Dactyloscopy Database (EURODAC), a finger print data base and False and Authentic Documents Online (FADO), a data bank for False and Authentic Documents (Ibid: 6) were developed. At the same time these efforts were made to increase cooperation and take precautions internally, the EU member states were aware that in order for these internal efforts to succeed, action had to be taken externally as well to control and restrict migratory flows from migrant sending countries of origin and transit. Therefore, action was started to deal with the issue beyond the borders of the EU through cooperation with migrant sending and transit third countries; a phenomenon that came to be known as the 'externalization' of EU immigration and asylum policy.

3.1. Establishing the External Dimension of the EU Immigration and Asylum Policy

Since the incorporation of the external dimension into its agenda, the EU has attempted to implement it through several initiatives using different political, legal and operational instruments. Through these, the EU has tried to increase its influence in particular areas in third countries that directly or indirectly affect their own dynamics. Scholars have called this 'policy transfer' and as defined by Dolowitz and Marsh refers to 'a process in which knowledge about policies, administrative arrangements, institutions etc. in one time and/or place is used in the development of policies, administrative arrangements and institutions in another time and/or place' (1996: 344). The EU has not only used this phenomenon internally towards member and potential member states during accession negotiations, but has also used it in fields in which it cannot directly interfere in in third countries which do not have the prospect of membership. Especially in the field of immigration and refugee policies, the EU eventually realized that controlling and managing immigration flows into the EU would not be effective without the cooperation and participation of countries of origin and transit, which in the EU's opinion had lacking and inadequate immigration and refugee policies and systems. The EU has attempted to 'transfer' or 'teach' these countries how to handle their immigration and refugee policies in a way that would resemble those the EU deemed satisfactory for itself.

This transfer from the EU could be a voluntary transfer, where the third country sees it as an opportunity to adapt EU policies and willingly does so, or an obligated/coerced transfer, where the third country may not view adaptation of EU policies as a national advantage but might find the costs of not adapting to be high and might be faced with either incentives for adaptation or punishment for non-adaptation. As Lavenex and Uçarer put it, the transfer is usually a combination of voluntary and obligated/coerced transfer, dependent on the 'form of institutional affiliation between the EU and the third country; the degree of 'fit' or 'misfit' between EU policies and domestic arrangements in the third country and the strategic interplay of interest constellations within the domestic institutional framework of the third country in promoting or opposing closer approximation to the EU (2004: 422-423). Accordingly, they have come up with five types of institutional affiliation as:

1- Close Association: comprehensive forms of association such as the European Economic Area (EEA)

2- Accession Association: includes enlargement negotiations with the new member states of Central and Eastern Europe

3- Pre-accession Association: with the latest candidate members Turkey and the Balkan countries

4- Neighbourhood Association: includes the countries considered in the area surrounding the EU such as the Maghreb and Mashreq countries

5- Loose Association: with African, Caribbean and Pacific countries

Countries who have high institutional affiliation with the EU-in the form of political, economic, social, geographical and historical linkages-, have policies more 'fit' to EU policies and have domestic institutional frameworks supportive of adapting EU policies will consider costs of adaptation as low and will therefore adapt to EU policies faster and more willingly. However, countries who have low institutional affiliation with the EU, have a large 'misfit' with EU policies and domestic institutional frameworks that oppose adaptation of EU policies and would consider the cost of adaptation as high. These will either not adapt the policies and face 'punishment' from the EU or look for further incentives that would benefit them in case of adaptation to overcome domestic costs. This brings us to the concept of conditionality in relations between the EU and third countries. Conditionality can be described as conditions set by the EU in policy adaptation areas to be met by target countries for them to receive rewards (*positive conditionality*) in the form of financial assistance, some kind of institutional association or membership, with the EU usually punishing those countries who do not comply by withholding those rewards or incentives (*negative conditionality*) (Schimmelfennig and Scholtz, 2008: 190). Consequently, adaptation of EU policies can be seen as opportune conditionality if the third country sees the requirement as meeting its interests and as inopportune conditionality if it does not, leading to great costs to the third country and to the necessity of these costs to be compensated by the EU (Schimmelfennig, 2015: 7). The higher the domestic costs for a country to adapt to EU policies, the higher the rewards and incentives offered by the EU must be. Also, the success of the conditionality strategy is dependent on the value

attributed to it by the third country and its belief in the credibility of the EU to fulfil or withhold the reward or incentive (Ibid).

The EU seems to have developed a security-based and reactive approach- the remote control approach and a preventive approach- the root cause approach, in its policy transfer to third countries within the field of asylum and immigration (Yıldız, 2016). The cooperation with sending and transit third countries in the remote control approach is based on strengthening border controls, combating illegal entry, migrant smuggling and trafficking, and/or readmitting migrants (Boswell, 2003: 619). Through this approach, controlling the movement of migrants is left to sending and transit countries, rather than the EU countries. Through the root cause approach, cooperation with third countries is development-based targeting the root causes of migration from these countries and aims at reducing employment issues, developing governance and demographic changes to minimize economic migration, and increasing respect for democracy and human rights to minimize the number of asylum seekers and refugees (Yıldız, 2016: 14) to prevent migration to the EU. As we will see below, the EU has developed different instruments to apply these approaches in its cooperation with third countries.

The prioritization of the external dimension of the immigration and asylum policies of the EU has led to the introduction of several initiatives, in the form of programmes having temporal Action Plans by the European Council conclusions followed by several communications with recommendations by the European Commission. These Action Plans laid the ground for action to be taken to lead to a Common European Asylum System (CEAS) in the EU and the grounds and instruments for implementing the external dimension of the immigration and asylum policy in third countries of origin and transit. The evolution of the introduction of the external dimension of EU immigration and asylum policy shows how this dimension was placed and articulated in three significant programmes adopted by the EU based on changing political, economic and social circumstances and strategies; the Tampere Council Conclusions, Hague Programme and the Stockholm Programme. These were followed by what became a turning point and innovative international approach to migration in form of the adoption of the Global Approach to Migration and Mobility (GAMM). We will

look at how these initiatives evolved through time, leading to the so-called Syrian Refugee Crisis.

3.2. Evolution of the External Dimension of EU Immigration and Asylum Policies

3.2.1. The Tampere and Seville European Council Conclusions

The first attempt at external action in immigration and asylum came with the establishment of a High-Level Working Group on Asylum and Migration (HLWG) in December 1998 ‘to prepare cross-pillar Action Plans for the countries of origin and transit of asylum seekers and migrants’ and with a focus on ‘external relations with third countries’ (European Commission- HLWG). The objective was to ‘strengthen the external dimension of the EU’s asylum and migration policies based on dialogue, cooperation and partnership with countries of origin and transit in the areas of legal migration, irregular migration, migration and development’ and ‘prepares conclusions and recommendations on asylum and migration to be adopted by the Council’ (Ibid). The main purpose was to study the roots and causes of migration by assessing the political, economic and human rights situation in countries of origin.

The meeting of the Tampere European Council of October 1999 and its conclusions was the first major political mandate aiming at linking EU asylum and immigration policy with its external relations policy, by committing it to work in partnership with countries of origin and transit (Haddad, 2008: 191). Through the meeting, the EU suggested the creation of an ‘Area of Freedom, Security and Justice’ (AFSJ) and aimed at reaching that through four political guidelines:

A- A common EU asylum and migration policy
B- A genuine European area of justice
C- A unionwide fight against crime
D- Stronger external action

In the first guideline on asylum and migration policy, stress is made on partnership with countries and regions of origin and transit and the necessity of addressing issues in these countries and that the EU needs a comprehensive migration approach in this regard to ‘combat poverty, improve living conditions and job opportunities, prevent

conflicts and consolidate democratic states and ensure respect for human rights' and underlines the significance of partnerships with these countries for the policy to succeed (European Council, 1999a). Another point that is stressed is necessity to establish readmission agreements with countries of origin and transit to combat human trafficking.

The Tampere decisions and the need to speed up its implementation were repeated afterwards in the Seville Presidency conclusions of the EU in 2002, where the need to assign migration issues a higher priority in the EU's external policy was stressed again. It also urged that 'any future cooperation, association or equivalent agreement which the European Union or the European Community concludes with any country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration' (European Council, 2002). While in the article 34 'the importance of ensuring the cooperation of countries of origin and transit in joint management and in border control as well as on readmission' was highlighted, in a clear expression of conditionality, Article 35 mentions that relations with third countries which do not cooperate in combating illegal immigration would be assessed accordingly and that this would hamper the establishment of closer relations between that country and the EU (Ibid).

The Seville meeting was followed by a communication on 'Integrating Migration Issues in the European Union's Relations with Third Countries' in 2002 which concluded three strategies for increasing cooperation migration related issues with third countries:

1- To develop an approach which addresses causes of migratory flows through 'external cooperation and development programmes and policies aimed at promoting human rights, bolstering democracy, combating poverty, preventing conflicts and improving the economic and social situation in general';

2- To develop a 'partnership on migration stemming from a definition of common interests with third countries' with this requiring the EU to continue 'integrating migration issues in its political dialogue with third countries and regions' and the focus should not only be on illegal immigration but also on the channels for legal immigration;

3- To establish ‘specific and concrete initiatives to assist third countries in increasing their capacity in the area of migration management. Since the European Council meeting in Tampere, the Commission has endeavoured to integrate specifically the topic of migration into its cooperation programmes with third countries. A large amount of aid (some 934 million EUR) has been programmed, mainly for the period 2002-04, for directly supporting third countries in their efforts to deal with the problems associated with both legal and illegal migration. This programming must now be put into effect’ (European Commission, 2002: 46-47).

This was followed by another communication in 2003 from the European Commission to the Council and Parliament- ‘Towards more accessible, equitable and managed asylum systems’- and this stressed not only having a controlled and common entry procedures of asylum to the EU, but also the importance of asylum burden sharing- and not shifting- to regions of origin to help them enhance their protection capacities. This was expressed as an objective to achieve ‘a legal basis building upon the preparatory actions financed out of Budget line (B7-667) ‘Co-operation with Third Countries in the area of migration’, which would specifically, and complementary to other existing programmes, support new approaches to asylum systems in third countries’ (European Commission, 2003a: 22). Increased protection systems in countries of origin or transit would be achieved in cooperation with the EU Member States, Acceding States, countries of origin, transit and first asylum and the UNHCR.

In 2004, the Communication on ‘the managed entry in the EU of persons in need of international protection and the enhancement of the protection capacity of the regions of origin "improving access to durable solutions”’ was issued by the Commission and this communication was significant in that it recommended the introduction of EU Resettlement Schemes as tools for orderly and managed entry of asylum seekers to the EU and highlighted the need to assist countries in the region of origin-as transit or first asylum countries- in meeting the protection needs of asylum seekers (European Commission, 2004: 20-21) . In order to achieve this, the Communication proposed the establishment of Regional Protection Programmes (RPPs) which would be addressing protracted refugee situations globally, in close coordination with the UNHCR. We will look more into RPPs in the section on instruments.

3.2.2. A New Approach to EU Neighbours and The Hague Programme

In an attempt to foster its relations with its Eastern and Southern Mediterranean neighbours with no prospect for EU membership, the EU came up with the Wider Europe Neighbourhood policy through the Communication 'Wider Europe — Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours' of March 2003. The purpose of this policy was not to alienate these neighbours who could not be offered membership and to guarantee their cooperation in fields deemed of strategic importance to the EU through offering them instead a stake of economic integration in the EU Internal Market and further integration and liberalisation to promote the free movement of persons, goods, services and capital in return for these countries commitments and achievements in implementing political, economic and institutional reforms, including aligning legislation with the acquis (European Commission, 2003b: 10). This policy was launched in 2004 and was incorporated into several existing bilateral and regional agreements with partner third countries throughout the years and evolved to become the European Neighbourhood Policy (ENP) and involved renewed forms of long-term, close cooperation and partnerships in the fields of economy, security, environment, energy and migration in the form of Action Plans with lists of 'priorities for action' (Smith, 2006: 212) to be fulfilled for the EU to provide the country with any benefits.

Before the objectives of the Tampere conclusions were fulfilled, the Council adopted a second five-year action plan- the Hague programme in November 2004. The programme highlights the urgency of increased security concerns following the 11 September 2001 attacks in the US and 11 March 2004 Madrid attacks and in their approach to prevent illegal migration, trafficking in and smuggling of human beings, terrorism, organized crime, it highlights the importance of coordination and coherence between the internal and external dimension of policies (European Council, 2005a: 1).

Under the third part 'specific orientations', in the second section with the heading of 'strengthening freedoms' of the programme, the article 1.6 of the external dimension of asylum and immigration lays out the plan in this field under four headings; 'Partnership with third countries, partnership with countries and regions of origin,

partnership with countries and regions of transit and return and readmission policy' (Ibid: 5). Accordingly, the Council calls on the continuation of the full integration of migration related matters in relations with third countries. Thereby, it calls on all third countries to accede and adhere to the Geneva Convention on Refugees, wants these countries to increase their capacity on managing migration and providing refugee protection and promises support in the 'capacity building in national asylum systems, border control and wider cooperation on migration issues' to those countries who are truly committed (Ibid). In the last part on return and readmission, the Council emphasizes the removal of third country nationals who do not have the right of remaining in the EU and on establishing minimum standards of return by 2005 and the importance of cooperation and mutual technical assistance and conclusion of readmission agreements with third countries in this regard (Ibid: 6). The programme concludes with the fourth section under the heading of 'external relations' in which it called on forming a strategy by the end of 2005 that would cover all aspects of achieving the goal of developing the external dimension in this regard. Accordingly, the strategy 'should reflect the Union's special relations with third countries, groups of countries and regions, and focus on the specific needs for JHA cooperation with them' (Ibid: 14). The programme also suggested the establishment of a European support office to form cooperation between Member States regarding any common asylum procedures on the road to forming a CEAS and this led to the formation of the European Asylum Support Office (EASO) which became operational in 2011.

The Hague Programme was followed by steps that formed a new approach to immigration and asylum by the EU. The Commission in November 2005 through the communication 'Priority actions for responding to the challenges of migration: First follow-up to Hampton Court' proposed measures for a comprehensive approach to migration with a focus on Africa and the Mediterranean (European Commission, 2005) and was followed by the adoption of the Council to this proposal in the form of the Global Approach to Migration (GAM): Priority actions focusing on Africa and the Mediterranean in December 2005. By focusing on an integrated and global approach to migration coming from Africa and the Mediterranean, the Council endorsed the working on initiatives and instruments to be implemented to increase dialogue with and engage third countries in the Mediterranean 'to prevent and combat illegal

migration and trafficking in human beings, build capacity to better manage migration, and explore how best to share information on legal migration and labour market opportunities', with an initial focus on Morocco, Algeria and Libya (European Council, 2005b).

3.2.3. The Lisbon treaty and Stockholm Programme

As a further amendment to the original Maastricht Treaty and the Amsterdam Treaty, the Lisbon Treaty was signed in 2007 and entered into force on 1 December 2009. What makes this treaty significant is while the Amsterdam Treaty had adopted minimum standards in asylum related procedures to be followed by individual member states on a national level, the Lisbon treaty increased the influence of the EU as a supranational institution in decisions on immigration and asylum policy. The Title IV on 'visas, asylum, immigration, and other policies related to free movement of persons' of the Amsterdam Treaty was replaced with the title name of AFSJ and it is the section of the treaty which includes the chapters on regulations regarding asylum and immigration (European Parliament, Treaty of Lisbon: 57). Accordingly, what seems to have changed compared to the Amsterdam treaty is the increased jurisdiction of the EU in that while the European Council was mentioned as the institution responsible with adopting strategies and measures to fulfil objectives outlined in the Amsterdam treaty, the European Parliament is mentioned in the Lisbon Treaty along with the Council as responsible for adopting measures in the asylum and immigration area. These measures include the adoption of 'a uniform status of asylum, subsidiary protection for nationals of third countries, valid throughout the Union; a common system of temporary protection for displaced persons in the event of a massive inflow; common procedures for the granting and withdrawing of uniform asylum or subsidiary protection status; criteria and mechanisms for determining which Member State is responsible for considering an application for asylum or subsidiary protection; standards concerning the conditions for the reception of applicants for asylum or subsidiary protection and partnership and cooperation with third countries for the purpose of managing inflows of people applying for asylum or subsidiary or temporary protection' (Ibid: 61).

Another significant point in the Lisbon treaty is that for the first time cooperation and partnership with third countries in managing migration flows within the external dimension of the asylum and immigration policy of the EU has been mentioned in a treaty. This shows the increased importance the EU has come to give to asylum and immigration matters in its relations with third countries.

Although unlike the Amsterdam treaty the Lisbon treaty did not set a deadline for adopting the measures on asylum and immigration, it was followed by a five-year programme- the Stockholm Programme which was adopted in 2009 for the period of 2010-2014. Among the strategic guidelines defined, the political priorities underlined Europe's responsibility, solidarity and partnership in migration and asylum matters through safeguarding the objective of establishing a common asylum system by 2012 and also affirming the crucial role of the external dimension in the EU's policies (European Council, 2010: 5).

In the first section of the 5th part of the programme on 'integrated management of external borders', after emphasizing the role of EASO and Frontex in responding more effectively to changing migration flows at the EU's external borders, the Council and Commission are invited to 'support enhanced capacity building in third countries so that they can control efficiently their external borders' (Ibid: 26). In the 6th part of the programme, the need for serious efforts to 'build and strengthen dialogue and partnership with third countries, regions and organizations' to manage fluctuations in migration flows are reiterated and the principles set out in the GAM are reaffirmed as well as the acceleration of its implementation by using its instruments such as the Mobility Partnerships (MPs) to increase cooperation with third countries, with a focus on relevant countries in Africa and Eastern and South Eastern Europe (Ibid: 28). Additionally, increased capacity building in third countries to provide effective protection through developing and expanding the RPPs and strengthening EU support to the UNHCR is highlighted (Ibid: 33). In the 7th part of the programme, focus is on key partners such as candidate countries and countries with an EU membership prospects (in our case Turkey) and the countries of the Union of the Mediterranean (in our case Jordan) and among the fields of cooperation with these, cooperation in and management of migration flows is prioritized (Ibid; 36).

When compared to previous approaches and programmes, the Stockholm Programme, by specifying key countries and regions and highlighting the areas in which enhanced cooperation is needed with them, it intensifies the EU's expectations of third countries' actions in the areas of asylum and immigration. Moreover, while stressing increased cooperation with the UNHCR, for the first time the EU through this programme mentions the issue of protracted refugee situations in third countries hosting large refugee populations- an issue which became more significant in future approaches to refugees after the 'Syrian Refugee Crisis' took place.

3.2.4. The Global Approach to Migration and Mobility (GAMM)

The Global Approach to Migration evolved into the Global Approach to Migration and Mobility (GAMM) through a proposal by the Commission in November 2011 in which the events following the so-called Arab Spring in the Mediterranean were highlighted as an indication of the changes the EU migration policy had to adapt to. Accordingly, the Global Approach needed to reflect stronger strategic objectives in the form of 'concrete proposals for dialogue and cooperation, notably with the Southern and Eastern Neighbourhood, Africa, enlargement countries and with other strategic partners' not only on migration issues but on all forms of mobility of third country nationals (European Commission, 2011a: 3). The proposal was endorsed by the EU in the Council Presidency conclusions of May 2012, by recognizing the GAMM as the overarching framework of the EU External Migration Policy and the following proposed four operational priorities were accepted as the pillars of the GAMM forming the framework for the EU external immigration and asylum policy:

1- better organizing legal migration and fostering well-managed mobility;

2- preventing and combating illegal migration and eradicating trafficking in human beings;

3- maximizing the development impact of migration and mobility;

4- promoting international protection and enhancing the external dimension of asylum. (European Council, 2012: 4).

While the Commission proposal on GAMM suggested the approach be more migrant centred and more respectful to the fundamental and human rights of migrants in

source, transit and destination countries, the Council conclusions agreed to considering the migrant's perspective while keeping in mind 'that Member States' interests are a fundamental element in any EU policy framework vis-à-vis third countries' (Ibid: 4). This not only shows the conflict in perspectives of the Commission and the Council, but also that when it comes to immigration and asylum, the Member States of the EU seem to be still reluctant on any actions to be taken that would encroach on their national policies- an issue that will be discussed in the conclusion of the chapter.

Furthermore, with regard to the fourth pillar of the GAMM- which is the more relevant to this study, the Council emphasized the importance of MPs and RPPs as instruments, strategic use of resettlement on a voluntary basis and protection of refugees in third countries as significant parts of dialogues with these countries (Ibid: 11). Consequently, the Council prioritizes the immediate Southern and Eastern neighbourhood, especially those countries of transit and origin of strategic interest to the EU and who have shared interest with and willingness to commit to the EU, as countries to intensify activities in with regard to the GAMM (Ibid). In the final section, the Council reiterates the significance of the tools and instruments used as the basis of the EU's external migration policy and that these should be tailor-made according to the shared interests and concerns of the relevant third country (Ibid: 12).

3.3. Instruments of External Dimension of EU Immigration and Asylum Policy

Throughout the years, the EU has developed several instruments and tools to implement its agenda and later the objectives of the GAMM towards third countries of origin and transit within the context of externalizing immigration and asylum policies. The geographic prioritization of the use of these instruments has changed over time and depending on the density of migratory flows from different regions. While the externalization policy was primarily focused on the Western Balkans, Eastern Europe and South Caucasus countries and later with African countries, recently, and especially after the so called 'Migration Crisis' of 2015, cooperation with Southern Mediterranean countries and countries of the Middle East have intensified.

The instruments used by the EU can be categorized as political, legal and operational instruments. The focus of these instruments seems to be on finding means to control

migratory flows to the EU, whether they be legal or irregular. However, with the Arab uprisings and the extended Syrian war leading to increased volumes of irregular migration to the EU, the focus of the attention of the EU and therefore the instruments used by it, has moved more towards controlling and preventing the movements of asylum seekers and refugees. We will look at the different instruments implemented.

3.3.1 Political Instruments

3.3.1.1 Regional Dialogues

The scope of regional dialogues is on a multilateral level, with many countries from a targeted region by the EU and a focus on identifying common interests, exchange good practices and share and facilitate data collection for achieving- if not all, some- of the objectives or pillars of the GAMM through actions (Garcia Andrade et al, 2015; 23). The basis of regional dialogues is the ENP, which was reviewed following the Arab Uprisings in 2011 and again in 2015 after the 'migration crisis' and came to be based on four main domains in its cooperation with its neighbours: good governance, democracy, rule of law and human rights; economic development for stabilization; security and; migration and mobility (Ibid). The ENP includes bilateral as well as multilateral/regional partnerships with two main regional partnerships; the Eastern Partnership (EaP) and the Union for the Mediterranean (UfM), who have different forms of cooperation and dialogue on different issues, including migration. The main idea behind the ENP is conditionality in the form of 'more for more' approach; with the partner countries being offered rewards in the form of additional financial and other forms of support in return for reforms in different fields.

The European Neighbourhood Instrument was set up with this purpose of providing 'incentives and rewarding best performers, as well as offering funds in a faster and more flexible manner', turning the political decisions given within the ENP into action on the ground through different action plans and projects and was worth over €15 billion from 2014-2020 (ENPI- Cross-Border Cooperation in the Mediterranean).

The regionals dialogues are usually launched as a political declaration in the form of processes at the Ministerial level and with the participation of the European Commission and is succeeded by different temporal meetings and summits on many levels (Ibid; 24). Among the regional dialogues launched are the Prague process (includes Turkey), Budapest Process (includes Turkey), Eastern Partnership Panel on Migration and Asylum (EaP), Rabat Process, Africa-EU Migration and Mobility Dialogue, ACP-EU Migration Dialogue and Khartoum Process.

As mentioned earlier, another dialogue of significance to this study is the Barcelona Process or Euro-Mediterranean Partnership launched in 1995 and evolved to become UfM in 2008. It has 15 Southern Mediterranean countries, including Turkey and Jordan (EU External Action- Union for the Mediterranean). Although the main purpose of this multilateral instrument is not migration, its several projects are on economy, environment, energy, health, migration, education and social affairs (EEAS, 2016), with the realization of the objectives of stability, human development and integration; objectives the EU seeks to realize in countries of origin and transit to reduce immigration. Therefore, and especially after the 2015 'migration crisis', migration became a key subject within this partnership.

3.3.1.2. Bilateral Dialogues

Bilateral dialogues involve the EU member states and specific third countries and are similar to regional dialogues but with a more technical approach and concentrate on implementing association and cooperation agreements concluded with third countries on JHA issues (Garcia Andrade et al, 2015; 28). The Ankara Association Agreement with Turkey and Dialogues on Migration, Mobility and Security with countries of the Southern Mediterranean such as Morocco, Tunisia, Jordan and Lebanon are examples of these dialogues.

The bilateral dialogues with countries of the Southern Mediterranean seem to have been motivated by the so-called Arab Spring and its effects as they were proposed by the Commission in 2011 and increased pace during the following years. The focus of these dialogues was again on achieving the pillars of the GAMM in the long term and is based on the concept of conditionality; the target countries needed to achieve

development in migration management, border controls and return and protection for refugees in their region before benefiting from mobility and legal migration opportunities to the EU (Ibid). The bilateral dialogues with these countries are a preliminary to the adoption of Mobility Partnerships with these countries.

Important aspects of bilateral dialogues are the readmission agreements and visa facilitation agreements for negotiating and concluding these agreements with target third countries. Another significant tool within this group are Visa Liberalization Dialogues (VLDs) which involve Visa Liberalization Action Plans (VLAPs) with third countries for them to realize particular targets or benchmarks in adapting their legislation and policy frameworks in the field of immigration and asylum to that of the EU in return for obtaining visa-free regimes for their citizens. As we will see in the next chapter, the EU launched a VLD with Turkey in 2013 in parallel with signing the EU-Turkey Readmission Agreement for instance as a step for realizing a visa free regime for Turkish citizens.

3.3.1.3 Mobility Partnerships

Mobility Partnerships are one of the most comprehensive and long-term bilateral dialogue frameworks for managing and introducing legal movements between EU and third countries within the GAMM. These instruments are set up through the signature of a joint declaration where the relationship between EU and the partner third country is outlined and followed by specific objectives to be carried out in mobility, legal migration and integration, border management, fight against irregular immigration and human trafficking, readmission, migration and development and asylum and international protection and then followed by an implementation programme (Garcia Andrade et al, 2015; 31-32). In addition to the EU and its participating member states and third country officials, the MPs are signed by the EU agencies- Frontex, the European Training Foundation, EASO and EUROPOL and their implementation in third countries are monitored and coordinated through migration cooperation platforms which meet regularly (Ibid). Since 2008, the EU has signed declarations to establish MPs with eight countries, among which is Jordan, who signed the declaration in 2014, with 12 Member States' participation (Ibid; 33).

Although MPs have been championed as innovative long-term instruments that would fulfil the objectives of the GAMM, they have also been criticized by researchers (Martin, 2012; Reslow, 2012; Carrera et al, 2012; Carrera et al, 2013) for not actually being partnerships involving shared interests and common goals, with the EU actually preparing these agreements in a way that would benefit them and based on conditionality. Despite mentioning in the communication that proposed the launching of MPs that the they 'will be tailored to the specifics of each relevant third country' and 'to the ambitions of the country concerned and of the EU', this is immediately followed by the sentence 'to the level of commitments which the third country is ready to take on in terms of action against illegal migration and facilitating reintegration of returnees, including efforts to provide returnees with employment opportunities' (European Commission, 2007; 3), highlighting the conditionality in the partnership. The communication continues to list the commitments expected of third countries such as readmission, discourage illegal migration, improve border control and management through cooperation with the EU and its agencies, combating migrant smuggling and human trafficking and to promote productive employment and decent work. In return, the countries who fulfil these commitments would be given improved opportunities for legal migration to its nationals, assistance to the country to develop their capacity to manage legal migration flows, taking measures to address the risk of brain drain and to promote circular migration or return migration and visa facilitation procedures for its nationals (Ibid; 4-7).

Therefore, partner third countries are expected to undergo significant changes in their political and structural immigration and asylum national frameworks to prevent migratory flows to the EU in return for benefits for their nationals to legal migration to EU. However, these benefits are considered minimal in terms of realization by the EU member states and very dependent on the willingness and need of these states to increase labour migration- making the mobility offered by the EU very 'restricted, non-permanent and highly conditional' (Carrera et al, 2012; 13). The fact that EU member states interested in signing an MP on a voluntary basis and the MPs being non-legally binding policy instruments with no guarantee of enforcement by the EU (Ibid), makes the realization of the objectives of MPs more difficult.

3.3.1.4. Common Agendas on Migration and Mobility (CAMM)

These are instruments similar to MPs in the commitment of third countries and the EU to an advanced level of cooperation but with the difference in that either side may not favour the full commitments or obligations of some agreements such as readmission and visa facilitation agreements (European Commission, 2011a: 11). Hence, they involve 'softer' forms of cooperation such as common recommendations, information exchange and capacity building measures (Carrea et al, 2012; 10). However, a CAMM could evolve into an MP when both sides are ready to increased commitments. The EU has only adopted three CAMMs until now; with Nigeria and Ethiopia in 2015 and with India in 2017.

3.3.2. Legal Instruments

3.3.2.1 Inclusion of Migration Clauses in Global Agreements

Migration related clauses in global agreements, such as association and partnership and cooperation agreements, between the EU and its member states and third countries have always been included, starting with a focus on readmission of irregular migrants from these countries and evolving to include more clauses to broaden the scope of cooperation to include such issues as combating irregular immigration and human trafficking and causes of these by supporting social and economic development in countries of origin and transit. These started to include more and more details such as technical and administrative assistance for exchange of practices, changes in legislation and capacity building and training in migration related issues such border management, visas and asylum (Garcia et al, 2015; 36).

The EU has numerous association and partnership and cooperation agreements with several countries. The significant ones for our study here are; the Association Agreement (Ankara Agreement) between the European Economic Community and Turkey signed in 1963 and the Euro-Mediterranean Agreement establishing an association between the European communities and Jordan signed in 1997 and replacing the Cooperation Agreement between the European Economic Community and Jordan, and the Agreement between the Member States of the European Coal and

Steel Community and Jordan signed in 1977. We will look at these in more detail in the next chapter.

3.3.2.2 Specific International Agreements on Migration

The EU has come up with three significant international agreements within its external dimension of immigration policy; EU readmission agreements (EURAs), Visa Facilitation Agreements (VFAs) and Visa exemption agreements.

The EURAs have been a principal tool within the EU external dimension and are agreements on a reciprocal basis between the EU and a third country regulating the return of irregularly present migrants from each to the corresponding country. EURAs entail the obligations of third countries to readmit their nationals as well as third country nationals, exceptions to these, rules and procedures on requesting, responding and implementing readmissions, modalities of transport and costs as well as clauses on the respect to international conventions on the protection of human rights and refugees (Garcia et al, 2015; 38) for those returned, such as the non-refoulement principle.

The EU has concluded readmission agreements with 17 countries and continues to highlight the importance of concluding more. In return for concluding an EURA, third countries are usually offered VFAs for their nationals. However, signing an EURA does not guarantee the conclusion of a VFA, as in the case of Algeria (EURA in 2002), China (EURA in 2002) and Turkey (EURA in 2013). In addition to VFAs, the EU in its communication on the EU Action Plan on return (European Commission, 2015a), stresses using additional elements of leverage to persuade countries to sign a readmission agreement such as ‘development assistance, neighbourhood policy, trade agreements and trade preferences (with the possibility to link the conclusion of free trade agreements or the granting of preferential treatment for certain third countries to the parallel conclusion of a readmission agreement), education and culture’ (Ibid; 14) which highlights the importance of these agreements to the EU.

VFAs are tools used to manage mobility and are agreements to facilitate the issuance of visas to particular third country nationals which include facilitation of multiple entry

visas, the reduction of the visa fee or exemption for some categories of persons and the reduction of the visa processing period for an application from the usual 15 days to 10 or 2 for urgent cases (Garcia et a, 2015; 40). However, the EU Action Plan in the communication mentioned admits to the limitations of VFAs since the EU would not offer such an agreement to a third country which is a source of high irregular migrants and therefore may cause a migratory risk (European Commission, 2015a: 14). Despite this, the EU has concluded VFAs with 13 countries and continues negotiations with Tunisia, Morocco and Jordan (European Commission, 2020a).

Visa exemption or waiver agreements are concluded between the EU and third countries through which each sides' nationals are allowed to travel visa-free and stay for three months within a six-month period and is based on reciprocity.

3.3.3. Operational Instruments

3.3.3.1. Regional Protection Programmes and Regional Development and Protection Programmes

The RPPs were established through the Communication from the Commission on 'Regional Protection Programmes' dated September 2005 as international protection instruments aiming to 'enhance the capacity of countries in the region of origin in the protection of refugees; they should be flexible and situation specific; should be consistent with Community humanitarian and development policies and should assist third countries to comply with international obligations under the Geneva Convention and other relevant international instruments; consist of practical actions that deliver real benefits both in terms of protection offered to refugees and in their support of existing arrangements with the relevant third country and should also aim at bringing benefits to the host country'. The end objective of these programmes in third countries is to provide protracted refugees with one of the three Durable Solutions promoted by the UNHCR- repatriation, integration or resettlement. Based on this, the communication listed seven core activities in the form of projects to be carried out by the RPPS aiming at:

(1) Improving the general protection situation in the host country.

(2) The establishment of an effective Refugee Status Determination procedure which can help host countries better manage the migration implications of refugee situations thereby allowing them to better focus resources on the core refugee population.
(3) Giving direct benefits to refugees in the refugee situation, by improving their reception conditions.
(4) Benefiting the local community hosting the refugees, for example by addressing wider environmental concerns which affect both refugees and the host community and by disseminating information on the positive impact of refugees.
(5) Providing training in protection issues for those dealing with refugees and migrants.
(6) Establishing a registration component, building on UNHCR's Project Profile for persons of concern to UNHCR in the area, which could assist in measuring the impact of Regional Protection Programmes.
(7) Establishing resettlement commitment, whereby EU Member States undertake, on a voluntary basis, to provide durable solutions for refugees by offering resettlement places in their countries (European Commission, 2005: 4).

The communication continues in explaining and analyzing the selection of a region with a protracted refugee situation for the pilot RPP, stating that the UNHCR had identified 38 refugee situations which could be considered protracted meaning that 25 thousand or more refugees have been living in exile for more than 5 years. This was followed by two pilot RPPs both in the Western Newly Independent States (Ukraine, Moldova and Belarus) and Great Lakes/East Africa (Burundi, the Democratic Republic of the Congo, Kenya, Malawi, Rwanda, Tanzania and Uganda)- particularly in Tanzania. However, according to an evaluation made in 2009, the RPPs not only suffered from a lack of coordination between EU Directorate Generals and not well understood in the beneficiary countries, but within their framework only 434 refugees from the Great Lakes region and 204 refugees from the Western NIS region were resettled between 2004-2008 (European Resettlement Network, 2020). Despite this, the programmes were renewed in 2010 and two RPPs were launched in 2011; one in the Horn of Africa and one in North Africa.

Following the Syrian refugee outpour and its effects on the region and indirectly the EU, in 2012, the Justice and Home Affairs Council approved the Commission's proposal to establish Regional Development and Protection Programmes (RDPPs) as a response to this flow of Syrian refugees to be implemented in Lebanon, Jordan and Iraq to support them in the medium and long term. We will look into this RDPP further in the next chapter.

3.3.3.2. Frontex Working Arrangements

The European Border and Coast Guard Agency (Frontex) was first established through Council Regulation (EC) 2007/2004 in 2004 to increase cooperation in the border management of the member states of the EU and is currently responsible for promoting, coordinating and developing EU border management (Frontex, 2020a). Therefore, it is a significant agency and instrument in the external dimension of the EU immigration and asylum policy in that it develops and maintains partnerships with third countries neighbouring the EU as well as countries of origin and transit in the fields of border management, coast guarding, law enforcement and return, guaranteeing the protection of fundamental rights and addressing irregular migration and cross-border crime (Ibid). This cooperation takes place in the form of Working Arrangements signed between the agency and the relevant authorities of the third country. The agency has signed 18 WAs with non-EU countries including Turkey (Ibid). Through these WAs, Frontex also develops technical assistance projects and based on the needs of the countries in these regions, the projects are designed to support them in building capacities in the field of border security and management.

Currently, Frontex is implementing three EU-funded projects; EU4BorderSecurity- with the Southern Neighbourhood Countries, which includes Jordan; Strengthening the Africa-Frontex Intelligence Community and Regional Support to Protection-Sensitive Migration Management in the Western Balkans and Turkey (IPA II), Phase II- with Albania, Bosnia and Herzegovina, North Macedonia, Kosovo, Montenegro, Serbia and Turkey (Ibid).

3.3.3.3. European Asylum Support Office (EASO) cooperation with third countries

The EASO was set up by the EU through the regulation (EU) 439/2010 in 2010 as an agency that would be a centre of expertise on asylum that would contribute to the internal development of the CEAS by facilitating, coordinating and strengthening practical cooperation among Member States on the many aspects of asylum (EASO). With regard to the external dimension, the EASO is to coordinate exchange of information between the EU and third countries and enable technical cooperation between them, especially assisting in capacity-building measures, implementing RPP/RDPPs and participating in resettlement actions (Garcia et al, 2015; 45).

In this regard, the EASO Management Board adopted in 2013 the EASO External Action Plan and this was later adopted as the EASO External Cooperation Strategy in February in 2019 due to changes in the cooperation requested by third countries and envisages maintaining and reinforcing cooperation with priority third countries in targeted regions, namely Western Balkan countries, Turkey and Middle East and North African (MENA) countries in the form of implementing activities mainly in the areas of resettlement and third country support (EASO, 2020).

The EASO has indeed increased its activities in these regions, especially after the Syrian civil war with the outpouring of Syrians to neighbouring countries. In 2014, these activities were enhanced with Turkey and its Directorate General of Migration Management (DGMM) and a specific cooperation project with Jordan, Tunisia and Morocco, which we will look into in the next chapter.

3.3.3.4 Resettlement Schemes

Resettlement is defined by the UNHCR as ‘the transfer of refugees from an asylum country to another State, that has agreed to admit them and ultimately grant them permanent residence’ and is one of the three durable solutions for refugees. Resettlement has been developed by the UNHCR and its partners as a tool of responsibility sharing and it has undertaken several resettlement operations for resettlement of refugees for instance from countries of first asylum or belong to a specific group (Perrin & McNamara, 2013: 4). The EU, in cooperation with the UNHCR has also started using resettlement as an incentive for third countries of first asylum which were willing to adopt their policies and be involved in refugee protection

in their own country (Ibid: 5). Throughout the years, resettlement continued to be highlighted by the EU as a way to discourage irregular migration. However, resettlement schemes by the EU have remained on voluntary basis for participation by Member States. Lately, in 2016, a Resettlement Framework was proposed by the European Commission for a more structured and harmonized framework for resettlement as a safe way and alternative of accessing asylum for refugees (Bamberg, 2018: 4). The framework foresaw mandatory resettlement quotas rather than it being voluntary and to use it as a humanitarian tool rather than a tool of migration management (Ibid: 6). However, the European Council wanting to keep resettlement as a voluntary option and viewing it as a strategic tool for migration control, shows the internal lack of consensus in the EU on resettlement.

3.4. Conclusion- Increasing Involvement of Third Countries in EU Immigration and Asylum Policy

The EU as a supranational entity has faced many challenges with regard to migratory flows-whether regular or irregular- since its establishment. Migration policy on the EU level has always been a source of tension between Member States and EU institutions. With migration policy still seen as a matter of national sovereignty and impact, some countries such as the UK, Denmark and Ireland have chosen to not be part of the AFSJ (Reslow, 2012: 224). Even though EU institutions have gained increased influence in migration policy-making, with the Commission initiating these policies, the European Parliament co-legislating with the Council and the legislation being subject to the jurisdiction of the European Court of Justice, Member States continue to find ways to decrease the role of these institutions as the significance and implications of migration has increased lately (Ibid: 225). However, Member States will choose to cooperate at the EU level in migration related issues when they believe it enhances their national policies (Ibid: 227). The extraterritorial control of immigration through externalization of the immigration and asylum policies seemed to be a solution for the lack of internal consensus in migration policy harmonization. External action in different forms with countries of origin and transit was crucial and their cooperation and willingness to accept this policy was necessary. Therefore, the EU's external action in the field of immigration and asylum increasingly evolved throughout the years in becoming more significant with triggering instances of increased migratory flows due to conflict or

regional unrest in its neighbouring regions. The EU has tried to take initiatives and steps on regional basis based on these instances but at the same time strived to bring long-term solutions to prevent future flows.

The approach developed earlier on by the EU in this regard depended on a political agenda for development in countries of origin to prevent the flow of migrants through changing the push factors in these countries such as poverty, lack of job opportunities and human rights and conflict. The EU attempted to do so through different regional and bilateral partnerships and agreements with countries of different regions. Migration issues naturally became a significant component of these partnerships and different projects and programmes were established with third countries through different political, legal and operational instruments to fulfil many of the objectives of the EU in immigration and asylum. The ultimate goal was to support these countries in bringing their immigration and asylum legal and institutional frameworks as close as possible to EU standards to prevent migratory flows from reaching the EU countries in the future, especially as a result of a conflict as in the case of the 'Syrian refugee crisis'.

While initially the EU adopted a migration-security nexus approach focusing on the prevention of irregular migration in its policies and initiatives towards third countries through concentrating on promoting political agendas such as democracy and including readmission agreements in their partnerships, with time the EU developed its approach to a migration-development nexus (Lavenex & Kunz, 2008) to concentrate on providing something in return for what it wanted from these countries to be achieved in controlling migratory flows, such as suggesting ways of increasing legal migration for the citizens of these countries. It therefore, changed its discourse to include not only migration but also 'mobility', a term which tends to be understood more positively and connected to people-to-people contact and economic growth (Weinar et al, 2019: 4). As we have seen above, the EU has developed several instruments and tools to achieve its objectives in this regard. Especially in the field of asylum, the policies and instruments developed with time showed increased involvement of the EU in introducing support to third countries of origin and transit to handle migration related issues locally to prevent them from reaching the EU

countries, such as capacity building and training in reception and registration of refugees.

Implementing the external dimension, however, has not been and still is not free of challenges to the EU, the Member states and the third countries involved. As James Hampshire puts it, the external dimension on immigration and asylum is constrained not only by asymmetries of power and interest between the EU and third countries, but also by internal institutional and political asymmetries within the EU (2015: 572). With regard to the latter, conflicting agendas of the Commission, the Council and Member States, seem to hinder external policy-making. While the Commission favours a liberal approach to the external dimension, the Council prefers a more restrictive one (Ibid). Especially regarding MPs as the most significant instruments of the GAMM, he highlights the fact that these partnerships are non-binding and formed on a voluntariness of Member States to participate and offer incentives to third countries, therefore limiting the appeal of such instruments to third countries (Ibid: 573). Although Member States of the EU may have some common denominators in migration policy, each state also has different agendas and interests which determine their willingness to participate in the EU external migration policy actions. With the logic behind the instruments being conditionality- controlling migratory flows by third countries in return for incentives provided by the EU (and therefore its Member States), the lack of commitments by Member States to offer these incentives will directly impact the willingness of third countries to participate in MPs and their performance in implementing their side of the commitments. MPs however continue to be used as a significant instrument by the EU although due to the challenges mentioned, they have limited scopes of cooperation (Ibid: 583).

In the next chapter, we look at how the EU was involved and how it used its relations with two significant countries in its neighbourhood; Turkey and Jordan, in the light of the 'Syrian Refugee Crisis' to achieve its objectives in preventing the Syrians reaching it.

CHAPTER 4

THE IMPACT OF THE EU IN CHANGES IN TURKEY AND JORDAN'S ASYLUM POLICIES AFTER THE 'SYRIAN REFUGEE CRISIS'

4.1. A European Agenda on Migration- A New Approach by the EU

The number of detected irregular crossings to Europe had fluctuated in the past decade. However, as of 2013 there has been a steady increase in the numbers with it being 107,000 in that year, 238,000 in 2014 and then peaked in 2015 with 1,827,000 crossings (Içduygu & Demiryontar, 2019: 9). The highest number of these irregular crossings, with around 885,000 people, came from the route named as the Eastern Mediterranean route by Frontex and involves crossings from Turkey (Ibid). As can be seen in Figure 1, this number was alarming when compared to previous years and led the EU to realize that all precautions and actions it had to respond to and manage the irregular arrival of such large numbers of people were not adequate.

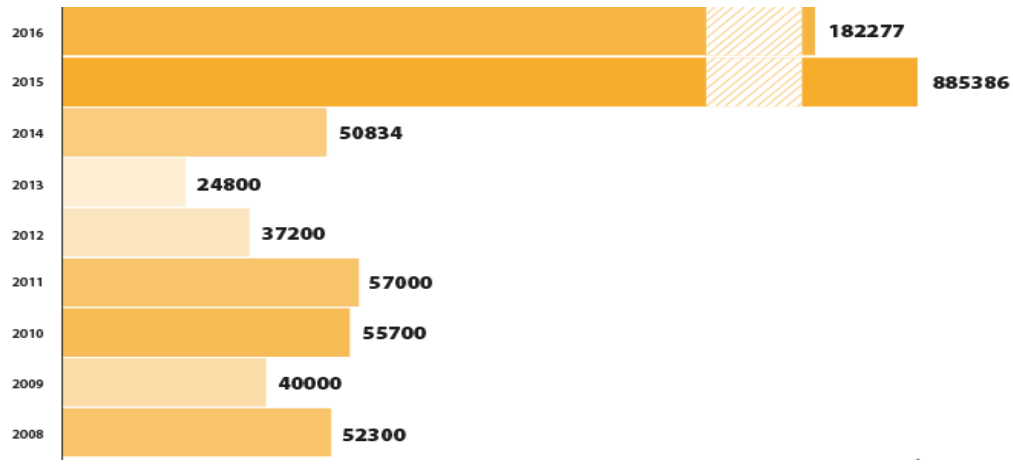


Figure 4.1. Illegal border crossings on the Eastern Mediterranean route in numbers. (FRONTEX-Migratory Routes, 2020b)

Through a communication under the title of 'A European Agenda on Migration' in May 2015, the EU tried to take action to stop what it perceived as 'human misery created by those who exploit migrants' by addressing the roots of migration (European Commission, 2015b: 2). Accordingly, it first set immediate actions to be taken for saving lives at sea, targeting criminal smuggling networks, responding to high-volumes of arrivals within the EU through relocation, finding a common approach to granting protection to displaced persons out of the EU through resettlement proposing a resettlement scheme for 20 thousand persons in need of protection, working in partnership with third countries to tackle migration upstream in the form of building on the existing RDPP in the Middle East (for the case of Syrian migrants) and using EU tools to help frontline member states (Ibid: 3-6).

In addition to immediate action, the agenda also provides four pillars of action to be taken in the medium term to give the EU a migration policy which would be more sustainable under the new circumstances. The four pillars are: reducing the incentives for irregular migration; border management – saving lives and securing external borders; a strong common asylum policy and a new policy on legal migration (Ibid: 6-17).

With regard to the first two and fourth pillar, the EU stresses the importance of partnership with third countries to achieve them. For reducing the incentives for irregular migration, while stating that the EU has already established bilateral and regional frameworks with crucial countries to combat irregular migration, it stresses that cooperation in this regard must be enhanced through EU Delegations and migration liaison officers in key third countries, and gives Turkey as an example where this would enhance cooperation. It also reiterates the necessity of continuing to provide development assistance, as well as humanitarian assistance, by allocating EUR 96.8 billion for the period 2014-2020 to address the roots of irregular migration in countries of origin or transit (Ibid: 8). Cooperation with third countries on combating smuggling and human trafficking networks is highlighted (Ibid), as well as the international obligation of third countries to take back their nationals who are residing irregularly in the EU and that the EU should use all its leverage and incentives to achieve this (Ibid: 9), again stressing the importance of readmission. Strengthening the

management of borders in third countries is also stressed. On the issue of having a new policy on legal migration for itself, the EU also stresses here its support for partner third countries in also providing a more effective management of labour migration by focusing on empowering migrant workers and tackling exploitation (Ibid: 16).

In this line, the EU has adopted the strategy of building 'resilience' through its 2016 Global Strategy for Foreign and Security policy in its external action with third countries. The EU defines resilience as 'the ability of an individual, a household, a community, a country or a region to withstand, to adapt, and to quickly recover from stresses and shocks' (Anholt & Sinatti, 2020: 316) and was also applied to migration issues to build on the humanitarian-development nexus, especially after the so-called 2015 Migration Crisis. In this respect and through the communication 'Lives in Dignity: From Aid dependence to Self-reliance: Forced Displacement and Development' of 2016, the EU set out on a new strategy of building resilience in refugee hosting countries under the responsibility of these countries in collaboration with humanitarian and development actors to turn the refugees from people living on aid to people contributing to the economy of the country hosting them. This strategy has been evaluated as yet another attempt by the EU in preventing the migration of refugees to Europe through refugee-containment in receiving countries (Ibid: 326). Resilience building has also been adopted by the international community as a response to the 'Syrian Refugee Crisis' through the Regional Refugee and Resilience Plan (3RP) under the co-leadership of the UNHCR and the United Nations Development Programme (UNDP) and of which the EU is a significant donor (Ibid: 321). This study will not discuss the 3RP, since our focus will be on bilateral initiatives of the EU with Turkey and Jordan.

This (not-so) new approach to migration seems to be a continuation of previous approaches, with a continued emphasis on same issues of readmission, irregular migration and incentives for legal migration. However, as we will see below, 2016 became a year during which the EU intensified action in the field of migration in the Middle East in a way that has not has happened from before. This has come in the form of the unique agreement with Turkey- the EU-Turkey Statement- and the Compact agreement with Jordan- the EU-Jordan Compact (which has been also made

with Lebanon). These new initiatives to the receivers of the highest number of Syrian refugees in the region, aim at not only preventing the flow of migrants in the short, medium and long-term, but also, in my opinion, aim at making a change to the asylum policies of Turkey and Jordan. As mentioned in Chapter 2, one of the main aspects that define the asylum policies of both these countries, is their refusal of providing integration of refugees as a durable solution to their presence- an issue that was until the agreements mentioned was taboo. However, what we see in EU's approach in its cooperation with these two countries, is increased concentration on conditionality based on integration-based policies in these countries, in the form of humanitarian and development aid in return for economic integration through providing work to the refugees.

4.2. Turkey

4.2.1. Changes made leading to the 'Syrian Migration Crisis'

With the EU increasingly aware of the significance of Turkey's role and position at its borders, it had started its cooperation with Turkey politically and economically since the inception of the EU. Through the Helsinki European Council Presidency Conclusions of 1999, Turkey was accepted as 'a candidate State destined to join the Union on the basis of the same criteria as applied to the other candidate States' with an accession partnership to be drawn to fulfil the accession or Copenhagen criteria of becoming a member (European Council, 1999b). This was followed by four Accession Partnership Document (APD) in 2001, 2003, 2006 and the last one in 2008 for Turkey which formed roadmaps for Turkey to implement the Acquis Communautaire (hereby acquis) so that accession negotiations could be started. Each APD had clauses on asylum and migration with short or medium-term objectives Turkey had to achieve. All APDs had similar objectives and were mainly on the alignment of the acquis in the field of asylum including lifting the geographical reservation to the 1951 Geneva Convention, strengthening the system for hearing and determining applications for asylum by establishing a law and institution to regulate asylum issues, developing accommodation facilities and social
support for asylum seekers and refugees, concluding a readmission agreement with the EU (European Council, 2001, 2003).

Except for the 2006 APD, each was followed by a National Programme for the Adoption of the Acquis (NPAA) by Turkey. All NPAAs were extensively aligned with the APDs objectives with regard to asylum except for the issue of lifting the geographical limitation. In this regard, Turkey introduced a form of conditionality and an emphasis on burden-sharing, stating that it would consider lifting the limitation on the condition that it should not encourage large scale inflows from the East and according to the attitude of EU Member States on the issue of burden-sharing (NPAA, 2001, 2003).

In line with these roadmaps, Turkey announced its National Action Plan for the Adoption of the EU Acquis in the Field of Asylum and Migration (NAP) on March 25th, 2005. In the same year, accession negotiations with Turkey formally started on 3rd of October 2005, after it was seen as 'sufficiently fulfilling' in the Brussels European Council Presidency Conclusions of December 2004.

The NAP outlined a roadmap of actions to be taken by Turkey in the area of asylum and migration and was prepared as a result of coordinated work of a special task force in Turkey consisting of different agencies in the fields of border, migration and asylum that came up with three strategy papers on the Protection of External Borders in Turkey, on Activities Foreseen in the Field of Asylum within the Process of Turkey's Accession to the EU and to Contribute Migration Management Action Plan in Turkey in 2003 (NAP, 2005: 5). Following this, Turkey implemented the TR02-JH-03 Asylum-Migration Twinning Project on March 8th, 2004 in cooperation with the Danish – UK Consortium through which authorities from Turkey worked together with their EU counterparts for the first time in the areas of asylum and immigration (Kirisci, 2012: 73). As a result of this project, many employees in the relevant authorities that would be working to implement the action plan had been trained.

The steps listed in the NAP to be taken by Turkey firstly mention the establishment of a specialized unit or institution in the field of asylum and migration that will be responsible for all procedures and regulations regarding asylum and migration. Additionally, the plan outlines the areas of planned action, shortly as follows:

1- Prioritized investment in twinning projects on establishment of a country of origin and asylum information system, premises for the Asylum Unit, reception and accommodation centres for the asylum seekers and refugee guest houses, training academy (Institute) and return centres;

2- A review of asylum and migration policies to be handled in a holistic approach by keeping in mind Turkey's political, economic and social changes;

3- Details on the handling of asylum procedures including information on different types of protection offered to refugees, the appeal rights and procedures for application, non-refoulment which should all be incorporated in the law on asylum;

4- Details on handling of procedures on legal and illegal migration, integration (including establishing an integration policy and system for asylum seekers and refugees who shall be provided with healthcare services, social assistance, access to the labour market and to social, economic and cultural rights) and deportation procedures (NAP, 2005: 33-50).

The final part of the NAP is on the lifting of the geographical limitation, on which Turkey states in detail its reservations in this regard and as it mentioned in its NPAAs, reiterating the two conditions for the lifting of the limitation on preventing influx of refugees and burden-sharing with EU (Ibid: 50). It continues to highlight the importance of continued EU support in the form of financial and technical aid to establish the necessary institutions for asylum and the significance of guaranteeing equal burden sharing during a mass population flow, since Turkey would become a first country of asylum. In the plan, Turkey suggests that a proposal for the lifting of the geographical limitation could be submitted to the Turkish Grand National Assembly in 2012, after a study on the costs of lifting the limitation had been made. Based on the study and after reaching an understanding with Turkey, the EU commission should draft a program and protocol that should include details on 'equal sharing of responsibility and equal distribution of Turkey's burden' (Ibid: 51). By this Turkey, does provide a programme in line with the requirements of the EU, but not unconditionally. This shows the continued reservations based on historical experiences of Turkey and although it appears willing to retract from these reservations, it clearly defines the conditions under which it would do so.

Turkey continued to make progress based on the plan, despite issues with and criticism from the EU, especially after 2006 with a significant increase of Iraqi and Somali asylum seekers in Turkey and with Turkey returning to its security-oriented approach towards them with increased cases of refoulement and difficulties by the asylum seekers in accessing asylum procedures as reported by the UNHCR and NGOs (Kirisci, 2012: 77). This was additionally reported by Thomas Hammarberg, the Commissioner for Human Rights of the Council of Europe, in his report on human rights of asylum seekers and refugees in 2009, in which he criticised the two-parallel system of registration for asylum by the UNHCR and then MOI as a complex procedure (Hammarberg, 2009: 8). Despite welcoming Turkey's efforts especially in working on a new legislation on asylum, he continued his criticism in the following areas: the appeal system for rejected applications of asylum seekers; the general difficulty of access to asylum procedures; payment of residence fees even by asylum seekers; difficulties of obtaining work permits by asylum seekers and incidents of deportation and refoulment of UNHCR recognized refugees and registered asylum seekers (Ibid: 10-18). Additionally, the cases filed against Turkey for wrongful deportation to the European Court for Human Rights (ECtHR) increased during this period and most resulted in convictions against Turkey accompanied with demands for compensation to be paid to the complainants (Kirisci, 2012: 77). Turkey was not oblivious to this criticism and started with setting up a Migration Unit within the MOI to start work on the draft asylum law which was prepared and sent to the Prime Minister's office in January 2011 (Ibid, 78).

The negotiations on the adoption and implementation of the EU body of law or acquis took the form of negotiating each of the 35 chapters (or areas) of the acquis during which the preparedness of Turkey to adopt the rules in that specific chapter is screened and if found prepared, negotiations on that chapter are opened and if not, specific 'opening benchmarks' are reported by the EU for Turkey to achieve in order for negotiations on that particular chapter to start (Delegation of the European Union to Turkey, Accession Negotiations). Throughout the process the EU had provided technical and financial aid through the instrument of Pre-Accession Assistance to Turkey to achieve alignment to the rules of the acquis (Hoffman and Werz, 2019: 16).

The 24th chapter on Justice, Freedom and Security involves issues on asylum and immigration. Negotiations on this chapter, in fact, were never opened and later in 2009 it became one of six chapters unilaterally blocked for negotiation opening by Southern Cyprus on the condition of normalization of relations (Directorate of EU Affairs, 2019). Despite this, the area of asylum and immigration was one in which Turkey did work on making progress and reforms in line with the EU rules since the screening of this chapter was started in preparation for the opening of negotiations in 2007 (Kirisci, 2012: 74). Although in its 2010 Progress Report EU did acknowledge Turkey's efforts in this area, it stated that alignment with the acquis is at a very early stage and linking the limited progress to the geographical limitation Turkey still applies and lack of Turkish institutions and legislation on asylum procedures, with the sole responsibility still being with the UNHCR (European Commission, 2010a: 82-83).

We will now look into the steps taken by Turkey during the period leading to and during the 'Syrian Refugee Crisis' and the way the EU has affected the taking of these steps.

4.2.2. The Syrian Refugee Flow and the Initial Reaction of Turkey

When Syrians started arriving in Turkey in April 2011 fleeing the increasingly violent crisis in Syria that started in March 2011, for different political reasons that will not be discussed here, Turkey applied an open-door policy receiving them as 'guests'; a term used to underline the temporariness of their stay, cultural ties and fraternal relations and the stance of the government towards Syrians fleeing a regime they were against. Since Syrians do not fall under the scope of international protection according to Turkish legislation and the term 'guests' has no legal basis in Turkey, the Turkish government followed the same path as it did before when faced with mass forced movements of refugees. They were placed in camps and the Disaster and Emergency Management Presidency (AFAD)- an authority under the MOI- was made responsible for all issues regarding the Syrians coming to Turkey. With the increasing number of Syrians, the legal basis of their stay in Turkey started becoming an issue. Initially, their presence was considered under the 1994 Asylum Regulation. It was later regulated under a 'secret circular' (Helsinki Citizens' Assembly Turkey Briefing Note, 2012: 4) by the MOI that was never published nor made public (Kirisci, 2014: 14), named

'Directive on Reception and Accommodation of Syrian Arab Republic Nationals and Stateless Persons residing in the Syrian Arab Republic who arrive at Turkish Borders in Mass Influx to Seek Asylum' of March 30th, 2012 which placed them under the status of temporary protection (Orhan, 2014: 12).

However, none of these were detailed enough to provide legal basis to receiving and managing the increasing number of Syrians arriving. Even though by 2013 AFAD had managed to build 22 camps around the southern area of Turkey close to the Syrian border and despite these camps being praised for their conditions by different agencies including UNHCR (Içduygu, 2015: 7), the number of Syrians continued to increase, making their encampment more challenging. This challenge to the Turkish authorities coupled with the rule that Syrians entering Turkey illegally were not able to register in camps (Ibid: 8) and the fact that Syrians in camps were under immense control by the authorities not giving them a chance to work and travel freely, made the number of Syrians residing in urban areas increase dramatically. According to a survey published by AFAD in 2013, 64% of Syrians in Turkey, estimated to be 350 thousand, were living outside camps (AFAD, 2014: 12), making it very difficult for Turkish authorities to register and track the whereabouts of these Syrians and for these Syrians to access services.

4.2.3. The Law on Foreigners and International Protection and the Directorate General of Migration Management

Under these circumstances Turkey introduced the Law on Foreigners and International Protection (LFIP) which was adopted by the parliament in April 2013 and went into force one year later in April 2014. This law can be considered as a major change in immigration and asylum policy of Turkey since it's the first of its kind since the establishment of the Republic. This law was the first to set clear guidelines on all forms of foreigners' entrance, stay and exit from Turkey, including asylum and protection.

The LFIP was prepared and drafted against a background of increased pressure from the ECtHR and the EU in the adoption of the acquis and the process of its drafting described by Kirisci as an 'unusually transparent process of law-making by Turkish standards' (2012: 63) in which not only the EU and the UNHCR played a significant

role but also NGO's and academicians. With regard to protections of refugees, although the law itself does not remove the geographical limitation therefore not bringing a major change to the main policy of Turkey, it does bring into focus the forms of protection Turkey grants and delivers the administrative guideline for such forms of protection. Accordingly, by pertaining the geographical limitation, it introduces two forms of protection; that given to Europeans and non-Europeans- forming what has come to be described as a two-tier asylum system in Turkey (Ibid: 65).

The part in the law on protection, in a continuation of the 1994 regulation, maintains the geographical limitation and defines the person who will be granted a refugee status after the RSD process as 'A person who as a result of events occurring in 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 citizenship 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 his former residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it' (LFIP, 2013: Article 61).

In contrast to the 1994 regulation, which only gave a definition of asylum-seekers, non-European refugees are granted three other types of protection with all three being temporary, namely conditional refugees, subsidiary protection and the third type of protection given only to Syrians is temporary protection. Consequently, the law defines the asylum system of Turkey not only as a two-tier system dividing between European and non-European refugees, but also makes a difference between non-European refugees depending on whether they are applying en masse or individually. Accordingly, the definition for a conditional refugee in Article 62 is the same as that of a refugee except that it applies for people coming as a result of events occurring 'outside Europe' and adding that their residence in Turkey is temporary until they are resettled to a third country. Subsidiary protection is granted to those who are not qualified as refugees or conditional refugees but might face death, torture or serious

threats of indiscriminate violence due to international or nationwide armed conflict (Ibid, Article 63).

According to article 65, applications should be lodged at the governorates with no time limit for application being mentioned. However, the fourth paragraph of the article states that those who apply 'within a reasonable period of time' shall not be subjected to criminal action. Registration would also be made at the governorates after which applicants would be issued fee-free registration ID documents valid for 30 days that could be extended (Article 69). Applicants may be obligated to reside in designated reception and accommodation centres, specific locations or provinces and may be required to report to authorities (Article 71). Articles 73 and 74 state that applications by applicants coming from first asylum and safe third countries would be considered inadmissible. After registration has been made and an interview conducted, applicants would be given International Protection Applicant ID valid for six months (Article 76). A decision would be made within six months of registration (Article 78) and a refusal could be appealed to the International Protection Assessment Commission within ten days of notification (article 80). Those granted refugee status will be granted fee-free IDs with foreigner identification numbers valid for three years while conditional refugees and those granted subsidiary protection will be granted IDs valid for one year (article 83).

The law also states the rights and benefits provided to beneficiaries and highlights that these cannot be more than the rights and benefits provided to Turkish citizens (Article 88). Applicants and international protection beneficiaries and their families are provided with access to primary and secondary education, health insurance as stipulated by the Social Security and Universal Medical Insurance law and conditional access to the labour market. An applicant or conditional refugee may apply for a work permit six months after lodging the application, while a refugee or subsidiary protection beneficiary may work based on the legislation restricting foreigners to engage in certain jobs and professions, while, unless they have been residing in Turkey for three years, are married to or have a child with a Turkish citizen, their access to the labour market may also be restricted based on the condition of the labour market and

the principles and procedures of their employment will be determined by the Ministry of Labour and Social Security in consultation with the MOI.

The LFIP also establishes the Directorate General of Migration Management (DGMM); another historical first and important development in the field of immigration in Turkey. The DGMM is the first civil institution in the history of Turkey to be established to solely manage, regulate and control all kind of immigrant presence in Turkey, previously mostly handled by the Turkish police department under the MOI. Since establishing such an authority was one of the objectives Turkey needed to be achieved in the roadmap for adopting the acquis, it is important to emphasize here the role of the EU in the establishment of the DGMM.

The DGMM was established under the MOI on the date the law was published in the official gazette with the purpose of 'implementing migration policies and strategies, ensuring coordination among relevant agencies and organizations, and carrying-out functions and actions related to the entry into, stay in and exit from of foreigners in Turkey as well as their removal, international protection, temporary protection and the protection of victims of human trafficking' (Article 103). In this regard, among the duties of the DGMM listed in Article 104 are developing legislation, administrative capacity and carrying-out work on developing policies and strategies in the field of migration as well as monitoring and coordinating the implementation of policies and strategies determined by the Council of Minister. It is also responsible for carrying-out activities and actions related to harmonization, temporary protection, protection of victims of human-trafficking, develop measures to combat irregular migration and ensure coordination between law enforcement units and relevant authorities in that process. The DGMM has been organized with central, provincial and overseas organizations (Article 106).

The law also saw the establishment of several boards and committees to concentrate on specific aspects of immigration. A Migration Advisory Board which includes representatives of the UNHCR and IOM in Turkey and NGOs operating in the field of migration as well as migration scholars and the board would monitor migration practices and make recommendations (Article 114). The issue of an authority looking

into appeals led to the establishment of the International Protection Assessment Committee which would assess and decide on appeals against decisions an international protection claims as well as other decisions concerning applicants and international protection beneficiaries (Article 115). The Coordination Board on Combating Irregular Migration was established to ensure coordination among relevant agencies and institutions to combat irregular migration and determine the routes for illegal entry into and exit from Turkey and develop counter measures (Article 116).

It is significant to note that since 2014, the DGMM has worked in close collaboration with the EASO and the EASO has helped to staff the DGMM and its provincial directorates and to improve their knowledge and handling of asylum matters with 34 EASO training sessions having taken place until 2019 and to be continued until 2021 to facilitate asylum related procedures (European Asylum Support Office, 2019).

Passing this law and the establishment of the DGMM are two significant achievements by Turkey in line with getting closer to the acquis. It also gave Turkey full responsibility for the presence of refugees in the country, independent of the UNHCR. Accordingly, as of September 2018, UNHCR has stopped the registering of international protection and conducting of RSD procedures, all procedures of which became under the authority of DGMM (UNHCR, 2018). The UNHCR, however, continues to provide protection activities and provides direct operational support, capacity building and technical advice to Turkish authorities (Ibid). Refugees in vulnerable situations are identified by the DGMM and informed to the UNHCR to be considered for resettlement (Ibid). This is significant as Turkey can be considered the first country in the Middle East which has reduced the role and responsibility of the UNHCR in refugee response.

4.2.4. The Temporary Protection Regime towards Syrians

Article 91 of the LFIP 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’. The second part of the same article states that any actions to be taken in such cases of mass influxes, including

the reception, stay, obligations and exit of such refugees from Turkey and coordination and cooperation between national and international institutions in this regard would be detailed in a directive from the Council of Ministers. Based on this, the relevant directive was issued and published in the official gazette on October 13th, 2014 as the Temporary Protection Regulation (TPR). It is important to mention here that the TPR was based on the Temporary Protection Directive (Council Directive on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between member states in receiving such persons and bearing the consequences thereof) adopted on July 20th, 2001 by the EU and the Guidelines on Temporary Protection or Stay Arrangements published by the UNHCR in 2014 (Ineli-Ciger, 2017: 567).

Article 3 (j) of the regulation describes mass influx as 'Situations where a high number of people come from the same country or a geographical region and procedures related to international protection status cannot be individually followed because of the high number of people' (Temporary Protection Regulation). While this regulation was adopted to regulate all situations of refugee mass influx, the status of Syrians is literally stated as falling under this regulation through the provisional article (1) stating that 'the citizens of the Syrian Arab Republic, stateless persons and refugees who have arrived at or crossed our borders coming from Syrian Arab Republic as part of a mass influx or individually for TP purposes due to the events that have taken place in Syrian Arab Republic since 28 April 2011 shall be covered under TP, even if they have filed an application for international protection'. Article 6 also incorporates the principle of non-refoulement by stating 'No one within the scope of this Regulation shall be returned to a place where he or she may be subjected to torture, inhuman or degrading punishment or treatment or, where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion'.

The regulation states that the TP decision, as well as its termination, will be made by the Council of Ministers upon the proposal of the Minister of Interior, while the individual decisions on persons who would be covered by TP will be taken by the DGMM. The termination of the TP regime towards a group of people benefiting from

it will be decided by the Council of Ministers and will result in their return to their countries or providing them with another form of protection status collectively or assess them individually or to allow them to stay in Turkey subject to conditions mentioned in the LFIP (Article 11). Termination of the TP status could take place individually when beneficiaries leave Turkey by their own will, receive protection from a third country or have passed away and also due to reasons stated in Article 8. The Council of Ministers may also decide to restrict, temporarily or indefinitely suspend implementation of temporary protection if a threat to national security, public order, public security, or public health arise- a situation in which the MFA would call for support through relevant international organizations (Article 15).

In order to ensure the effective implementation of the TP regime, the individual international protection applications of persons falling under the TPR shall not be processed (Article 16). It is significant to point here that while the TP Directive of the EU specifies a time limit of one year that could be extended to three years for TP (Ineli-Ciger, 2017: 567) and the UNHCR guidelines state that TP can be terminated on the 'basis of an objective assessment based on clear indications that the situation causing the displacement has ended, and voluntary return is reasonable and can be carried out in safety and dignity' (UNHCR Guidelines on Temporary Protection or Stay Arrangements, 2014: 5), the TPR does not give such a time limit to TP nor provide specific criteria on under what circumstances it can be terminated but states that the 'Council of Ministers has the full authority to end it if deemed necessary' and it is the Council who will decide if they could go through RSD to be granted another form of protection, which is another point different than the EU TP directive which provides TP holders a right to individual RSD when their TP status ends (Ineli-Ciger, 2015: 30).

The regulation also details the procedures regarding admission, registration and residence of beneficiaries of TP. Accordingly, the MOI will determine the border gates and crossings through which foreigners seeking TP could enter Turkey and the governorates may allow their entry if they do not have documentation (Article 17). The DGMM will conduct identification and registration procedures for these individuals during which these individuals must provide identification documents if available and correct identification information and files would be opened for each

individual (Article 19). They would then be given information on TP, their rights and obligations in a language they understand (Ibid). Fingerprints or other biometric data necessary for identification will be recorded in the central registration database as well as the Address Registration System (Article 21). Governorates will later issue TP identification documents with a foreigner identification number to those whose registration has been completed (Article 22). Article 23 states that the holders of TP should then be referred to temporary accommodation centres deemed suitable by the DGMM and in coordination with the governorates. Meanwhile, Article 24 mentions that those who do not pose any threat to public order, health or security may be allowed to reside in provinces determined by the DGMM. To underline the temporariness of their stay in Turkey, article 25 specifies that the TP ID while giving the holder a right to stay in Turkey, shall not be deemed to be equivalent to a residence permit, does not grant the right for a transition to a long-term residence permit, its duration will not be considered when calculating total period of residence in Turkey and will not provide its holder a right to apply for Turkish citizenship.

Services provided to holders of TP are listed as health, education, access to labour market, social assistance and interpretation services and will be provided by the relevant ministries and public institutions and organizations in coordination with AFAD (Articles 26-30). Accordingly, health services will be provided in coordination with the Ministry of Health; primary and emergency health services will be provided fee-free while second and third step health services costs should not exceed costs in the Health Budget Law [SUT] determined by the Presidency of Social Security Institution for beneficiaries of general health insurance and holders of TP cannot approach private hospitals unless there is an emergency situation (Article 27). With regard to education, it would be provided inside and outside temporary accommodation centres in coordination with the Ministry of National Education with pre-school education provided, primary and secondary education provided in line with relevant legislation and procedures and principles for associate, undergraduate, masters and doctorate degrees to be determined by the Presidency of Council of Higher Education (Article 28).

In the labour field, Article 29 states that the Council of Ministers, after receiving a proposal from the Ministry of Labour and Social Security (MLSS), shall determine the procedures and principles for employment of TP holders. The holders may apply for work permits from the MLSS to work only in sectors, professions and geographical areas determined by the Council of Ministers and their work permits are dependent on their TP status, meaning that if that status is terminated for some reason, so will the work permit.

Since the regulation does not provide much details on the issue of employment, the Council of Ministers adopted on January 11th 2016 the Regulation on Work Permits of Foreigners under Temporary Protection with more details, which was preceded by Law No. 4817 on Work Permits of Foreigners adopted in 2003 in the process of adoption of the acquis but had not include refugees. The new regulation states that a holder of TP can apply for a work permit six months after their TP registration, with the employer lodging the application through the e-government website and those who will work independently can lodge it themselves (Regulation on Work Permits, Article 5 (1,2,3)). Those to be working in seasonal agriculture or livestock work would be exempt from a work permit but must still lodge a permit exemption application in the provincial governorate where they are registered (Ibid, (4)). Article 6 states that applications for work in professions permitted for Turkish citizens only would not be evaluated and that applications in the health and education sector would need prior initial permits from the relevant Ministries. Additionally, TP holders will be issued work permits in the provinces they are registered in and the number of TP holders a workplace can employ cannot exceed ten percent of the number of Turkish citizens employed unless the workplace can document that no Turkish citizen could do the work the TP beneficiary could do (Article 8). TP holders cannot be paid less than the minimum wage rate (Article 10).

Despite legal facilitation of access to work, the number of Syrians with work permits in Turkey still remains very low. According to a statement by the Ministry of Interior, by 2018 only 65,000 work permits have been issued to Syrians (T24, 2018). This number is very low considering the number of Syrians of working age (15-65) in Turkey is 2.1 million (Kirisci & Uysal Kolasin, 2019). There are several issues

connected to the application process, employers' and Syrians' willingness to get legal work permits and the structure of the labour market in Turkey behind this low number. In a labour market environment that already has one in every three Turkish workers employed informally (Ibid), the possibility of providing formal work to Syrians in low. The employers who decide to employ Syrians, must not only pay the fees for applications, but also a minimum wage and the monthly social security contributions and taxes, making it not very attractive to employers who have the chance of employing these Syrians informally with lower wages, especially for those that have low levels of education. Syrians themselves also find informal work easier to access, despite the lower wages, long working hours and difficult working conditions, due to not only their lack of language skills and high competitiveness in the labour market, but also considering that if one member of the household is employed formally, the whole family is excluded from the Emergency Social Safety Net cash support program provided by the EU (Ibid). Although this cash support currently amounts to 120 Turkish Liras monthly to each family member (European Commission, 2020b), considering crowded families with one bread-winner, this could amount to a significant number for desperate Syrians.

The TPR also states the obligations by TP holders in complying with rules and regulations regarding their stay in Turkey and mentions that those who do not comply may be warned and if their incompliance continues, their access to some rights- excluding education and emergency health services- maybe restricted (Article 35).

Article 42 on voluntary repatriation states that the DGMM may plan, facilitate and assist in voluntary repatriations and may cooperate with international organizations and NGOs in the proceedings of such repatriations. With regard to departure to third countries, these can take place subject to the permission of the DGMM (Article 44). However, it has been reported by Amnesty International (2019) and Human Rights Watch (2019), that in 2019 Turkey has been forcibly deporting Syrians under the disguise of voluntary return. A Syrian wishing to return to Syria voluntarily, according to the procedure of DGMM, must sign a formal application and his request must have his signature as well as the signatures of a State officer, a translator and a UNHCR officer or a representative from an authorized NGO (Sahin Mencutek, 2019: 29).

UNHCR however, has chosen not to be involved asserting that conditions in Syria are not safe for return (Ibid). Reported interviews with Syrians who have been forcibly returned, claim that they either did not know what they were signing or were forced to sign the return request (HRW, 2019). While denying these claims, Turkey has stated that since 2016, 370,000 Syrians have returned voluntarily to areas in Syria which came under Turkey's control after its unilateral cross-border operations (Infomigrants, 2019). However, just as the number of forced returns is unknown, so is the circumstances under which the voluntary returns stated by Turkey have taken place.

Despite its significance in providing a legal basis for the presence of the Syrians in Turkey, the TPR as well as the application of a TP regime to the Syrians, has many issues which lead to the problematic circumstances for the Syrians. The entry, stay and exit of Syrians in Turkey, as stated above, seems to be completely at the mercy of the Turkish government and its domestic and foreign policy agenda and as we will see below, have been used as a bargaining card in its negotiations with the EU. Despite a rhetoric of brotherhood and hospitality-based humanitarian discourses in receiving the Syrians, we will see below that despite the continuation of the rhetoric, when it comes to action, Turkey's stance towards the Syrians presence changes based on domestic and foreign agendas of the government, which leads to a more securitized rather than humanitarian approach (Togral Koca, 2016). Additionally, while initially welcoming, the Turkish people's reactions to the presence of Syrians has increasingly become hostile, especially after the number of urban Syrians continued to increase as of 2014 (Simsek, 2015). Even though the Syrians presence in Turkey has increasingly become politicized in a polarized political environment and the perceptions and reactions of people tend to be impacted by their support or opposition to the government (International Crisis Group, 2016: 20), the attitude towards Syrians has generally been framed around them competing with the locals for jobs, housing and resources, them receiving free benefits from the government, being the cause of increased criminality and social tension, and culturally different therefore unable to adapt to life in Turkey (Ibid).

The Turkish opposition parties have also had changing attitudes towards the Syrians in Turkey and the policies of the government towards them. Of course, each party's

attitude and narrative are based on its ideology. The main opposition party- the Republican People's Party (CHP)- with a secular and modernist stance, has criticized the government in its handling of the situation and while following a humanitarian narrative that Turkey should help them until they return to Syria, it has mostly depicted the Syrians as a 'burden', 'security and demographic threat' (Ilgit & Memisoglu, 2017: 88-89). The Nationalist Movement Part (MHP) as a right-wing nationalist party, similarly, adopted a narrative framing Syrians as a 'burden', 'a threat to national unit and security' but at the same time showing ethno-nationalist selective solidarity with Turkoman Syrian (Ibid: 90). In contrast to both these parties, the People's Democratic Party (HDP)- as a representative of the Kurds in Turkey, showed a more inclusive narrative towards the Syrian in which it welcomed the Syrians and urged the need to help them, but also showed selective solidarity based on ethnicities towards minorities such as the Kurds (Ibid: 91). However, all political parties seem to agree on one aspect regarding the Syrians in Turkey; they should all return to Syria when they can (Ibid).

The Turkish media, also increasingly polarized, also generally depicted the Syrians in Turkey based on the media outlet's ideological and political affiliations. While pro-government media portray Syrians as 'victims' and high-light their humanitarian needs, those who oppose the government policies mostly depict them as a 'burden' or 'criminals' and detail the issues related to their presence (Yavcan et al, 2017; Sunata and Yildiz, 2018). In line with the latter, a report by the Research Centre on Asylum and Migration (IGAM- Iltica ve Goc Arastirma Merkezi) states that in both newspapers and television news report, 'refugees and immigrants have been attributed more "newsworthy" when it comes to dramatic incidents and tragedies' therefore linking them to violence, criminal acts, dramatic stories or accidents on migratory routes (2019togra: 113). Additionally, they have found that the news that depict Syrians in a negative framework outnumber those that show them in a positive framework and that there is a discriminative discourse that feeds prejudices against them (Ibid, 115).

Most importantly, by granting the Syrians with TP status and denying them access to individual RSD and therefore a refugee status, Turkey is denying the Syrians one of the three durable solutions for their situation, which is resettlement. With only the most

vulnerable of Syrians given the right to resettlement (only became an option after the EU-Turkey Statement to be discussed), most Syrians in Turkey- since they do not qualify as refugees- do not have the right to resettlement (Bidinger, 2015: 7; Heck & Hess, 2017: 48; Togral Koca, 2016: 65; Ineli-Ciger, 2017: 564-564). By also limiting the access of the Syrians to the labour market and their movement within the country, as well as not providing any criteria or conditions for permanent residence in the country in the form of harmonization, the regulation also limits any form of integration of the Syrians, therefore leaving the Syrians only one durable solution to their presence in Turkey and that being voluntary repatriation. in providing them permanent lives in Turkey and increase their willingness to move on.

4.2.5. The EU-Turkey Statement

The refugee 'crisis' of 2015 triggered a series of meetings between the EU and Turkey with the image of increasing EU-Turkish cooperation but with the main purpose being the stopping of irregular migrant and refugee flows from Turkey to the EU. After a long period of negotiations that started in 2004, the EU and Turkey signed a readmission agreement on December 16th, 2013 and it entered into force on October 1st, 2014, again triggered by the Syrians outpour (Içduygu & Demiryontar, 2019: 13). Although Turkey is required by the agreement to readmit third country nationals and stateless persons who have reached the EU through Turkey, according to Article 24 of the agreement, Turkey will start to do so three years after the agreement enters into force and Turkey would readmit only those nationals of countries with whom it has bilateral readmission agreements (EU-Turkey Readmission Agreement, 2013). The VLD was launched on the same date of the signing of the agreement and in the agreed roadmap, visa liberalization for Turkey was made conditional on 72 benchmarks or requirements Turkey needed to be completed in the form of reforms in document security; migration management; public order and security; fundamental rights and readmission of irregular migrants. (Delegation of the EU to Turkey, 2013).

This was followed by an EU-Turkey Joint Action Plan was decided in October 15th, 2015 following meetings in May and September 2015 and was adopted in a meeting for EU and Turkey heads of state or government on November 29th, 2015. While the meeting was evaluated as a step to develop EU-Turkey relations and increase dialogue

to re-energize Turkey's accession process, the highlight of the meeting was guaranteeing Turkey's contribution in managing the refugee 'crisis' (Meeting of the EU heads of state or government with Turkey, 2015). The joint action plan, whose implementation would be followed by the to-be-established EU-Turkey high-level working group on migration, detailed the actions to be taken by Turkey and the EU in two main areas: Supporting the Syrians under TP and their Turkish hosting communities and strengthening cooperation to prevent irregular migration (EU-Turkey Joint Action Plan, 2015).

With regard to supporting the Syrians in Turkey, the EU would allocate more funds- whose allocation priorities and areas would be decided jointly- to support Turkey in providing 'immediate humanitarian assistance; provision of legal, administrative and psychological support; support for community centers; the enhancement of self-sufficiency and participation in economy and their social inclusion during their stay in Turkey; improved access to education at all levels; but also actions supporting host communities in areas such as infrastructures and services' (Ibid). The EU also states its intention to continue to provide assistance beyond 4.2 billion euros mobilized to Syrians in Lebanon, Jordan and Iraq to battle push factors leading to their movement to Turkey and also to increase support to EU and Member State resettlement programmes. From its side Turkey is to continue its efforts enhance the efficient application of the LFIP and its work on building a comprehensive migration management system ensuring the registration of all migrants and ensuring the access of Syrians to public services such as education, health services and work during their stay in Turkey.

On cooperation to prevent irregular migration and in line with the VLD, the visa roadmap and the readmission agreement between the EU and Turkey, the EU is to support Turkey in combating irregular migration by reinforcing Turkish Coast Guard patrolling and surveillance capacity and increasing cooperation by the exchanging of FRONTEX liaison officers and organizing joint return operations towards countries of origin of irregular migrants (Ibid). Within the VLD, the EU is also to assist Turkey financially to enhance capacities and develop a well-functioning asylum, migration and integrated border management system. Accordingly, the visa liberalization would

be granted to Turkey by October 2016 on the condition that Turkey fulfil all the benchmarks. On the other hand, Turkey is to strengthen its capacity of the Turkish Coast Guard, enhance its cooperation with Greek and Bulgarian authorities to prevent irregular migration passing through those land corridors, start implementing the readmission agreement by June 1st, 2016 for readmitting irregular migrants including third country nationals not in need of international protection and who have passed from Turkey, ensure the efficiency of asylum request registrations, pursue the alignment of the Turkish visa policy, legislation and administrative capacity to the EU's policy by concentrating on countries of origin which form a high source of irregular migration to Turkey and the EU and to enhance cooperation and information sharing with the EU through increased cooperation with FRONTEX and Europol (Ibid).

The action plan was followed by increased action from Turkey with the introduction of the law of work permits for holders of TP (Syrians), introducing visa requirements for Syrians entering Turkey from a third country by air and sea in January 2016 (Ineli-Ciger, 2017: 558) and increased security efforts by the Turkish coast guard and police and enhanced information sharing. Chapter 17 on Economic and Monetary policy of the accession negotiations was opened in December 2015.

One important step taken by Turkey with regard to border management was the construction of the 'security wall' on the border with Syria, a symbol of the end of the Turkish open-door policy towards Syrians. Turkey shares a border of 911 km with Syria and the construction of the wall started in 2016 and ended in June 2018, covering 764 km of the border and equipped with high tech surveillance systems (Daily Sabah, 2018). The building of the wall can be somewhat attributed to the influence of the EU on border management, but also it does symbolize the increased securitization by Turkey to the entering of Syrians due to its reservations towards the rise to power of Kurdish groups such as the Kurdish Democratic Union Party (PYD) (Gokalp Aras & Sahin Mencutek, 2019), which Turkey designates as terrorist groups.

The above-mentioned action plan was followed by the EU-Turkey Statement, which was signed on March 18th, 2016 (EU-Turkey Statement, 2016). With the statement,

due to the urgency of the situation in Greece, the readmission agreement was replaced with a new short-term readmission deal and statement consisted of the following commitments from each side:

Table 4.1. EU-Turkey Commitments under the EU-Turkey Statement

Turkey Commitments	EU Commitments
Readmission and Resettlement of Migrants	
1-Turkey will readmit all new irregular migrants arriving from Turkey to Greece as of March 20th, 2016 and who have not applied for asylum and whose applications are inadmissible or unfounded will be returned to Turkey.	1- For every Syrian returned to Turkey from Greece, one Syrian will be resettled from Turkey to the EU based on the UN Vulnerability Criteria, with priority given those Syrians who have not attempted to enter the EU irregularly. The EU resettlement arrangements will be done on a voluntary basis by the Member States.
Irregular Migration	
2-Turkey will take any necessary measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU, and will cooperate with neighbouring states as well as the EU to this effect	2- Once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced, a Voluntary Humanitarian Admission Scheme will be activated. EU Member States will contribute on a voluntary basis to this scheme.
Visa Liberalization	
3- Turkey will take the necessary steps to fulfil the remaining benchmarks set out in the VLD.	3- The fulfilment of the visa liberalisation roadmap will be accelerated vis-à-vis all participating Member States with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016, provided that all benchmarks have been met.
Financial Support	

Table 4.1. (continued)

4- Turkey would provide input by the end of March on required projects the field of health, education, infrastructure, food and other living costs for persons under temporary protection.	4- Speed up the disbursement of the initially allocated 3 billion euros for the funding of these projects and once these resources are about to be used to the full, and provided the above commitments are met, the EU will mobilise additional funding of an additional 3 billion euro up to the end of 2018.

Additionally, both sides reconfirmed their commitment to re-energize the accession process with the Action Plan of 2015 and decided to open Chapter 33 on Financial and Budgetary Provisions as a next step (Ibid). They will also work together to improve humanitarian conditions inside Syria, especially in areas close to the Turkish border to allow people and refugees to live in safe areas (Ibid).

In the context of providing funds to support Turkey, the EU Facility for Refugees was set up as a coordination mechanism in Turkey in 2015 to manage the allocated funds in coordination with Turkey to ensure that these funds are used to meet the needs of Syrians and the hosting communities and focuses on humanitarian assistance, education, migration management, health, municipal infrastructure, and socio-economic support (European Commission- 2020c). The first tranche of three billion euros will be funding projects which started in 2016-2017 and will continue until mid-2021 while the second one will fund projects which started in 2018-2021 and will continue until mid-2025 (The Facility Results Framework Monitoring report, 2019: 1). The implemented and ongoing projects in the fields mentioned are implemented in cooperation with several EU and UN agencies, Turkish institutions, other international organizations and NGOs.

Described by Amnesty International as ‘a shameful stain on the collective conscience of Europe’ (2017) and despite being criticised by scholars (Poon, 2016; McEwen, 2017; Lehner, 2018) and NGOs (Aljazeera, 2017) on legal and humanitarian grounds, the EU-Turkey Statement has been deemed successful in reducing the number of

irregular migrants reaching the EU from Turkey. According to the March 2020 report of the European Commission, the number of irregular migrants arriving to the EU remains 94% lower than before the statement was implemented, so far only 27 thousand Syrians have been resettled from Turkey to the EU and 2735 migrants have been returned from Greece to Turkey since the statement, which the EU evaluates as a slow process and calls for enhanced cooperation to increase the number of returnees (European Commission, 2020d).

With regard to Turkey, it did not gain much from the statement since the visa liberalisation which was promised by June 2016 did not take place due to Turkey not fulfilling seven of the 72 benchmarks which are: fight against corruption, judicial cooperation in criminal matters, cooperation with Europol, data protection legislation, anti-terrorism legislation, EU-Turkey re-admission agreement, and biometric passports (Paçacı Elitok, 2019: 4). With the attempted coup that took place in Turkey in July 2016 as a result of which state of emergency was declared and other domestic political issues in Turkey, changing the regulations on terrorism to fit those of the EU seems highly unlikely making Turkey's fulfilment of the requirements, and therefore the lifting of visa requirements for Turkish citizens, almost impossible.

On the other hand, the attempted coup followed by the declaration of a state of emergency led to an increasingly securitised approach towards protection beneficiaries in general. Based on the state of emergency, the Council of Ministers issued decrees amending articles 53 and 54 on removal decisions of protection beneficiaries through the Emergency Decree with the Force of Law KHK/667 (Ineli-Ciger: 573). The amendment made the issuance of removal/deportation decision possible at any time for international protection applicants and holders who are deemed as members leaders, members, or supporters of a terrorist organization or a criminal organization; pose a public order, public security, or public health threat; or are reported by international institutions and organizations to have links with a terrorist organization (Ibid: 574). They also do not have the right to appeal these decisions (Ibid), increasing the risk of their refoulment. This shows once again that the situation of Syrians and other refugees in Turkey is precarious and very much dependent on the Turkish government's domestic agenda.

Following the statement, Turkey seems to have increased its control over the presence and entry of Syrians in a more restrictive and securitised approach. A Human Rights Watch report claiming the Turkish guards on the Turkish-Syrian border had shot at Syrians fleeing the heightened violence in Idlib in 2018 and returned them back (2018a), making it harder for Syrians to enter Turkey legally and increasing their attempts to enter irregularly through smugglers. Another report from Human Rights Watch, claimed that Turkish authorities in Istanbul and nine other provinces on or close to the border with Syria have stopped registering all but a few asylum seekers, leading to their deportation, coerced return or lack of access to services, while the EU remained silent about this (2018b). Turkish authorities have denied both claims.

What is additionally being criticized about the statement is that by stating that all asylum seekers who reached Greece from Turkey after March 20th, 2016 and whose applications have been considered inadmissible or unfounded would be returned to Turkey, framing Turkey as a first country of asylum or safe third country based on the EU Asylum Procedures Directive (Yıldız, 2020: 4). On first country of asylum the Article 35 of the Asylum Procedures Directive and on safe third country Article 38 states that in order for a country to be considered a first country of asylum or safe third country, the applicant must enjoy "sufficient protection in that country, including benefiting from the principle of non-refoulement" and must be recognised as a refugee (UNHCR, 2016b). However, since Turkey maintains the geographical limitation to the Refugee Convention and therefore does not recognize refugees outside Europe as such and as mentioned above, there have been reports of forced repatriation for Syrians, it is highly questionable whether Turkey can be considered a first country of asylum or a safe third country.

The opposition parties, from the start of the Syrian conflict, have criticized the foreign policy of the government in this regard. This criticism continued after the EU-Turkey Statement for the government using the Syrians as a bargaining card and for acting as a 'night watchman' for Syrians to stay in Turkey in exchange for money (Yanasmayan et al, 2019: 46). The main opposition party, CHP, said that it would take the EU-Turkey Statement to the Council of Europe on the grounds that it violates the European

Convention on Human Rights (Hurriyet Daily News, 2016). The statement was criticized also in that it is against the national interest of Turkey, turning it into a 'refugee camp' and that this should not be the price for visa liberalization (Sputniknews Turkiye, 2016).

In July 2016, President Erdogan stated that Syrians would be granted citizenship and that the MOI is working on procedures for achieving that (Aljazeera, 2016; BBC News, 2016) and repeated this statement in 2018 and 2019 (Sozcu, 2018; Yeni Cag, 2019). This statement was not received well by the public nor the opposition parties. The Turkish people took to social media to express their opposition to Syrians being granted the Turkish citizenship (Uras, 2016; Girit, 2016) while the opposition parties, who, as mentioned above, saw the only long-term solution for the Syrians was to go back to Syria, claimed that the granting of citizenship to Syrians by the government has a political goal of winning their votes in elections and not humanitarian goal (Al-Jablawi, 2018). According to the TPR, Syrians under TP cannot apply for citizenship. What became clear later, was that a selective approach would be followed, with MOI announcing they are working on entitling citizenship to those who would be beneficial to the nation in industry, science and education and that Syrians cannot apply for citizenship individually, but the MOI would choose which Syrians can be interviewed for the naturalisation process (Pekkendir, 2018). According to the statement by the MOI, as of the end of 2019, the number of Syrians who have received Turkish citizenship is 110,000 (Multeciler Dernegi, 2020). The decision to grant citizenship to Syrians is certainly significant in providing them with a chance for permanency and integration. However, considering the selectivity in the criteria based on merit or Turkish roots and the low number of granted citizenship, Turkey does not seem to have developed an institutionalized and legalized approach to citizenship, which may lead to it remaining uncertain and under vague criteria of the government. A well-defined integration policy, involving the Turkish people also and defining the requirements and criteria for social, economic and political integration of Syrians is a must (Koser Akcapar & Simsek, 2018).

In contrast to the above, the Syrians also became a threat card used by Erdogan following the statement, with him threatening to open the borders to the EU and not

stop those wanting to go by sea, every time he did not receive the support in Syria he desired from the EU and to draw their attention to the increasingly difficult situation in Northern Syria that had been leading to mass displacement (New York Times, 2016; BBC News, 2017; France 24, 2019; Middle East Online, 2020). These threats culminated after 33 Turkish soldiers were killed after a strike by Syrian regime forces in Idlib in February 2020, when President Erdogan a few days later declared that Turkey will open its borders and not stop migrants from going to Europe (Euronews, 2020; Trew, 2020; Daily Sabah, 2020). However, this did not work as the thousands of migrants who went to the border were blocked by Greek authorities (Fox, 2020).

Despite the threats, the increasingly tense relations with the EU and its domestic implications, Turkey still abides by the statement since the cost of it abandoning it would be much higher than sticking with it. While the ultimate benefit of the statement to Turkey in the form of visa liberalization for its citizens has not been achieved four years after its signing, Turkey still needs the EU's funding support and the incident of opening the borders shows that Turkey's pushing of migrants towards Europe is not that simple.

4.3. Jordan

4.3.1. Relations with the EU Prior to the 'Syrian Refugee Crisis'

Despite its location as a distant neighbour to the EU and the unlikelihood of it becoming a member, Jordan has been articulated and treated by the EU as a very significant, stable partner in the highly unstable region of the Middle East. Jordan and the European Community first established contractual relations in 1977 through a Cooperation agreement and Jordan was one of the countries that joined the Euro-Mediterranean Partnership established in 1995 and later relaunched as the Union for the Mediterranean (UfM) in 2008, as mentioned earlier. Jordan has played an important role in the UfM and has assumed the southern presidency since 2012, with the northern presidency being with the EU (Seeberg, 2016: 164). Bilateral relations developed with the signing of an Association Agreement in November 1997 and its entering into force in May 2002 establishing a Free Trade Area to facilitate bilateral trade between the two sides, for which later the EU adopted negotiating directives for

a Deep and Comprehensive Free Trade Area (DCFTA) in 2011 (European Commission- 2020e).

The relationship developed with the launch of the ENP in 2004 and the adoption of the first EU-Jordan Action Plan (ENP AP) in 2005 for a time frame of three to five years to help Jordan adopt political and economic reforms, within the context of its National Plan for Political Development and National Social and Economic Action Plan, to get it closer to EU standards and therefore, lead it to integrate into the EU economic and social structures (EU/Jordan Action Plan, 2005). As mentioned in Chapter 3, ENPs are based on conditionality, where third countries are required to meet some requirements in order to receive benefits from the EU which include eased access to the EU market and financial development aid among others. The ENP AP sets priorities for action to be taken mainly in: 1) enhanced political dialogue and reform, 2) economic and social reform and development, 3) trade related issues, market and regulatory reform, 4) cooperation in justice and home affairs, 5) transport, energy, information society and environment, 6) people-to-people contacts (Ibid). Migration issues, including asylum, are mentioned under the cooperation in justice and home affairs and states the need for dialogue on asylum issues, exchange of information on migration issues and illegal migration and discussion on the possibility of cooperation on transit migration to manage migration flows and prevent illegal migration (Ibid, Article 40). Developing efficient border management (Article 42), ratification and implementation of international instruments to fight organised crime (Article 43) and strengthening cooperation to combat terrorism (Article 48) are also priorities listed under the same heading. It is important to note here that ratification of the 1951 Convention on Refugees and its 1967 Protocol is not stated as priority action to be taken by Jordan.

In 2008 Jordan expressed its desire in enhancing its relationship with the EU and presented a “Working Paper on an Advanced Status with the European Union" in June 2009 (Council of the European Union, 2010:1). This was followed by a progress report in May 2010 on the implementation of the ENP AP by Jordan, in which the EU acknowledged the efforts of Jordan and commended progress made in the area of governance and transparency, some progress made in the areas of human rights and

fundamental freedoms, transport, renewable energy, and science and technology (European Commission, 2010b: 2). With regards to asylum, since the ENP AP did not specify clear actions to be taken, the report mentioned that the number of refugees in Jordan continue to strain its society and infrastructure and that the EU continues to provide assistance to Jordan with a focus on 'on education for the most vulnerable refugees, water loss reduction measures and the resettlement from Jordan of the most vulnerable refugees' (Ibid: 11). The report further states that since the first ENP AP is to expire, the next ENP AP is being negotiated and the EU is evaluating the request of Jordan for an 'enhanced status' which will be based on 'the core values the EU and Jordan share, i.e., democratic principles including the rule of law, the respect for human rights and the organisation of fair and transparent elections' and mentions a meeting held in November 2009 on this regard (Ibid: 2). Accordingly, the negotiations for the second ENP AP were concluded in 2010 and announced in the ninth meeting of EU-Jordan Association Council in October 2010 and was seen as 'concrete substance' to grant Jordan 'advanced status' (Council of the European Union, 2010: 1), which was also based on the progress report mentioned. By this, Jordan became the second country in the Middle East to attain advanced status in its relations with the EU after Morocco and the first country to conclude a second ENP AP.

Just before the adoption of the second ENP AP, the so-called Arab Spring broke out and the EU in reaction to it adopted the 'Partnership for Democracy and Shared Prosperity with the Southern Mediterranean' in December 2011 in an effort to support its 'southern neighbours' in their attempts at political and economic reforms. Accordingly, the EU was to support them on 'democratic transformation and institution-building, a stronger partnership with the people, and sustainable and inclusive growth and economic development especially support to Small and Medium Enterprises (SMEs), vocational and educational training, improving health and education systems and development of the poorer regions' (European Commission, 2011b: 3). The new approach of partnership for democracy and shared prosperity is described as an incentive-based approach with those countries moving further and faster in reforms receiving greater support from the EU- an approach known as the 'more for more' approach (Ibid: 5). It also states that 'a commitment to adequately monitored, free and fair elections should be the entry qualification for the Partnership'

(Ibid). In addition to the usual highlighting of political and economic reforms, the communication also expresses the importance of 'strengthening of capacity building in the Mediterranean countries on borders/migration/asylum and more effective law enforcement cooperation to improve security throughout the Mediterranean' and encourages the establishment of Mobility Partnerships (MPs). The MPs would include initiatives such as visa and legal migration arrangements and upgrading of the asylum systems to EU standards, with the countries of the region to manage the movement of persons between them and the EU (Ibid: 7).

Following this new approach to the region, the second ENP AP was adopted in 2012 to cover a time frame of five years. This AP was different than the previous one in that it was more detailed and was divided into three dimensions in which priority action was to be taken, namely; political dimension, economic and social dimension and scientific and human dimension and each dimension divided into areas in which action should be taken (European External Action Service, 2012).

Asylum is mentioned briefly under the fourth section of the political dimension of 'Cooperation in Justice and Home Affairs' and includes actions to be taken as: exchange of information and dialogue in the fields of migration, border management, visas, international protection and those in need of international protection and the assistance needed; cooperation in managing migration flows including developing the capacity of Jordanian authorities in providing assistance to migrants belonging to vulnerable categories, in need of international protection and victims of human trafficking and enhancement of border control capacities of Jordanian authorities to enhance cooperation in preventing irregular migration (EU/Jordan Action Plan IV. (16): 12).

The Arab uprisings created circumstances in the region which led to the EU to realize the necessity of deepening its cooperation with the countries in the region, mainly due to its own security concerns on what the aftermath of these uprisings could lead to. Especially after the Syrian war and the start of the refugee forced movement to neighbouring countries, EU's response and actions towards the Arab countries receiving these refugees can be exemplified in its relations with Jordan. As mentioned

above, the relations between the EU and Jordan prior to the Syrian refugee outpour was mostly concentrated on political cooperation in the fields of democracy and human rights and cooperation to enhance trade with the purpose of development to keep the region stable, with little mention of and action on issues such as asylum or international protection. After the number of Syrians fleeing to neighbouring countries started to increase dramatically, the relationship between Jordan and the EU took a turn to a more enhanced and accelerated cooperation and involvement by the EU, with migration in general and the issue of Syrians particularly taking a significant part in this cooperation, as we shall see below after we take a brief look at Jordan's response to the Syrian refugee flow.

4.3.2. Jordan's Response to the Syrian Refugee Flow

Jordan, as mentioned in the introduction, is one of the main countries that received Syrians fleeing the war in Syria and just like Turkey, its policy towards receiving, registering and services provided changed with the Syrians presence becoming protracted with time. Like Turkey, Jordan initially applied an open-door policy towards Syrians arriving at the beginning of the Syrian conflict in 2011 and their numbers reached around 2000 Syrians by the end of 2011 (Francis, 2015: 20). Like in the case of the Palestinians and Iraqis, this policy was initially based on factors such as kinship and friendship ties, with a lot of Syrians having relatives and friends in Jordan, and also on historically close cultural relations, as well as the belief of the government that the coming Syrians would go back soon (Ibid: 16). The entrance and presence of Syrians in Jordan has been regulated under the 1973 Law No. 24 Residence and Foreigners' Affairs mentioned in Chapter 2, according to which Syrians can enter Jordan with their passports only with no visa or residence permit required (Achilli et al, 2017: 17). This, however, only applied for Syrians who had passports and it is unclear how those without passports entered Jordan, but in addition to legal entry points, there are 25 unofficial crossing points across the Jordanian-Syrian borders (Sahin Mencutek, 2018: 190).

When the number of Syrians started increasing in the summer of 2012 to reach 15,000 in August, the open-door policy changed to a selective one when the Jordanian government decided to not allow any longer the crossing of Palestinian refugees from

Syria into Jordan and regularly denied entry to men of military age, Iraqi refugees coming from Syria and those without documents (Ibid: 191-192). The selective open-door policy towards the Syrians gradually changed to become a more restrictive one- almost a closed-door policy- in mid-2013 with the authorities denying Syrians entry at the borders leaving Syrians stranded on the Syrian side of the border between the two countries and eventually Jordan closed the main crossing points on the border allowing for only 50-100 Syrians to pass each day (Sahin Mencutek, 2018: 192-193). Syrians arriving at the international airport were also denied entry unless they had a residence permit or met other exceptions (Ibid). With the emergence of ISIS and increased security concerns in addition to the strain on its infrastructure, Jordan continued with its restrictions on allowing Syrians to enter Jordan throughout 2015 and 2016. This led to the creation of a displacement camp known as the Berm in the no-mans-land area on the border with Syria on the Syrian side, with 75,000 displaced Syrians living there under dire conditions (Ibid: 192).

Additionally, while the first Syrians arriving until the summer of 2012 were allowed to self-settle through their networks, the Jordanian government with the assistance of the UNHCR, hastily opened the Zaatari camp in July 2012, leading to a policy of encampment, and number of Syrians staying in this camp reached 200,000 by April 2013, making it the fourth largest makeshift city in Jordan (Ibid: 192). This was followed by the opening of the Emirates Jordanian Camp in 2013 and the Azraq camp in 2014 with the two housing 40 thousand Syrians (Ibid).

As with other refugees coming to the country, the Syrians coming to Jordan are registered by the UNHCR based on the MoU between the UNHCR and Jordan and are given prima facie status and TP and their information later shared with the MOI, with no RSD. Officially they are all required to go to one of the camps jointly administered by the Jordanian government and UNHCR and all are required to register also with the MOI, whether they have registered as refugees or not (Norwegian Refugee Council, 2016: 8). As mentioned in Chapter 2, according to the MoU, registered asylum seekers can stay in Jordan for six months after which a durable solution for their status- in the form of voluntary repatriation or resettlement- must take place. Although the amended MoU was never published, in 2014, amendments to the MoU were made through

which UNHCR's period of examining applications submitted was extended from the initial period of 21 to 30 days to a period of 90 days and extended the validity of refugee identification cards from six months to one year (Malkawi, 2014). The UNHCR issues Syrians asylum seeker certificates (ASC) which allows them access to services and assistance provided by the UNHCR inside and outside the camps, while the MOI issues them MOI Service Card, which provides them with access to health and education services and are only valid in the district they were issued, that is the district the Syrians are living in (Ibid).

It is important here to mention which authorities in the government of Jordan were responsible for handling issues regarding the arriving Syrians. The main institutions involved are the King and the Royal Family, the Royal Hashemite Court, the office of the Prime Minister, the MOI and the Ministry of Planning and International Cooperation (MoPIC), with the final say in policies always falling to the King and the Royal Hashemite Court (Sahin Mencutek, 2018: 189). The Syrian Refugee Camp Directorate was established in 2013 as an agency under the MOI responsible for coordinating all kind of aid to the camps and was later changed to the Syrian Refugee Affairs Directorate (SRAD) to be involved in coordination with UNHCR relating to all Syrians inside and outside the camps, and has immense authority within the camps (Shteiwi et al, 2014: 44). It is not very clear what exactly the line of responsibilities of the SRAD is, since although it appears as a directorate in the organizational structure of the MOI, it is the only directorate that does not have a description of it duties and function neither in Arabic or in English in the website of the MOI (please see https://moi.gov.jo/En/Pages/Organizational_Structure). Beaujouan and Rasheed state that the SRAD was established as a branch of the Jordanian security services for policing Syrians inside and outside of the camps (2020: 51). There are of course other Ministries which may get involved depending on the areas that involvement such as those on Health, Education, Labour, Social Expatriates. However, unlike Turkey, Jordan until now has not established an institution solely responsible for handling and managing the Syrian refugee's or any other refugee's affairs.

Up until 2014, the movement of Syrians living in camps was not too controlled by the authorities. However, with the increase in number of urban refugees, which came to

form 80% of the total Syrians living in Jordan, the Jordanian authorities started to enforce what is known as the bailout procedure, which was in place from before but was not enforced very strictly. The bailout procedure involved a Jordanian citizen with no criminal history, who was aged over 35 years, married, and a relative of the refugee/s seeking bailout becoming a sponsor for the refugee in question to leave the camp and live outside it (Norwegian Refugee Council, 2016: 12). Additionally, the sponsor had to obtain security clearance, file an application with the local municipality, provide documents that showed a family relationship with the refugee/s seeking bailout, pay a fee of JOD 15 (USD 21) for each refugee seeking bailout, and finalise bailout at the relevant refugee camp (Ibid). Due to the difficulty in the procedure, a lot of Syrians left the camps without a bailout, but still were able to access services outside the camps. However, this changed in July 2014 when the authorities stopped issuing MOI service cards and started restricting the access to services of the refugees who left the camps without a bailout and at the same time asked the UNHCR not to issue those refugees ASC which would restrict their access to humanitarian assistance (Francis, 2015: 23). The bailout procedure was suspended in early 2015.

During early 2015 also, the government initiated the Urban Verification Exercise- a process to re-register or verify all Syrians living in Jordan and then providing them with biometric MOI cards, rendering previously issued MOI service cards invalid (Norwegian Refugee Council, 2016: 8). To obtain the card, Syrians needed to go to a local police station and submit a Syrian identity document, their ASC, a health certificate verifying that they are not carriers of certain infectious diseases and proof of address, with Syrians entering legally with their passports not being required to submit an ASC. The new MOI card would be a proof of legal residency of the holder, provide them with access to health and education services in the district in which it was issued, allow them free movement in the country and allow them to apply for work permits and drivers licenses (Ibid). However, those refugees who left the camps after July 2014 without bailout until the bailout procedure was suspended, were not eligible to receive the new MOI cards and the number of these refugees is 17 thousand (Ibid).

Since mid-2012, all Syrians arriving irregularly were placed in camps, while those entering legally were allowed to live in urban areas and all of them had the opportunity

to register for protection, free access to education, health care, water, food and cash for work programmes, provided by the UN, national and international organizations. Although those living in urban areas had access to UNHCR and public services, this access has become limited and more difficult with time (Amnesty International, 2016: 10). According to the UNHCR, the number of registered Syrians in Jordan as of September 2020, is 659,673 and out of these, 125,848 live in one of the four current camps of Zaatari, Azraq, Emirates Jordanian Camp and King Abdullah Park (UNHCR, 2020c), with the rest living in urban areas. However, there are many Syrians who are not registered with the UNHCR or the Jordanian authorities for reasons such as them being in Jordan before the 'crisis' and the Jordanian government claims that the number of Syrians in Jordan is 1.36 million (JRP 2020-2022, 2020: 5). Just as in the case of Iraqi refugees, one of the reasons that the Jordanian government chose to declare an inflated number of Syrian refugees compared with the number given by the UNHCR, is their strategy to dramatize the presence of the refugees in order to guarantee continued international aid (Lenner, 2020: 288). Another strategy used, which is again similar to the case of Iraqi refugees, is the encampment of the Syrian refugees, which was used for several purposes. The presence of camps gives the image that there are refugees and therefore a need for international aid which Jordan consistently asked for since the start of the 'crisis' and that is why Jordan continued to attempt to keep the Syrians from leaving the camps (Sahin Mencutek: 193).

Since the response of Jordan to the overflow of Syrian refugees is very much dependent on international aid and support due to its overwhelmed system, resources and infrastructure, the reduction in this aid directly effects the provision of services to the Syrians in the country. Additionally, increased pressure on the education and health system of the country and the perception that the Syrians are receiving more aid than them in terms of international humanitarian aid, has also led to the increased frustration and negative sentiments by Jordanian citizens towards the Syrians (Francis, 2015: 8). The government's reaction to this frustration, as the main controller of international aid received, has been to restrict access of services to Syrians. For instance, while between 2011-2014 Syrians holding MOI cards were treated like insured Jordanians and could access health services for free in public hospitals, the Jordanian government, stating the overburden on the health sector, repelled this policy and Syrians with MOI

cards were required to pay 35-60% of user fees paid by other foreigners in Jordan, with the rest being paid by the state (Amnesty International: 18).

With regard to access to work, all Syrians based on the MoU and the Law No. 24 on Residence do have the limited right to work. However, due to the pressure on the infrastructure and the economy in Jordan, which was problematic even before the arrival of the Syrians, most Syrians were not able to find jobs legally due to the restrictions of the sectors they could work in and the conditions required for employers to meet to employ them, and those that did, mostly worked in the informal market (Francis: 12), just like in Turkey. With the unemployment rate already high in Jordan- 12.9% in 2011 and reaching 15.27% in 2016 (The Global Economy, 2020)- the possibility of integrating Syrians to the labour market was not a priority by the government until the Compact in 2016, which we will look into below.

Restriction in access to services has also been used by the Jordanian government as a strategy to highlight the temporariness and refusal of social and economic integration of the Syrians in Jordan. In addition to restricting access to the labour market, the government- in an attempt to push the Syrians living in urban areas to the camps, which are considered a symbol of temporary housing- stopped the building of urban shelter projects run by humanitarian organizations in early 2015 for six months and SRAD has not allowed any changes which would lead to some kind of permanent housing to be made in Zaatari camp's settlement structure (Sahin Mencutek: 194).

In a different reaction to the past refugee forced movements, the Jordanian government has come up with different initiatives to handle the impact and challenges that the presence of the Syrian refugees has had on the economy, infrastructure and resources of the country. One of these was the Host Communities Support Platform (HCSP) which is a strategic body consisting of ministries, donor bodies, the UN and INGOs established under the MoPIC in 2013 with its main purpose being improving access to services, strengthening social cohesion and building resilience (Reliefweb, 2014). The HCSP then developed a National Resilience Plan (NRP) in 2014 for the period of 2014-2016 and the plan is built on a strategy of helping 'to help host communities 'cope' (meet immediate needs), 'recover' (restore capacities and services to pre-crisis

levels), and 'sustain' (lay foundation for long-term institutional and socioeconomic strength)' and a request by Jordan to the international community for an amount of US$4.128 for investments in education, energy, health, housing, livelihoods and employment, municipal services, social protection and water and sanitation (National Resilience Plan, 2014: 5).

In 2014, the HCSP evolved into the Jordan Response Platform for the Syria Crisis (JRPSC) with the purpose of achieving a 'development of a refugee, resilience-strengthening, and development response to the impact of the Syrian crisis on Jordan' (The Jordan Response Platform for the Syria Crisis, 2014) and the NRP was replaced by the Jordan Response Plan (JRP) to achieve its objective. The JRP, developed by the MoPIC and the UN, is described as a three-year vision with a shift in approach to the crisis from 'a refugee response to a resilience-based comprehensive framework that bridges the divide between short-term refugee and longer-term developmental responses' (JRP 2016-2018). Until now there have been four JRPs: 2015 JRP, 2016-2018 JRP, 2018-2020 JRP and 2020-2022 JRP with similar objectives and outlines to the NRP. The JRPs all provide a budget amount request to the international community for interventions to be made in particular sectors of concern for the refugees and the host community, such as education, energy, health, shelter, environment, livelihoods and food security, local governance and municipal services, transport, justice, social protection and water and sanitation (2015 JRP, 2015: 11-14). The JRPs, as a new long-term approach by the Jordanian government, dealt with the issue of social integration and capacity building to minimise the spill over effects on the Jordanians.

4.3.3. Increased Cooperation with the EU in the Migration Field- Mobility Partnership and RDPP

The cooperation between Jordan and the EU saw a surge in the field of migration just before the 'Syrian Refugee Crisis'. The 'crisis' had already started of course for neighbouring countries such as Jordan when the number of Syrians increased to half a million in mid-2013. The EU in its response towards the 'crisis', decided to establish a Regional Development and Protection Programme (RDPP) in the Middle East when the Justice and Home Affairs Council approved the Commission's proposal on establishing it in 2012. The RDPP was launched in July 2014 as a long-term multi-

donor initiative with the objective of supporting Jordan, Lebanon and Iraq in their responses to the Syrian refugees with its two main objectives of ensuring 'that refugees and host populations living in displacement and affected communities access their rights, are safe, self-reliant, and refugees are able to avail themselves of a durable solution' (RDPP). Therefore, the two of the pillars of the GAMM of maximising the development impact of mobility and migration and promoting international protection were targeted. By applying a humanitarian-development approach, the RDPP was and continues to be conducted in two phases, with phase I ending in 2018 by implementing 45 strategic and innovative partnerships in the region (Ibid). During this phase, nine projects were completed in Jordan, with six of them being projects on livelihoods, one on protection and two on research (Ibid- Projects). The second phase was launched in 2018 until 2021 with four main principles: localization in the sense that partnerships would be prioritized directly with national authorities, civil society and the host government; innovation in the sense that new approaches, methodologies and technologies would be developed to deliver sustainable impact; humanitarian-development nexus in the sense that operational links between complimentary approaches of humanitarian assistance, development cooperation and conflict prevention should be strengthened and applying a human-rights based approach to all partners within the three areas of livelihoods towards durable solutions, upholding and expanding protection space and research and advocacy (Ibid). In Jordan, there are two projects in progress in the area of livelihoods, one in the area of protection and two in the area of research and advocacy with one being a regional one called Durable Solutions Platform. The EU had set the EU Regional Trust Fund in Response to the Syrian Crisis in 2014 to bring together all EU funds to be allocated to projects targeting the Syrian refugees and the host communities receiving them. In 2017, the fund adopted projects worth $138 million to support Jordan, Lebanon and Iraq and $53 million were to be used to support the construction of 10 primary and secondary schools in Jordan and the extension of wastewater networks in areas most affected by the refugee arrivals (European External Action Service, 2017).

On a bilateral level, in its response towards Jordan, the EU employed a few of its instruments mentioned in Chapter 3. The initial response was the launching of the Dialogue on Migration, Mobility and Security in December 2012 which was followed

by two expert missions from the EU to Jordan to discuss venues of cooperation and negotiate a MP. A draft was presented to the Jordanian authorities one year later in December 2013 after the Jordanian authorities expressed their readiness to cooperate in this field (European Commission, 2014a: 6). The dialogue culminated with the signing of the MP in October 2014 with a declaration on its establishment as a long-term cooperation framework in line with the GAMM and the Jordanian migration policy based on political dialogue and cooperation, stating four main objectives the sides needed to work on as:

1- To manage more effectively the legal mobility of persons for short periods and labour migration.

2- To strengthen cooperation on migration and development in order to exploit the potential of migration and its positive effects on the development of the two sides

3- To combat irregular migration and networks involved in the trafficking and smuggling of human beings and to promote an effective return and readmission policy

4- To strengthen the capacity to manage refugees in line with international standards (European Commission, 2014b: 3).

The mentioned objectives are stated to be achieved within shared responsibility and solidarity and for each objective, specific lines of work were defined. With regard to the first and second objective, the declaration envisages increased cooperation on simplifying procedures of legal entry and stays; negotiate an agreement to facilitate the issuing of visas between the two sides, inform Jordanian citizens on options for legal migration, employment, study and training opportunities in Member States (Ibid:4). On irregular migration, a readmission agreement with provisions relating to third country nationals based on transparent criteria and the specific situation in Jordan is to be negotiated; Jordan is to be supported in enhancing legislative, institutional and operational capacity to prevent irregular migration and fight networks of smuggling and trafficking; cooperate in conducting information and awareness-raising campaigns on the risks and dangers of irregular migration; enhance information exchange, administrative capacity and operational and technical cooperation on border management; work together to develop cooperation for implementing active policies on promoting integration and inter-culturality and combating exclusion and xenophobia (Ibid: 5).

With regard to international protection, the EU is to support the strengthening of Jordanian legislative and institutional framework for asylum in accordance with Jordan's legislation and international standards; promote the development of Jordanian capacity to deal with persons in need of international protection through technical support and close cooperation with relevant agencies of the EU and UNHCR and through the RDPP of 2014 and to support Jordan in its efforts to manage the inflow of refugees under the scope of the MoU between Jordan and UNHCR (Ibid: 7). The declaration also states that the partnership will be implemented as a package involving a visa facilitation and readmission agreement to be concluded simultaneously and that EU agencies such as Frontex, Europol, EASO will also be involved in its implementation (Ibid: 8). The declaration also mentions an annex with initiatives to be implemented, however, it seems that the annex has not been published since I could only access the 10-page declaration with no annex. Therefore, details on how and by what means the partnership is to be implemented are not very clear. Additionally, with regard to international protection, unlike towards Turkey, by stating 'in accordance with Jordan's legislation and international standards', the EU does not seem put any pressure whatsoever on Jordan with regard to accepting the 1951 Convention on Refugees and its Protocol of 1967 and seems to have accepted the status quo standards by which Jordan provides international protection and also shows that the approach of the EU towards third countries is not consistent in this regard.

4.3.4. The 2016 EU-Jordan Partnership Priorities and Compact

The international community came together in February 2016 at the London Conference- 'Supporting Syria and the Region'- in an attempt to address the protracted situation of the Syrian refugees in the hosting countries of Turkey, Lebanon and Jordan, as well as try to find a solution to the situation in Syria. As a result of the conference, the international community shifted from a humanitarian approach to a long-term development approach towards the Syrian refugees in hosting countries, concentrated on education and job creation for them to reduce their dependence on aid and increase their resilience and self-reliance through socio-economic integration. The result was the Jordan Compact- a long-term agreement between multiple donor countries and organizations and Jordan coming together to achieve sustainable

outcomes for the Syrian refugees and the hosting community in a defined framework under the leadership of the hosting country government (Huang and Ash, 2017: 9). The conference also raised funding of $12 billion in pledges to the whole region for the period of 2016-2020, and for Jordan specifically $700 million of grants in support of JRP 2016 (Barbelet et al, 2018: 2-3).

The compact was based on a statement by Jordan under the heading of 'A New Holistic Approach between the Hashemite Kingdom of Jordan and the International Community to deal with the Syrian Refugee Crisis' in which it highlighted the impact of the Syrian refugee influx on the Jordanian resources, economy, host communities, fiscal position and public services, stating that the international community's support has not been enough to meet the needs of the country (Government of Jordan, 2016). It therefore, suggested a new approach of support through promoting economic development and opportunities in Jordan to benefit both the Syrian refugees and Jordanians and stressed the importance of improved access to the EU market for this economic development to take place. It based this approach on three interlinked pillars that would support Jordan economic growth agenda as:

1- Turning the Syrian refugee crisis into a development opportunity that attracts new investments and opens up the EU market with simplified rules of origin, creating jobs for Jordanians and Syrian refugees whilst supporting the post-conflict Syrian economy;

2- Rebuilding Jordanian host communities by adequately financing through grants the Jordan Response Plan 2016-2018, in particular the resilience of host communities;

3- Mobilizing sufficient grants and concessionary financing to support the macroeconomic framework and address Jordan's financing needs over the next three years, as part of Jordan entering into a new Extended Fund Facility program with the IMF (Ibid).

Through the statement, Jordan itself also commits to improving the business and investment environment, including designating five development zones which could provide additional work opportunities for Syrians and Jordanians, making the necessary administrative changes to allow Syrians to apply for work permits, formalise

their existing businesses and help set up new ones, allow specific percentage of Syrian employment in municipal works (Ibid). Outside the zones, it suggests that Syrians can work in sectors where there is low Jordanian participation, such as construction, agriculture, service industry, cleaning, and in sectors where there is a high degree of skills match, such as handicrafts and textile, and that these would provide around 50,000 jobs in 2016 and with the work in the zones would add up to 200,000 job opportunities for Syrians in the coming years, without them competing for Jordanians (Ibid). Jordan however, ends the statement by saying that the realization of the plan depends on the provision of the international community of resources and support in line with its requested costs (Ibid).

It is within the context of this compact between Jordan and the international community that the EU-Jordan Compact within the EU-Jordan Partnership Priorities 2016-2018 was adopted in December 2016 by the EU-Jordan Association Council. The compact is a complement to the EU-Jordan Partnership Priorities and together they replaced the EU-Jordan Action Plan adopted of October 2012, aiming at turning the challenges created by the Syria crisis into opportunities benefitting the Jordanians, Syrian refugees and the EU. The agreed compact created a framework to be implemented to achieve the three main priorities of: 1- strengthening cooperation on regional stability and security including counter-terrorism, 2- promoting economic stability, sustainable and knowledge-based growth, quality education and job-creation and 3- strengthening democratic governance, rule of law and human rights (European Commission, 2016: 34-36). The specific areas of action to be considered in implementation are listed in the compact as:

1- EU-Jordan trade

2- facilitation in view of enhancing investments, export, job opportunities including for Syrian refugees

3- Promoting macro-economic stability, smart and sustainable growth

4- Improving an environment conducive to private sector development, innovation and job creation

5- Quality Education for Social Inclusion and Development

6- Sustainable use and management of natural resources

7- Stability and Security, including Countering Terrorism, Preventing Radicalisation and Violent Extremism

8- Mobility and Migration

9- Justice and political reform, democratic elections and human rights (Ibid: 38-41)

The compact is followed by an addendum with tables stating the commitments in every action area by Jordan and the EU on a bilateral level and with regard to the Syrian refugees, along with the review mechanisms of the implementation of each area of action. With regard to relevance to this study, the commitments in light of the actions to be taken towards Syrian refugees have been summarized as follows:

Table 4.2. EU-Jordan Commitments under the EU-Jordan Compact

Jordan Commitments	**EU Commitments**
Improving an environment conducive to private sector development, innovation and job creation	
1-Establish an attractive system for investment in designated zones and to allocate residence / work permits to Syrian refugees with the overall target of reaching about **200,000 jobs for Syrian refugees** in Jordan, as per International Compact. Third party monitoring (International Labour Organization, ILO). **2-** Scale-up labour-intensive approaches that employ both Syrians and Jordanians. **3-** Facilitate the administrative status of Syrian refugees to enable their access to employment and basic services, and capacity to establish a business within and outside camps.	1-Temporarily **relax rules of origin regime for period of 10 years**, for specific products and in **18 designated economic zones (Special Economic Zones-SEZs) and industrial areas**, with created jobs benefiting both Syrian refugees and Jordanian citizens and consider to further extending Rule of Origin derogations once the target of 200 000 jobs for refugees is achieved, under control of third-party monitoring (ILO). 2- Facilitate access to credit by using a differentiated approach. **3-**European Investment Bank (EIB), European Bank for Reconstruction and Development (EBRD) increase concessional financing in line with their respective mandates.

Table 4.2. (continued)

4- Approve a national policy for tackling the informal labour market (in line with ILO recommendations)	
Quality Education and Training for Social Inclusion and Development	
1-Scale up public education provision to **190,000 Syrian refugees** at primary and secondary level in the school year 2016-2017, while safeguarding quality of education. **2**-Accelerating Access to Quality Formal Education to Syrian refugees and disadvantaged Jordanians **3-**Provide access to vocational training for Syrians and to tertiary/higher education opportunities for all vulnerable youth (Jordanian and Syrian) will be increased.	**1-** Increase funding through budget support to cover incremental expenditure for teachers, text books, school fees and operational costs; as well as support to the extension of school facilities for Syrian pupils

The jobs to be given to Syrians should be equivalent to at least 15% of jobs in production facilities in 18 designated economic zones and industrial areas for the first and second year; then 25 % from the third year and 50,000 jobs for Syrian refugees should be achieved by end of 2016; 75,000 by end of 2017 and 100,000 by end of 2018, provided there is sufficient demand for working permits. The EU is also to facilitate credit to be managed by Jordanian financial institutions and is support micro, small and medium enterprises that employ both Syrians and Jordanians.

With regard to refugee, migration and mobility policies, the compact reiterated the four priorities in the MP and highlighted that the visa facilitation to the EU, coupled with a readmission agreement, is an important objective of EU-Jordan relations and that negotiations were to start in autumn 2016 (Ibid: 41). Through this compact, the EU also committed a minimum of EUR 747 million of new funding in 2016 and 2017, EUR 108 million of which is humanitarian assistance (Ibid: 46).

As can be seen from above, while continuing to provide humanitarian assistance through the compact, the EU has shifted its approach towards a more sustainable and long-term strategy on refugees in Jordan with concentration on economic and educational development in the form of job-creation for the Syrian refugees and enhancing their educational capabilities to create job opportunities. The EU in return, will provide Jordan with temporary, more relaxed trade conditions for Jordanian goods to access the EU market and easier movement of Jordanians to the EU with a promise of a VFA, all conditional on Jordan realizing its commitments towards the Syrian refugees. It is important to note here that although Jordan already has eased access to the EU market in the form of duty-free and quota-free access for industrial products and a wide range of agricultural products under the EU-Jordan Association Agreement, Jordanian producers have not been able to meet the rules of origin criteria (Ibid: 38), due to the high threshold for the percentage of any exported product that needs to originate in Jordan (Lenner & Turner, 2018a: 75). Since the percentage of the use of local raw materials in most exported products from Jordan is low (Ibid), the lowering of the percentage of the use of local materials from 60% to 30% on average (Grawert, 2019: 3) due to the compact, will significantly help Jordanian manufacturers in the designated SEZs, of course if they employ minimum 15% of their workers from Syrian refugees- 25% from the third year of the compact.

However, while the EU-Jordan Compact has been commended for its innovative approach towards the protracted refugee situation and developmental stance on improving the lives of the Syrian refugees but not at the expense of Jordanians and despite having opened previously blocked opportunities to Syrian refugees, many studies show that its effects have been minimal due to several reasons pertaining to the general economic, social and bureaucratic fabric of Jordan and the willingness and ability of the Syrian refugees based on this fabric. In fact, as of 2019, neither the number of employed Syrians that has been targeted has been reached, neither has there been a significant increase in the number of Jordanian companies benefiting from the rule of origin.

There are of course several economic, political and social reasons the compact has not met desired objectives. However, when we look at the compact conditions themselves, we see that there are conditions which do not help the Jordanian side of the deal as much as desired. For instance, the rules of origin have been relaxed for some industrial goods and light industry items but not for the agricultural sector products, which are the most prominent in the Jordanian market (Grawert: 3). Therefore, only four companies have qualified for the rules of origin in 2017 and they have employed only 300 Syrian refugees (Ibid). Another issue is related to the willingness and ability of Syrians to work in the 18 designated SEZs, since some of them, despite the easing of the application process for work permits by the government and introducing a waiver for work permits, still find it difficult to apply and obtain work permits and prefer to take on informal jobs (Ibid: 4). Additionally, the Jordanian government is still trying to safeguard job opportunities for its citizens as in comparison to Syrians, making the competition of jobs not between the two but between the Syrians and other migrant workers. The government also insists that the companies in the designated zones employ 30% Jordanians before employing 15% Syrians for jobs that are not usually acceptable for Jordanians in terms of wages and working conditions (Ibid). Even though the Jordanian Ministry of Labour progress report states that, as of the end of 2020, 179,445 work permits have been issued to Syrian refugees from January 2016 (Government of Jordan, 2020), according to an assessment by Lenner and Turner (2018b: 49) this number is misleading since it not only includes renewals of work permits but also many work permits issued to the same people changing jobs and also temporary permits.

When it comes to the perceptions of Jordanians towards Syrians, a study by Alrababa'h et al, shows that, despite the negative economic impact the Syrians have had on Jordan, majority of Jordanians have positive feelings towards Syrians and supported the government's help to them and do not support the closing of the border (2020, 30). However, with regard to the impact of their presence, the Jordanians do not favour integrating them and believe that they should stay in camps and should not be given work permits (Ibid). This has been supported also in a survey conducted by the Center for Strategic Studies of the University of Jordan, when 73% of Jordanian respondents said they believed that employment of Syrians created tensions between the Jordanians

and Syrians (2017: 28-29) and 95% of the Jordanians believed that the reason of workplaces employing Syrians would because they work for a lower salaries (Ibid: 40), probably a source of tension in itself. Additionally, 74% of Jordanians thought that Syrians should live in camps (Ibid: 29). However, when it comes to whether they think that Syrians should work or not, 50% said they did not oppose it but 89% believed that the presence of Syrians in Jordan had a negative impact on its economic situation (Ibid: 38-39). These show the dilemma of the Jordanians in that, due to cultural similarities and affinity, they do see Syrians as worthy of help in their difficult situation, but at the same time do not want them to stay forever and share their already scarce resources and opportunities.

Jordan's expressed willingness to offer jobs to Syrians in the London conference can be seen as a breakthrough in the Kingdom's approach towards refugees. As mentioned before, considering its already high unemployment rate and lack of work opportunities, economic integration of refugees in the form of providing access to work was taboo and Jordan had been making it increasingly difficult for refugees to access work. However, also as mentioned, Jordan is significantly dependent on international aid and support in all areas. With this aid never meeting the amount required by Jordan since the start of the Syrian refugee forced movement and with the prolonged conflict in Syria and therefore the prolonged presence of displaced Syrians in Jordan, it can be said that the Jordanian government has changed its tactics to guarantee the flow of aid. With the narrative of the international community changing towards the developmental approach and an emphasis on resilience on responding to the 'Syrian Refugee Crisis', Jordan had to follow this trend when addressing and appealing to the international community. As Kelberer has put it, this seems to have been a strategy by Jordan since the arrival of Iraqi refugees in 2003 and 2006 (2017). Since then, Jordan's refugee policy has been built on lobbying for international aid and when not delivered and when faced with internal pressure, has threatened to reduce or cut services to refugees and has even acted on it, just as we have seen in the Syrian's case (Ibid: 153). In 2018, for instance, increasing resentment towards refugees, a feeling of abandonment from the international community and unpopular government policies led to the further limitation of health services to Syrians requiring them to pay the equivalent of 80% of the 'foreigner' or non-Jordanian rate, which entailed out of

pocket expenses 2–5 times higher than for uninsured Jordanians (Lupieri, 2020: 963). Following the World Bank approving $200 million to support healthcare in Jordan, the government reversed this policy so that Syrians had to pay the same as uninsured Jordanians (Ibid: 968). This strategy of Jordan in the London Conference can be evaluated as successful, since as mentioned, Jordan did receive a substantial package of humanitarian aid and development assistance, as well as trade benefits in the form of the EU-Jordan compact.

However, since the provision of rights and services for refugees in Jordan seem to be dependent on this aid, the sustainability of the EU-Jordan compact in providing jobs to Syrians is questionable. The purpose of the compact in providing refugees with jobs and therefore making them self-reliant and less dependent on aid is contradictory with the policy of the Jordanian government in sustaining the flow of aid to support it with the Syrians. Additionally, Jordan is not the only recipient of this aid and with time the interest in providing this aid or incentives of the EU and the international community may decrease, especially if faced with a similar crisis. We will have to wait and see how the Jordanian government will react when this happens and how this will impact the Syrian refugees there when this happens.

4.4. Conclusion

The impact of the Syrian mass forced movement has not only led to significant changes in policies and attitudes towards refugees in major Syrian refugee recipient countries such as Turkey and Jordan. It also led to changes in the approaches of the international community, with the EU as a significant part of it, in trying to respond to the challenges created by this mass movement. Although Turkey and Jordan had faced previous refugee mass movements which turned into protracted refugee situation, none were in the magnitude and impact of the Syrian one. It cannot be denied that what turned this forced movement into a ‘crisis’ was the arrival of more than one million irregular migrants by sea and land in 2015, a majority of which were Syrians and most of them through the Eastern Mediterranean route through Turkey. The challenges to Turkey and Jordan had started earlier; for Jordan in 2013 when the number reached hundreds of thousands and in Turkey when it passed one million in 2014. With the magnitude of the mass movement and its effects on the EU, the status quo to refugee response in

Turkey and Jordan could not remain as it was and change was inevitable. As we have seen above, the EU has been a significant actor in this change and this will be outlined in the conclusion.

If we are to outline the changes in asylum policies in Turkey and Jordan, we can see similar yet quite different patterns towards the Syrian mass forced movement of refugees. These can be summarized as follows:

4.4.1. Change in Reception Response

Both Turkey and Jordan in the initial stages of the mass refugee arrivals followed an open-door policy, receiving the Syrians as 'guests' stressing cultural and fraternal links with the Syrians. Both countries not expecting the conflict in Syria to last long, applied an encampment approach to accommodate the coming Syrians at the start. However, with the numbers increasing to a degree making it impossible to encamp them, the number of urban refugees dramatically increased, making it challenging for the governments of both countries to handle their presence and provide them with services. In addition to that, with the conflict and violence increasing in Syria, leading to the emergence of ISIS and Kurdish forces, both Turkey and Jordan followed a more restrictive policy of entry to the Syrians leading to a more securitized approach towards them. Turkey started building a wall on its border with Syria in 2015, imposed visa requirements for Syrians entering by air and sea and eventually closed its border with Syria. Jordan also started first imposing selective restrictions in 2012 not allowing Palestinians from Syria to enter Jordan and also eventually closed its border in 2015. However, both countries continued to apply a selective policy allowing vulnerable and urgent passages.

Both countries also became more restrictive on movement of Syrians present in their countries. Syrians were required to stay in cities or towns they were registered in and required permits to travel within the country or to leave the camps. Access to services became also an issue for the Syrians leaving cities they were registered in. They were also not allowed to receive work permits outside the cities they were registered in without a special permit to do so. In general, access to work for Syrians was selective and restrictive from the start until 2016.

4.4.2. Institutional and Legal Changes to the Asylum Policy

While both Turkey and Jordan previously left most of the issues regarding refugees' registration and access to some services to the UNHCR, with the Syrians, Turkey and Jordan had to take action to nationalize the regulation and control of the presence of Syrians. While Turkey adopted a new law on asylum for the first time in its history and established a specialized institution to handle issues of immigration, Jordan continued using the same law of residence for foreigners but established specializes units and departments to deal with the Syrians' issues.

In Turkey's case, the role of the EU in this change cannot be denied. Within the scope of the adoption of the acquis in its pre-accession negotiations, Turkey had started working on a draft law in 2008 (Kirisci, 2012: 63) and was adopted in 2013 and went into force in 2014. The law also saw the establishment of the first specialized institution for handling asylum- the DGMM. The Syrians fall under the temporary protection status of this law and details on handling mass influx situations such as that of the Syrians were introduced in the TPR. With this law, registration of asylum seekers and RSD procedures were moved from UNHCR to the DGMM and in 2018 UNHCR declared that it will no longer register asylum seekers or conduct RSDs but will continue to provide protection services in support of Turkish authorities. UNHCR also continues to assist the Turkish authorities in resettlement issues. Despite not lifting the geographical limitation to the 1951 Refugee Convention and therefore still not recognizing refugees outside of Europe as refugees, the nationalization of asylum procedures by Turkey is therefore a significant step.

In contrast, Jordan did not adopt a new law or establish a specialized institution but rather established specialized units such as the SRAD- mostly to handle issues within the camps in coordination with the UNHCR and the UNHCR continued to play a significant role in registration and RSD procedures. However, Jordan displayed a more active role when compared to previous mass refugee forced movements in the form of coming up with initiatives for handling the response in cooperation with international organizations and donors. It did so first by establishing the HCSP which evolved into the JRPSC under the MoPIC. The MoPIC became the governmental institution more

involved in the refugee crisis when the 'crisis' took a turn from being humanitarian response to a developmental one. Through the JRPSC, MoPIC in cooperation with the UN, developed annual response plans in the form of resilience programmes to serve the Syrians as well as the host communities. This also should be considered as a significant step by Jordan in trying to act rather than leave everything to the UNHCR and other NGOs in handling refugee issues and only intervenes under social pressure or when it is not receiving enough aid.

4.4.3. 2016- A Turning Point in Policy towards Syrians

With the number of migrants reaching Europe hitting a record high in 2015, 2016 became a year in which the EU took action to prevent this flow. This action can be seen directly also in its relations with Turkey and Jordan. The EU-Turkey Statement and the EU-Jordan Compact can be viewed as a result of this action in containing the Syrians in these two countries and securing for them a permanent and self-reliant life there to dissuade them from attempting to go to Europe. Through issue-linkage, both countries were provided incentives conditional on them preventing migrant's movement- in the case of Turkey- or in providing them with work as a form of economic integration- in the case of Jordan. We will look more into the impact of the EU in the next conclusion chapter.

Based on these agreements, we can see that there has been some change in both countries' policy towards the Syrians. Although not changing their policies on full integration and although both countries still follow a policy of return for the Syrians when the war ends in Syria, we can see that their integration in discourse and in some actions, no longer seems as taboo as it used to be. As mentioned above, in 2016, President Erdogan declared an intention to provide Syrians with Turkish citizenship. Jordan, in the London Conference in 2016, introduced the idea of employing 200,000 Syrians as a commitment to the refugee response in return for continued humanitarian and development support from the international community.

These two agreements show how the asylum policy of the two countries has increasingly become tied to its foreign policy. The Syrian refugees have become a bargaining commodity in both Turkey's and Jordan's relations with the EU and the

international community. Turkey started using them as a threat card against the EU whenever it did not receive the support it wanted in its military intervention in Syria or in the situation in Idlib. Jordan also would use strategies directly effecting the Syrians, such as cutting or reducing services, when it did not receive the aid it needed. Both countries have also been reported to deny entry to Syrians fleeing the conflict and also cases of refoulment.

CHAPTER 5

CONCLUSION

Several domestic and international factors come together and shape the national asylum policies of a state. As discussed within this thesis, the asylum policy of a state is constantly changing. Since claiming of asylum itself involves the crossing of borders of individuals fleeing persecution or conflict, and therefore moving from the jurisdiction of one sovereign state to another, the policy adopted by the receiving state in terms of reception, accommodation, access to services and provision of protection rights becomes significant in determining the fate of asylum seekers or refugees. Especially in situations of mass flows of refugees, the situation usually consists of a conflict so big that it brings the involvement of several states and powers, whether regional or international, that become involved for different purposes. The flow of refugees usually happens in the first phase to neighbouring countries, which become the most directly impacted states by this flow. The international community becomes involved later, whether through a call for support by the receiving states or due to commitment for safeguarding human rights. As we have seen in the case of the EU, the involvement may also be due to fear of these waves of refugees/asylum seeker/migrants reaching their own lands.

The purpose of this study has been to explore the effects of this fear on Turkey and Jordan's asylum policies through the EU externalization of its asylum and immigration policy in the context of the 'Syrian Refugee Crisis'. This study has explored this through the concept of conditionality. Conditionality is a strategy that has been used mostly by the EU towards potential member countries who had to adapt to the EU jurisdiction to become members. However, we can see that in time, conditionality has come to be used by the EU towards third countries, who have no prospects of becoming members, in different contexts that the EU deemed significant in its relations with these states. Countries have been provided incentives throughout their relations with

the EU to adopt rules or practices in areas the EU deemed crucial for its own internal concerns.

5.1. Prior to the 'Syrian Refugee Crisis'

Turkey and Jordan are both countries that have been significantly affected by the Syrian refugee flow that started in 2011 following the aggression of the Syrian regime against the protesting Syrian people. In order to understand the impact of the EU on the asylum policies of these two states, we first had a look at the asylum policies of these two countries since their establishment throughout a period when EU involvement was not very significant. Here we saw that both Turkey and Jordan, both countries being located in a conflict prone region, had similar trends in their asylum policies during the crucial period of nation building which involved policies motivated by safeguarding national identity and security concerns. Providing protection on internationally agreed terms within a humanitarian perspective was not a priority for both countries during this period. While there is a noteworthy difference between Turkey and Jordan in that Turkey did ratify the 1951 Refugee Convention and its subsequent protocol of 1967, by keeping the geographical limitation on granting refugee status to only Europeans, in practice, Turkey and Jordan both did not provide refugee status to citizens from the Middle East, which are the ones mostly coming to these two countries seeking asylum. They both refused any permanency in the presence of any refugees or asylum seekers, whom they both chose to give different names other than refugees such as 'guests' and at different periods. They left the responsibility of processing and deciding asylum applications to the UNHCR. In trying to maintain the status quo with regard to asylum issues, both countries did not adopt national laws on asylum or have a specialized institution to handle asylum issues. Instead, they both regulated asylum issues through ad hoc policies and directives, circulars and regulations carried out by security-oriented institutions such as the police or the army personnel.

In my attempt to explore the role of the EU in both these country's asylum policy, I then looked briefly on the development of the external dimension of the EU's asylum and immigration policy. As of the 1990s, the EU has developed several instruments to incorporate the adoption of their policies in different fields in third countries, including

in the field of immigration and asylum. When the EU realized that developing a common asylum system within the EU was not enough to control the flow of migrants, especially the irregular flow, they decided to take action in countries of origin and transit, a phenomenon that came to be known as the externalization of the EU borders. Countries who were preparing to become members of the EU had in their accession agreements the condition of adopting the asylum and immigration policy of the EU with the eventual reward of becoming a member. The countries with no chance of membership, were instead tempted to adopt policies of, for instance, controlling their borders and irregular migration, providing better protection rights and services to asylum seekers, readmitting their nationals as well as third country nationals that transited from their lands to the EU, in return for easier access to the EU market and facilitation of travel to the EU to their nationals.

Throughout the years, and dependent on different instances of potential or actual migratory flows, the EU adopted several approaches to migration, and therefore towards its external dimension involving its relations with third countries of origin and transit. We have seen that the EU initially concentrated on approaches within the migration-security nexus in its relations with third countries by emphasizing issues such as readmission and preventing irregular migration. However, soon these approaches evolved to include developmental incentives linked to migration related achievements by third countries. Third countries were not only offered financial and technical support in areas of asylum, but as mentioned, were also provided opportunities of legal migration to their own citizens as well as access to the EU market. As discussed in Chapter 3, the EU has developed several agreements and instruments in the field of asylum and immigration to be used to guide its partnerships with third countries that are potential sources of migration to the EU. The ultimate goal of all these efforts is the prevention or decrease of unwanted migratory flows, especially those that are forced due to conflict and wars. With the Middle East one of the most conflict-ridden and prone regions of the world, these efforts were then explored towards Turkey and Jordan in the context of the ‘Syrian Refugee Crisis’.

5.2. After the 'Syrian Refugee Crisis'

The so-called Syrian Migration Crisis of 2015 triggered accelerated action by the EU towards countries it considered as transit countries for Syrians fleeing their homeland. These naturally were the neighbouring countries to Syria. Turkey and Jordan, both not anticipating the conflict in Syria to take too long, followed an open-door policy to Syrians initially and received them as 'guests' with no formal protection system in place. With increased violence in Syria, the number of fleeing Syrians increased gradually in both countries and their policies changed accordingly first to a selective entry and then to a closed-door policy. Both Turkey and Jordan initially followed similar policy paths towards Syrians as they did with previous mass flows; Syrians were placed in camps and emergency services were provided to them. While Turkey initially did not seek international support in receiving the Syrians and handled them through domestic emergency institutions, Jordan from the start was dependent on the UNHCR and international support.

In its unique experience as a candidate country, Turkey's policy was more directly affected by EU influence having to adopt the acquis in issues of asylum. The question of removing the geographical limitation was the most contested one in its adoption of EU rules in this field. Turkey refused to remove the limitation without the guarantee that it would become a member and that it would not become a buffer zone to the EU, due to its proximity to countries of potential conflict. Despite these issues, enhanced cooperation in the asylum field led to Turkey's adoption of a new law on international protection and forming a civilian institution to take the responsibility of protection and immigration issues in 2014. RSD procedures were passed from the UNHCR to the DGMM and it took full responsibility for handling all issues regarding asylum. Syrians were provided with temporary protection, highlighting the refusal of Turkey in providing permanency to them.

Jordan on the other hand, still does not have a law or a special institution for protection. Syrians were also provided with temporary protection through the UNHCR, which continues to play a vital role in the protection policy of Jordan. Despite establishing the SRAD within the MOI as a department responsible for the Syrians in Jordan, and then launching the JRP as a response plan that moved the approach to Syrians from

that of dependency on aid and support to a resilience-based developmental framework. The timing of this change in approach is crucial in that it came in line with a change in international refugee response which came to focus on resilience building approaches in refugee receiving countries.

The resilience building approach for refugees was also adopted by the EU. With this approach, the EU shifted its focus in its externalization of its asylum and immigration policy and therefore its relations with receiving and transit countries, to finding sustainable and long-term solutions for refugees in these countries. Through this approach, refugees are to be provided with a chance to reduce their dependency on aid and support- which resulted in them leading semi-permanent lives in wait for a permanent solution to their precarious circumstances- and instead enhance their self-reliance and resilience in earning their livelihoods and therefore giving back to the societies they are living in. This approach seemed problematic towards countries like Turkey and Jordan who were resilient in not providing permanency to the presence of Syrians in the form of integrating them. One of the essential forms of integrating refugees is economic integration in the form of access to jobs. Turkey and Jordan were very reluctant on facilitating the access of Syrians to the job market, leading the Syrians to become part of the informal working sectors in both these countries.

5.3. 2016- A Year of Migration Diplomacy

However, as we have seen, 2016 became a critical year involving enhanced migration diplomacy between the EU and Turkey and EU and Jordan. Following the record-breaking number of irregular migrants arriving in Europe from the summer of 2015, the enhanced dialogue and action by the EU in 2016 is understandable. This corresponded to the international community also trying to find a solution to the millions of Syrians affected by the war and their effects on the region in the form of the Supporting Syria and the Region London Conference of 2016. This increased diplomacy and willingness to act by the EU was welcomed by Turkey, where the number of Syrians at the time was over two and half million, and Jordan, where the Syrians were over six hundred thousand. This migration diplomacy culminated with the EU-Turkey Statement in March and the EU-Jordan Compact in December 2016.

As discussed in Chapter 4, these two agreements were condition-based, tailor-made according to each country's circumstances and focused on providing Turkey and Jordan with some incentives- some migration related, some not- in return for them keeping the Syrians or finding solutions to dissuade them from further migrating to the EU. In the case of Turkey, re-energizing of accession negotiations, visa facilitation for Turkish citizens and financial and technical support targeted towards Syrians and increased resettlement opportunities for Syrians were promised conditional on enhanced border control, preventing irregular passages from sea and land and readmission of third country nationals who have transited from Turkey. The support to be provided from the EU was motivated to provide the Syrians and host communities with assistance in living together through financing projects that would facilitate the social and economic integration of the Syrians. This would be achieved through the EU Facility for Refugees which would guarantee the funds provided would be used to help the Syrians in education and socio-economic support. This can be interpreted as a form of helping Turkey integrate the Syrians into society and provide them with chances to become self-reliant. We can see here how the EU applied its strategy or approach of keeping refugees in a transit or first asylum country by investing in providing them with livelihoods to prevent them from further migrating to Europe.

In Jordan's case, due its distance from the EU and not having borders with it, immigration and asylum were not a priority on the agenda in relations prior to the 'Syrian Refugee Crisis'. Jordan was considered as a valuable and stable ally in the Middle East and the EU invested in keeping its partnership with Jordan to safeguard its stability. As in the case of Turkey, the flow of Syrians to neighbouring countries and the continued increase in their numbers, saw an acceleration in attempts for action between the EU and Jordan in the area of immigration and asylum on a regional and bilateral level to assist Jordan with the Syrians. In 2014 the RDPP was launched on a regional level and a MP was established with Jordan with the purpose of combating irregular migration and strengthening the capacity of receiving refugees within international standards by Jordan in return for providing facilitated legal migrations to the EU for its citizens. This was followed by the EU-Jordan Compact in 2016, which came as a continuation of the Jordan Compact- an agreement between Jordan and the

international community in which the international community commits to financially support Jordan in providing sustainable and long-term solutions and livelihoods to the Syrians and Jordan committing to facilitating the environment for that. Although the EU-Jordan Compact as an action plan has several areas of action, the highlight is the commitment of Jordan to provide Syrians a place in Jordan's education system as well as work opportunities. The latter was not something which Jordan was keen on doing as working for Syrians is considered a form of economic integration. The emphasis of the compact is again on it being based on conditionality, where Jordan is to be provided with increased and facilitated access to the EU trade market and visa facilitation for Jordanian citizens on the condition that Jordan fulfils its commitments with regard to providing a self-reliant and sustainable life to Syrians to reduce their dependency on aid and reduce incentives for them to further migrate. It is important here to point out that since 2011 and up to April 2019, the EU mobilized over €2.1 billion in financial support to Jordan, including almost €1.3 billion to help the country cope with the consequences of the Syrian 'crisis'. This includes humanitarian aid, together with longer-term resilience and development support in areas such as education, livelihoods, water, sanitation and health, plus macro-financial assistance, addressed to Syrian refugees and Jordanian host communities (European Commission, 2019).

5.4. Effects of EU Arrangements with Turkey and Jordan

Despite its efforts in preventing the further migration of Syrians to Europe, the EU approach towards Turkey and Jordan in this regard are questionable in their success. As we can see from the figure below, the numbers of irregular crossings to Europe from the Eastern Mediterranean route have significantly decreased since 2015, which is considered a success by the EU. However, it has not completely stopped and we continue to hear news of migrant-filled boats trying to reach Greece from Turkish shores, with both sides blaming the other on not sticking to the EU-Turkey Statement (Carassava, 2020; Yavas, 2020) and deaths on this route continue (Winter, 2020; BBC News, 2020). The EU-Turkey statement, for instance, while aiming at preventing irregular migration and the smuggling networks involved, in fact did not reduce the demand for irregular migration by migrants from Turkey and only left them in limbo in Turkey and vulnerable to exploitation by smugglers, who did not seize to function but only changed their modus operandi (Yıldız, 2020: 13).

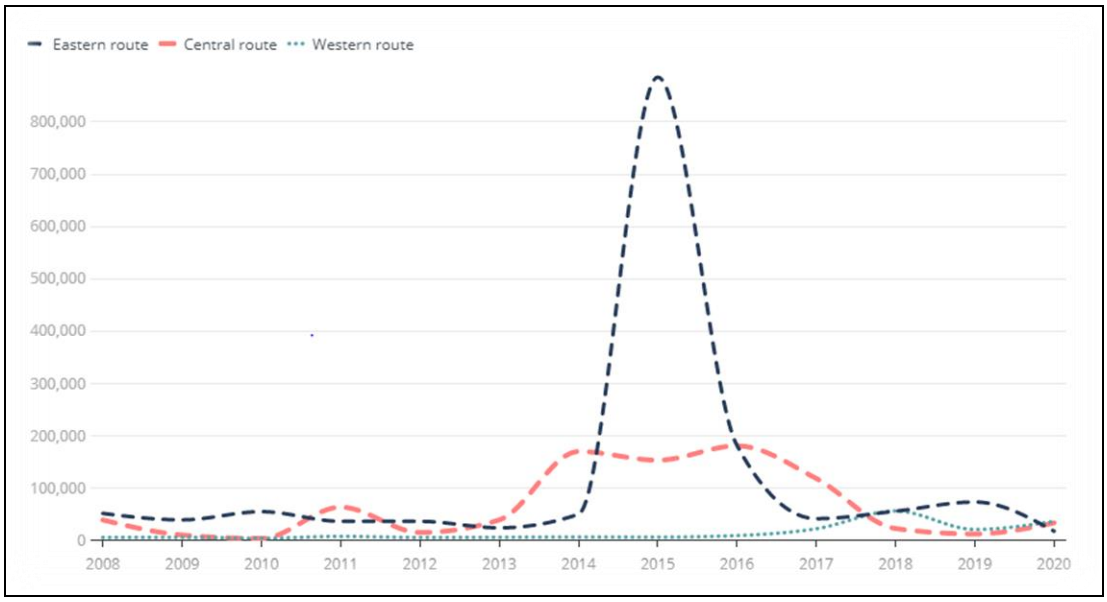


Figure 5.1. Irregular arrivals to the EU: 2008-2020 (European Council, 2020)

The EU arrangements with Turkey and Jordan targeting integration of the Syrians in these countries is difficult to achieve with the long history of the two countries resisting even naming refugees as such, let alone integrating them. Even the consideration of integration by Turkey and Jordan can be considered a success for the EU, since integration of refugees was considered such a taboo and out-of-the- question issue. However, despite all the support and projects directed towards these two countries for this purpose, both still lack a comprehensive integration policy towards Syrians. The rules and laws have been changed to accommodate access to the labour market and education necessary to economically integrate them on paper. However, even with these changes and aid from the EU, recruitment of Syrians in both Turkey and Jordan remain conditional and selective and in practice it is still very difficult for Syrians to find sustainable and adequate jobs. This is understandable since both countries face serious unemployment rates for their own citizens and also have highly competitive and thriving informal job sectors.

Turkey has started providing citizenship to some Syrians, despite the general political and social attitude towards Syrians continuing to be that they should return to Syria once the war ends. However, this is applied on a politically motivated and selective basis and on a small scale, with qualified and highly skilled Syrians having more of

this opportunity compared to unskilled Syrians. In Jordan, citizenship for Syrians is out of the question. Jordan is not only facing economic pressure from the presence of Syrians, but also socially oriented issues are being articulated. Although Arabism is still significant and is one of the reasons for the Jordanians receiving Syrians, national identity issues have also become part of the discourse following the arrival of Syrians. Previously triggered with the presence of Palestinians and the events that were experienced with them, the presence of Syrians also led to the fear of Jordanians becoming a minority in their own country.

While trying to explore the role of the EU as an international actor in shaping the asylum policies of Turkey and Jordan within the context of its own policy after the 'Syrian Refugee Crisis', our discussion shows that especially in 2016, the EU has played a significant role in at least changing the approach of both these countries towards integration of refugees. However, Turkey by continuing to uphold the geographical limitation to refugee determination and Jordan by still not adopting the 1951 Refugee Convention and its 1967 Protocol in recognizing refugees, both still lack provision of protection rights within international standards. Domestic issues, such as preservation of national identity and national security and sovereignty, show that domestic policies are still the major determinants of asylum policy. The governments of both countries are by now aware that the Syrians in their countries will not be going back to Syria even if the war ends and that the Syrians are there to stay. The continued discourse and policy of not adopting any policy that would signal to permanency of the Syrians until now, is probably a strategy by both countries to not aggravate public opinion and create a lash against the Syrians, for whom tolerance in the host communities is on edge. This in between space of protection with no concrete action for permanency, unfortunately, leaves the Syrians living in limbo and leads to their precarious situation.

The presence of the Syrians in both these countries, despite the passing of nine years, still strains their resources and the infrastructure. Due to this, both countries find international actors such as the EU as crucial in hosting the Syrians, at least in the name of burden or responsibility sharing. However, in this equation where the EU is trying to keep the Syrians from coming to its territory by keeping them in transit

countries, and Turkey and Jordan trying to gain as much as possible from this vulnerability of the EU, the Syrians have unfortunately become commodities of migration diplomacy.

While discourse-wise all sides emphasize responsibility sharing and the humanitarian side of the crisis, action-wise we have seen that all sides actually see the Syrian refugees as a burden and are looking for a way to maximize their own interests and benefits from the crisis. The EU, as a representative of the developed Global North, is providing benefits to Turkey and Jordan, as representatives of the developing Global South, conditional on them keeping and preventing the Syrians from going to the EU, with both of them continuously negotiating within their interests and benefits-and not those of the refugees. This stage of events is an example of the new grand compromise of the global refugee system; containment of refugees in the Global South and them becoming a card of negotiation between the Global North and South. It will remain to be seen whether this new system where refugees physically remain -or are kept- in the Global South and their stay there is financed and incentivized by the Global North will be sustainable or functional in the long-term. Especially in case of another mass migratory crisis, which is not unforeseeable in a region like the Middle East, Turkey and Jordan cannot absorb anymore forced migration.

By looking at and comparing Turkey and Jordan within the context of the 'Syrian Refugee Crisis' and with the EU as a significant actor in this 'crisis', I have tried to show a trend that can be attributed to countries of the region of Middle East in their approach towards refugees. While the EU may not want to accept mass flows of refugees for various economic, political and social reasons, countries of the Global South such as Turkey and Jordan still lack the economic and legal infrastructure, as well as the willingness, to accept mass flows of refugees who have the potential of staying permanently. Other than sharing similar historical, cultural and religious features, Turkey and Jordan have very different political, economic and social structures. Despite these differences, we have seen in this study that their strategies and policies with regard to asylum have been similar. I have tried to highlight the reasons of this similarity by concentrating mostly on the role of the EU as an international actor in a regional refugee crisis. Although asylum policy is a nationally

determined policy, as we have seen, the role of international actors has increasingly become crucial in the approach of neighbouring countries to countries of mass refugee flows towards refugees. Of course, national interests and determinants for asylum policy will always remain significant for countries such as Turkey and Jordan. However, when a situation of mass refugee flows such as that of the Syrians, overflows and directly impacts countries of the Global North- in our case the EU- then national and international interests and benefits through asylum policy become intertwined determinants of that policy. The 'Syrian Refugee Crisis' highlighted the deficiencies, at least in the eyes of the EU, in the asylum systems of both these countries in preventing the continued mass migration of the Syrians to Europe. The panic of the EU created an opportunity for both Turkey and Jordan to use the 'crisis' not only in receiving much needed support with the Syrians, but also to use the situation to achieve other political and economic benefits.

With Turkey as a significant transit country to the EU and Jordan as well, a rarely stable Arab country surrounded by conflict-prone Arab states, the future potential of migratory flows to both seems inevitable. Since the conditions that pushed the Syrians in Turkey and Jordan to further migrate to the EU, which include temporariness, insecurity for the future, lack of or inconsistent access to rights such as work, remain despite all dissuasion attempts and actions by the EU, then it is probable that the Syrians will continue to attempt finding ways of reaching the EU. According to FRONTEX (2020c), from January to November 2020, there have been 18,490 irregular crossings to Europe from the Eastern Mediterranean route, out of which the majority were Syrians, with a number of 3957 (Migratory Map, 2020). Even though this number is minimal when compared to 2015, it still shows that despite all the dissuasions and hurdles blocking them from further migrating, there are still Syrians that are willing to risk everything to change their situation. Unless the international community comes up with a fairer system of burden sharing, where refugees are not seen as commodities to be negotiated on and moved around on the basis of the wishes of governments, the recognition of refugees as such by countries such as Turkey and Jordan will not change the status quo. These countries are already providing the maximum they can within their capacities and resources. Therefore, in addition to working on trying to provide Syrian refugees a self-reliant, integrated lives in these

countries, the EU and the international community should work more on increasing the ridiculously low numbers of resettlement quotas.

Through the EU-Turkey Statement, only 27,304 Syrians were resettled to the EU on the one-to-one basis (DGMM, 2020) since the statement. I could not find a definite figure for the number of Syrians resettled from Jordan to the EU, but according to a customized search I made on the UNHCR resettlement data finder in which I chose Syrians, then Jordan as country of asylum and all EU countries as countries of resettlement, the number came up as 9426 between 2016-2020 (UNHCR, 2020d). Considering the total number of Syrians in both these countries and the value the EU gives to preventing them from arriving to the EU, these figures are very low and not very motivating for Turkey and Jordan to stick to their arrangements with the EU nor very hope-giving to Syrians in these countries wishing to forward migrate to Europe.

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APPENDICES

A. TURKISH SUMMARY / TÜRKÇE ÖZET

2015'in 'Suriyeli Mülteci Krizi', 2011 yılında Suriye rejiminin barışçıl olarak başlayan protestoları bastırmak için kullandığı şiddetin yol açtığı iç savaşın bölgesel vekalet savaşına dönüşmesinin sonucu olarak, Suriye savaşının en tartışılan ve araştırılan yönlerinden bir tanesi olmuştur. Suriyelilerin şiddetten kaçmak için, Türkiye, Ürdün ve Lübnan gibi komşu ülkelere zorunlu akımı 2011 yılının ortalarında ve sonunda başlamıştır. Ancak, zamanla artarak bu ülkelere zorluklar getirecek rakamlara ulaşan bu zorunlu akım, 2015 yılında Avrupa'ya düzensiz bir şekilde ulaşan ve çoğunluğunun Suriyelilerin oluşturduğu göçmenlerin sayısının rekor rakamlara ulaştıktan sonra kriz olarak nitelendirilmeye başlanmıştı. Türk kıyılarından Yunan kıyılarına deniz üzerinden yasadışı ve tehlikeli bu yolu gitmeye göze alan Suriyelilerin hikayeleri ve görüntüleri, bu krize dönüşen yoğun göç hareketliliğin merkezi olmuştur. Suriyelilerin çoğu bölgedeki onları kabul eden komşu ülkelerde kalmaya devam etmelerine rağmen, Avrupa'ya gitmeye çalışan ve bunu başaran az sayıdaki Suriyeliler bu 'krizin' kaynağı haline gelmiştir.

Avrupa'ya giden Suriyelilerin çoğu Türkiye üzerinden Akdeniz rotasını kullanmalarına rağmen, bazıları Türkiye'yi transit ülke olarak kullanarak, kaldıkları başka ülkelerden gelmiştir. Bu nedenle, bu 'kriz, komşu ülkelerde kalan Suriyelilerin bu riskli yolculuğu göze alarak Avrupa'ya gitmeyi seçmelerinin nedenleri üzerinde odaklanılmasına yol açmıştır. Bu nedenleri bulmak için, Türkiye, Ürdün ve Lübnan gibi Suriyelilerin yoğun bulunduğu komşu ülkelerin mültecileri karşılama ve barındırma şartları ve iltica ile ilgili kurumsal ve yasal yapıları mercek altına alınmıştır. Suriyelilerin Avrupa'ya düzensiz akımını kontrol etmek için, Avrupa Birliği'nin (AB) girişimleri, Suriye'ye komşu ülkelerle, iltica ve göç alanında genişletilmiş müzakerelere ve işbirliğine yol açmıştır. AB, göç ve iltica politikasını

dışsallaştırması üzerinden, üçüncü ülkelerden istenmeyen göç akımlarını kontrol etmek için birçok araç ve strateji geliştirmiştir.

Bu tezin amacı, sözde Suriyeli Mülteci Krizi sonrasında AB göç ve iltica politikasını dışsallaştırmasının, özellikle şartlılık stratejisinin, Türkiye ve Ürdün'ün iltica politikalarının üzerindeki etkisini araştırmaktır. 1951 Birleşmiş Milletler Mülteci Sözleşmesi ve 1967 Protokolü, mültecilere koruma durumlarının işlenmesinde yasal altyapıyı oluşturan uluslararası mülteci koruma rejimini oluşturmaktadır. Ancak, Ürdün ve Lübnan gibi, birçok Orta Doğu ülkesi, ülke egemenliğini sarstığını iddia ederek, Mülteci Sözleşmesine imza atmamıştır veya onaylamamıştır. Mülteci Sözleşmesi'nin standart koruma şartlarını uygulamayan bu ülkeler genellikle, geçici koruma, geri göndermeme ve daimilik içermeyen temel bazı haklar vererek, uluslararası koruma rejiminin belli norm ve kuralını kısmen ve seçicilik yaparak uygulamaktalar. Bu koruma alanındaki kurallarda esneklik ve daha az kurumsallaştırma, Küresel Güney ülkelerin ortak bir yaklaşımı gibi görünmektedir.
Bir ülkenin iltica politikasının oluşumunda birden çok faktör rol oynamaktadır. Bunlar ulusal güvenlik ve iç politika, uluslararası politika ve ekonomik-gelişimsel politika faktörleri olarak sıralanabilir. Kitlesel mülteci akımı durumunda, bir ülkenin iltica politikasının oluşumunda, uluslararası politika faktörler olarak mülteci karşılayan ülkenin mültecilerin geldiği menşe ülkeyle olan ilişiklisi, müttefikleri, uluslararası donörler ve kuruluşlarla ilişkileri önemli rol oynamaktadır. Ev sahibi ülke, menşe ülkedeki savaş veya soruna dahil olup olmadığına bağlı olarak ve dahil olduysa, desteklediği tarafa bağlı, ülkeye girmeye çalışan mültecilere karşı seçici bir politika izleyebilir. Ayrıca, ev sahibi ülke, insani imajını yumuşak güç olarak artırmak, aynı zamanda yük paylaşımını pekiştirmek ve dış politika ve ekonomi gibi başka alanlardaki menfaatlerini gerçekleştirmek için, literatürde göç diplomasisi olarak bilinen kitlesel mülteci durumunu uluslararası aktörlerle bir müzakere aracı olarak kullanmaktadır.

Ulusal güvenlik ve iç politikalarla ilgili olarak, ulusal güvenlik, istikrar ve kimlikle ilgili faktörler, iltica politikasında önemli etkenlerdir. Kitlesel mülteci akımını karşılayan ülkeler genellikle çatışmanın menşe ülkesine komşu ülkeler olduğundan, çatışmanın ev sahibi ülkeye sıçraması ve mültecilerin sınır ötesi çatışmada aktif

aktörler olma tehlikesi her zaman vardır. Bu durum da mültecileri kabul eden ülkede güvenlik endişesine yol açmaktadır. Orta Doğu'da akrabalık, dini ve etnik benzerliklere rağmen, etnik, dini ve siyasi farklılıklara karşı son derece hassas algılara sahip bir bölgedir. Bu nedenle, çoğunlukla düzensiz geçişleri içeren ulusal sınırlara yönelik kitlesel akımlar, mültecileri ulusal güvenliğe tehdit olarak algılayıp algılamadığına bağlı olarak, ev sahibi ülkenin egemenliğine yönelik bir tehdit oluşturmaktadır.

Aynı şekilde, iç politikada kimlik ve ulusal çıkar da önemlidir. Kitlesel mülteci akımları, çok kısa bir zaman diliminde nüfusta önemli bir artışa neden olduğundan, özellikle mülteciler ve ev sahibi topluluğu arasında etnik ve/veya dini farklılıklar varsa, sosyal dengeye tehdit oluşturabilmektedir. Ev sahibi devlet ve vatandaşları, ulusal kimlik konusunda hassasiyetlere sahip olabilir; gelen mültecilerin etnik kökenine ve dinine yönelik önyargılar veya önceki mülteci akışlarına ilişkin olumsuz anılara bağlı genel olarak mültecilere yönelik hassasiyetler yüzünden, bu mültecileri kabul etmeye yönelik algıları ve dolayısıyla politikaları etkilemektedir.

İltica politikasını etkileyen üçüncü ve son faktörler ise ekonomik faktörlerdir. Belirtildiği gibi, kitlesel mülteci akımları, ev sahibi ülkenin ekonomisini doğrudan olumsuz şekilde etkileyen nüfus artışına neden olmaktadır. Özellikle ev sahibi ülkenin ekonomisi mülteciler gelmeden önce güçlü değilse, artan işsizlik oranları ve enflasyon şeklinde olumsuz etki görülmekte ve ayrıca sağlık, eğitim gibi kamu sektörlerinin altyapısı üzerinde baskı oluşturmaktadır. Bu koşullar altında, ev sahibi ülke hükümetleri, politikalarını bu olumsuz etki ışığında bilinçli olarak şekillendirmekte ve mültecilerin işgücü piyasasına erişimini sınırlayarak veya hareketlerini kısıtlayarak gibi geçim kaynaklarına erişimde mülteciler ve vatandaşlar arasındaki rekabeti azaltmaya çalışmaktadır. Mülteci akımlarının ülkeleri üzerindeki olumsuz ekonomik etkisini azaltmak için, ev sahibi devletler ayrıca finansal uluslararası yük paylaşımını da vurgulamışlardır.

Küresel Kuzey, mülteciler için mali yük paylaşımı konusunu, göç-kalkınma bağlantısı nezdinde insani bir meseleden ziyade kalkınma temelli bir mesele haline getirmek için geliştirmiştir. Buna göre, mültecilere ev sahipliği yapan ülkelerin koruma kapasitesini

güçlendirmek, mültecilerin kendi kendine yetmelerini ve ev sahibi ülkelerdeki entegrasyonunu teşvik etmek, Küresel Kuzey ülkelerine daha fazla göç etmelerini önlemek için Küresel Güney'e kalkınma yardımı sağlanacaktır. Küresel Güney'deki mülteci yardımına yönelik bu yeni yaklaşım, ev sahibi ülkelerin iltica politikalarının dış politikalarının ayrılmaz bir parçası haline gelmesine yol açmıştır. Bu ülkeler, Küresel Kuzey'den mülteciler için yardım veya başka siyasi ve ekonomik taleplerine karşılık buladıklarında, mültecilere verilen koruma hakları veya hizmetlere erişimlerini kısıtlayarak ve bazı durumlarda mültecilerin Küresel Kuzey'e geçişlerini izin vererek, mültecileri ve kendi iltica politikalarını baskı kartı olarak kullanmaya başlamışlardır.

İkinci bölümde, Türkiye ve Ürdün'ün kuruluşlarından 'Suriye Mülteci Krizi' dönemine kadar uyguladıkları iltica politikaları araştırılmıştır. Hem Türkiye hem de Ürdün, göç potansiyeli yüksek bir bölgede yer alan ülkeler olarak, kuruluşlarından bu yana farklı göç akımlarıyla karşı karşıya kalmıştır. Mülteci tanıma konusunda, Türkiye ile Ürdün arasında, Türkiye'nin 1951 Mülteciler Sözleşmesi'ni ve 1967 Protokolü'nü imzalaması ve Ürdün'ün imzalamaması bakımından bir fark vardır. Bununla birlikte, Türkiye, Mülteci Sözleşme'nin coğrafi sınırlamasını koruyarak ve yalnızca Avrupa'dan gelenlere mülteci statüsü vererek, gerçekte ve uygulamada Türkiye ve Ürdün, özellikle Orta Doğu'dan gelen ve dünyanın diğer bölgelerinden ilticaya başvuran kişilere yönelik yaklaşımları aynıdır. Mülteciler için üç kalıcı çözümler olarak tanımlanan gönüllü geri dönüş, yeniden yerleştirme ve yerel entegrasyon arasında, Türkiye- Avrupa'dan gelen mülteciler dışında- ve Ürdün- belli bir dönem içinde gelen Filistinliler dışında- tüm mültecilere yerel entegrasyon çözümünü kabul etmemektedirler. Dolayısıyla bu duruş, bu ülkelerin mülteci varlığına yönelik attığı tüm adımları motive etmiştir. Bu kategoriler dışındaki tüm kişiler, yabancı veya 'misafir' olarak görülüyordu ve ülkelerdeki varlıkları, belirli mülteci veya iltica mevzuatı ile değil, yabancıların ikametine ilişkin mevzuat ve yasalarla düzenlenmiştir. Türkiye uzun yıllar boyunca mültecilerin varlığını 1934 İskân Kanunu ve daha sonra 1950 Yabancıların İkamet ve Seyahatleri Kanunu üzerinden düzenlemiştir. Diğer yandan Ürdün, Anayasası'nın 21. Maddesinde mültecilere ve iltica talep edenlere geri iade edilmemelerine değinmesine rağmen, mültecilerin varlığını 1973 24 No.lu İkamet ve Yabancıların İşleri Kanunu üzerinden düzenlemiştir.

Mültecilere özel mevzuatın olmaması, doğrudan bu tür sorunlarla ilgilenecek özel kurumların kurulmamasına neden olmuştur. Her iki ülkede de, İçişleri Bakanlığı ve sınır polisi ve yetkilileri, yabancıların kabul edilmesinden ve ülkelerdeki ikametleriyle ilgili kararların verilmesinden sorumluydu. İçişleri Bakanlığı altında mülteci işlerine bakan özel bölümler kurulmasına rağmen, Birleşmiş Milletler Mülteciler Yüksek Komiserliği (BMMYK) iki ülkeye gelinceye kadar, mülteci veya iltica talep edenler meselelerine bakacak özel bir kurum kurulmamıştır. BMMYK kurulmadan önce, çatışmalardan kaçan ve ihtiyaç sahibi yabancılara yardım sağlaması için birkaç uluslararası Sivil Toplum Kuruluşu'na izin verilmiştir. Türkiye ve Ürdün farklı dönemlerde farklı kitlesel zorunlu mülteci hareketlerine maruz kalmalarına rağmen, mültecilere ve onların ülkelerindeki varlıklarına karşı duruşları değişmediği gibi mültecileri kabul etmek konusunda tereddütleri ve reddetmeleri güçlenmiştir. Bu durum, koruma ihtiyacı olan mültecilerin bu iki ülkede zorlu ve istikrarsız yaşam koşulları altında bırakmıştır.

BMMYK, Türkiye'de 1960 ve Ürdün'de 1998 yılında kurulmuştur. Her iki ülkedeki BMMYK, iltica talep edenlerin Mülteci Statüsü Belirleme işlemlerini yürütme ve onları yeniden yerleştirme için kabul etme sorumluluğunu üstlenerek, mülteci politikası sorumluluğunun fiili olarak devletten BMMYK'ya kaymasına yol açmıştır. Bu denklemdeki Türk ve Ürdün hükümetlerinin sorumluluğu, güvenliği sağlamak ve geri göndermeme ilkesine saygı göstermek olurken, BMMYK doğrudan yardım sağlama ve çoğu yeniden yerleştirme şeklinde kalıcı bir çözüm arama sorumluluğunu üstlenmiştir. Bu, her iki ülkenin hükümetleri için istenmeyen ve kabul edilmeyen mültecilerle uğraşma sorununa ideal çözüm gibi görünse de, BMMYK ve iki hükümetler arasındaki ilişki her zaman sorunsuz gitmemiştir. BMMYK'nın sorumluluk sınırlarını aştığı ve hükümetin isteklerine, güvenliğine ve diğer kaygılarına karşı hareket ettiği durumlar olmuştur. Bu durumlar, aralarında gerginliğe ve iki ev sahibi hükümetin BMMYK faaliyetlerine artan müdahalesine yol açmıştır. Her iki hükümetin de, BMMYK'nın mülteci sorununa sağladığı avantajların ve katkıların tamamen farkında olmalarına rağmen, bu varlığı ancak kendi şartlarında kabul edeceklerdir.

Hem Türkiye hem de Ürdün, çatışmalardan kaçan mültecilerin kitlesel zorunlu hareketleriyle karşı karşıya kaldıklarında veya varlıklarıyla ilgili güvenlik endişeleri olduğunda benzer bir yol izlemiştir. Benzerlik, bu tür mülteci akışlarının kabul edilmesinde görülebilir. Öreğin, her ikisi de, ülkelerinin içinden geçtiği bitmek bilmeyen savaş ve çatışmalardan kaçan Iraklılarla yüzleşmek zorunda kalmıştır. Iraklıların 1988 yılında ilk zorunlu hareketlerinde, hem Türkiye hem de Ürdün Iraklıların ülkelerine girişlerine açık kapı politikası izleyerek engellememiştir. Ancak, Türkiye örneğinde Iraklıların çoğunun Kürt olması ve Ürdün örneğinde geçici koruma rejiminin tüm Iraklılara uygulanması gibi Iraklıların varlığından kaynaklanan sorunlar, her iki ülke hükümetlerini de sınırlarını kapatmaya ve ülkelerine girmek isteyen Iraklılar için daha kısıtlayıcı, hatta önleyici, düzenleyici politikalar izlemeye yöneltmiştir. Her iki ülke de seçici politika kararlarında güvenlik endişelerini dile getirmiştir.

Sınır kontrolündeki benzerliklere ek olarak, Türkiye ve Ürdün mültecileri kamplara yerleştirerek, mültecileri karşılama ve yerleştirme konusunda da benzerlik göstermektedirler. Iraklı mülteciler geldiğinde, her iki ülke de Irak sınırına yakın kamplar kurmuş ve Iraklıların bu kamplardan hareketleri kısıtlanmıştır. Kamplar, bu ülkelerdeki mülteci sorununa uluslararası ilgiyi çekmek ve ayrıca artan sayıda istenmeyen mültecinin hareketini ve faaliyetlerini kontrol etmek ve kısıtlamak için bir araç olarak ve aynı zamanda mülteci varlığının ‘geçiciliğinin’ gösterisi olarak kullanılmıştır.

Türkiye'nin iltica politikası, kuruluşundan itibaren ulus-devlet ve kimlik unsurlarıyla Türklük vurgusu ile güdülenirken, Filistinli zorunlu mülteci akımı deneyiminden sonra Ürdün'de ulusal kimlik ve 'Ürdünleşme' bir faktör haline gelmiştir. Ulusal kimliğin korunması anlamında, hem Türkiye hem de Ürdün, Orta Doğu'dan gelen mültecilere yaklaşımlarında benzerlik göstermektedirler.

Üçüncü bölümde, AB’nin göç ve iltica politikasının dışsallaştırılmasının tarihsel gelişimi ve bu stratejinin hedeflerini gerçekleştirmek için geliştirdiği araçlar araştırılmıştır. AB kurulduğundan beri istenmeyen göç akımlarını kontrol etmek için farklı stratejiler ve araçlar geliştirmiştir. 90ların başında üye ülkelerle başlayan iltica

ve göç alanındaki işbirliği, 1999 yılında Amsterdam Antlaşması ile bu alanda daha önemli adımlar atılmıştır. İltica başvurusunu kabul edecek ve işleme alacak ilk ülkenin belirlenmesindeki mekanizmaları ve kriterleri, iltica sürecinin prosedürleri, mültecileri karşılamak için minimum standartları geliştirmek ve mülteciyi tanımlamak gibi adımlar atılmıştır. Geçici Korumaya ilişkin Direktif, Karşılama Koşullarına ilişkin Direktif, Dublin II Tüzüğü ve Mültecilik Nitelendirmesine ilişkin Direktif gibi yasal araçların yanı sıra, Göç, Dış Sınırlar ve İltica Stratejik Komitesi ve Avrupa Birliği Polis Teşkilatı (EuroPol), Avrupa Birliği Sınırları ve Sahil Güvenlik Ajansı (FRONTEX) gibi ajanslar kurarak ve Avrupa İltica Daktiloskopi Veri Tabanı (EURODAC) ve FADO gibi parmak izi ve sahte belgelerle ile ilgili veri tabanları kurarak bu iç işbirliği iyice gelişmiştir.

Üye ülkeler arasında bu adımlar atılırken, AB, göçü idare etmek için bu çabaların başarması için, AB dışından da adımların atılması gerektiğinin farkında olmuştur. Bu nedenle, göçmen ve mülteci kaynağı ve transit üçüncü ülkeler ile işbirliği başlatarak, AB göç ve iltica politikasını dışsallaştırması olarak ortaya çıkan stratejisini başlatmıştır. Bu strateji üzerinden, AB göç ve iltica politikasını üçüncü ülkelere, 'politika transferi' olarak bilinen yöntemle, aktarmaya çalışmıştır. Amacı, bu ülkelerin göç ve iltica politikalarını kendi politikasına uyum sağlayarak, bu şekilde düzensiz veya istenmeyen göçü AB dışından kontrol edilmesine yol açmaktır. AB'ye üyeliği muhtemel ülkeler, zaten üye olmak için bu politikaları uygulamak zorundadır. Bu ülkelerin çoğu, aday üye statüsünü kazandıkları için, göç ve iltica politikaları AB'nin politikalarıyla büyük bir uyumsuzluk içinde değillerdir ve bu politikaları uygulamak onlara büyük bir maliyetlere yol açmamaktadır. Ancak, göç ve iltica politikaları AB'ninkine büyük ölçüde uyumsuzluk gösteren ülkeler, üyeliği muhtemel değilse, AB'nin politikalarını uygulamaları çok maliyetli olabilmektedir. Üyelik umudu olmayan bu ülkeler, bu politikaları uygulamamaya seçebilir ve bunun sonucunda AB tarafından 'cezalandırılabilir' veya politikaları uygulamak için, maliyetlerini telafi edecek ek teşvikler bekleyebilir. Bu konuyu AB'nin üçüncü ülkelerle ilişkilerinde uyguladığı şartlılık ilkesine getirmektedir. Şartlılık, hedef ülkeler tarafından politika uyarlama alanlarında uyulması için ve karşılığında AB'den finansal yardım, kurumsal ortaklık veya üyelik gibi ödüller aldığı (pozitif şartlılık) ve uyulmadığı taktirde bu ödülleri veya teşvikleri durdurduğu (negatif şartlılık), AB tarafından belirlenmiş

şartlar olarak tanımlanmaktadır. Şartlılık stratejisinin başarısı, üçüncü ülkenin şartlılığa verdiği değere ve AB'nin vereceği ödül veya teşvikleri yerine getirip getirmeyeceği konusundaki güvenirliğine inanmasına bağlıdır.

AB'nin göç ve iltica politikasının dış boyutuna zamanla öncelik vermesi, Avrupa Konseyi Sonuçları ile belirlenen ve dönemsel eylem planları içeren programlar şeklini alan birçok girişimlere yol açmıştır. Bu eylem planları, kaynak ve transit üçüncü ülkelere uygulanacak göç ve iltica politikalarının dış boyutunu çerçevesinde yapılacak faaliyetlerin zeminini ve araçlarını hazırlamıştır. İlk başlarda bu konuda AB tarafından geliştirilen yaklaşım, kaynak ülkelerden göç akımına sebep olan yoksulluk, iş fırsatlarının yokluğu, savaş ve insan hakları ihlalleri gibi itici faktörlerin değiştirilmesine yönelik, kalkınma odaklı siyasi bir gündeme bağlanmıştır. Bunu farklı bölgelerin ülkeleriyle bölgesel ve ikili ortaklıklar ve anlaşmalar yaparak gerçekleştirmeye çalışmıştır. Göç konuları doğal olarak bu ortaklıkların önemli bir parçası haline gelmiş ve AB'nin göç ve iltica konusundaki birçok hedefini yerine getirmek için farklı siyasi, yasal ve operasyonel araçlar aracılığıyla üçüncü ülkelerle farklı proje ve programlar oluşturulmuştur. Nihai hedef, göçmen akımlarının gelecekte AB ülkelerine ulaşmasını önlemek için göç ve iltica yasal ve kurumsal çerçevelerini mümkün olduğunca AB standartlarına getirmeleri konusunda bu ülkeleri desteklemektir.

AB başlarda üçüncü ülkelere karşı uyguladığı düzensiz göçün önlenmesi için politika ve girişimlerinde, siyasi amaçlara odaklanarak demokrasi ve geri kabul anlaşmaları ortaklıklarına dahil edip göç-güvenlik ilişkisine dayalı bir yaklaşım izlemiştir. Ancak zamanla, AB bu yaklaşımını geliştirerek, bu ülkelere göç akımlarını kontrol etmeleri karşılığında, kendi vatandaşlarının AB'ye yasal göçmelerinin artırılması için farklı yöntemler sunmak gibi teşvikler sunmuş ve göç-kalkınma ilişkisi üzerine bir yaklaşım izlemiştir. Bu nedenle söylemini yalnızca göçü değil, aynı zamanda daha olumlu anlaşılma eğiliminde olan ve insandan insana teması ve ekonomik büyümeyle bağlantılı bir terim olan "hareketlilik"i de içerecek şekilde değiştirmiştir.

AB'nin üçüncü ülkelerle göç ve iltica alanında işbirliği için geliştirdiği araçlara gelince Bölgesel Diyaloglar, İkili diyaloglar, Hareketlilik Ortaklıkları ve Ortak Göç ve

Hareketlilik Gündemleri AB'nin geliştirdiği siyasi araçlar arasında yer almaktadır. Yasal araçlar olarak da AB, küresel anlaşmalara göç ile ilgili maddeler dahil etmeyi ve göç ile ilgili özel uluslararası anlaşmalar yapmayı (AB geri kabul anlaşması ve vize kolaylaştırma anlaşması gibi) geliştirmiştir. Bölgesel Koruma Programları ve Bölgesel Kalkınma ve Koruma Programları, Frontex ile çalışma düzenlemeleri ve Avrupa Sığınma Destek Ofisi'nin (EASO) üçüncü ülkelerle işbirliği gibi araçlar da operasyonel araçlar olarak AB tarafından kullanılmıştır.

Bu araçlar, sözde Arap Baharı sonrası kabul edilen Göç ve Hareketliliğe Küresel Yaklaşım'nın (Global Approach to Migration and Mobility/GAMM) ve 2015'te 'Suriyeli Mülteci Krizi'nden sonra kabul edilen 'Avrupa Göç Gündemi'ndeki hedefleri gerçekleştirmek için geliştirilmiştir. Bu hedefler arasında yasal göçü daha iyi organize etmek ve iyi yönetilen hareketliliği teşvik etmek, düzensiz göçü önlemek ve mücadele etmek, sınırları kontrol etmek, uluslararası korumayı teşvik etmek ve iltica alanının dış boyutunu geliştirmek gibi hedefler yer almaktadır.
AB'nin göç ve iltica politikasının dış boyutu, AB açısından, hem kendi içindeki kurumsal ve siyasi asimetrileri yüzünden hem de üçüncü ülkelerle güç ve çıkar asimetrileri yüzünden, zorlu bir şekilde yürütülmektedir. AB üye ülkelerinin AB'nin dışsallaştırılma politikasına katılmalarına rağmen, göç ve iltica ile ilgili kendi gündemleri ve çıkarları bu politikanın önüne geçebilmektedir. Dışsallaştırılma politikasının en önemli stratejilerinden olan şartlılık ilkesi, üçüncü ülkelere verilen teşvik ve ödüllere dayalı olduğu için, üye ülkelerinin bu teşvikleri vermekte sorumluluklarını yerine getirmemeleri, üçüncü ülkelerin katılma isteklerini de olumsuz yönde etkilemektedir. Buna rağmen, AB göç ve iltica politikasının dışsallaştırılma araçlarını yoğun bir şekilde uygulamaya devam etmektedir.

Bu uygulamayı, 'Suriyeli Mülteci Krizi'nden sonra Türkiye ve Ürdün üzerinden araştırmak, dördüncü bölümün amacıydı. Aynı zamanda, dördüncü bölümde, Türkiye ve Ürdün'ün 'Suriyeli Mülteci Krizi'nden sonra, AB ile ilişkileri ışığında iltica politikalarında değişiklik olup olmadığı araştırılmıştır. Türkiye ve Ürdün'ün AB ile ilişkileri, Türkiye'nin 1999 yılında aday ülke statüsü kazanması açısından farklılık göstermektedir. Diğer yandan Ürdün, Orta Doğu'da istikrarını koruyan nadir

ülkelerden olması, AB için onu önemli bir bölgesel ortak olarak görmesini sağlamaktadır.

Suriye'deki çatışmalardan kaçan Suriyeliler hem Türkiye'ye hem de Ürdün'e 2011 yılında gelmeye başlamıştır. Bu zorlu hareketinin ilk aşamasında hem Türkiye hem de Ürdün, kültürel ve kardeşlik bağlarını vurgulayarak Suriyelilere açık kap politikası uygulayarak 'misafir' olarak kabul etmiştir. Suriye'deki çatışmanın uzun sürmesini beklemeyen her iki ülke de, başlangıçta gelen Suriyelileri barındırmak için kamp kurma yaklaşımına başvurmuştur. Ancak, gelen Suriyelileri sayıları zamanla artıkça, onları kamplarda barındırmak daha zor olduğundan, kentlerde yaşayan mültecilerin sayısı kamplardakini geçmiş ve iki ülke için onlarla ve onlara verilecek hizmetlerle başa çıkmak daha çok zor olmuştur. Buna ek olarak, Suriye'de çatışma ve şiddetin artıp IŞİD ve Kürt güçlerinin ortaya çıkmasıyla birlikte, hem Türkiye hem de Ürdün, Suriyelilere yönelik daha kısıtlayıcı bir giriş politikası izleyerek onlara daha güvenlikli bir yaklaşım getirmişlerdir. Türkiye, 2015 yılında Suriye sınırına duvar inşa etmeye başlamış, hava ve deniz yoluyla giren Suriyelilere vize uygulaması getirmiş ve sonunda Suriye sınırını kapatmıştır. Ürdün de ilk olarak 2012'de Suriye'den gelen Filistinlilerin Ürdün'e girmesine izin vermeyip seçici kısıtlamalar uygulamaya başladı ve sonunda 2015'te sınırını kapattı. Ancak her iki ülke de hassas ve acil geçişlere izin veren seçici bir politika uygulamaya devam etti. Her iki ülke de ülkelerinde bulunan Suriyelilerin hareket ve dolaşım konusunda da daha kısıtlayıcı hale gelmişlerdir. Suriyelilerin kayıtlı oldukları şehir veya kasabalarda kalmaları ve ülke içinde seyahat etmeleri veya kamplardan ayrılmaları için izin almaları gerekmektedir. Hizmetlere erişim, kayıtlı oldukları illerden ayrılan Suriyeliler için de sorun haline gelmiştir. Ayrıca kayıtlı oldukları iller dışında, özel izin olmaksızın, çalışma izni almalarına da izin verilmemiştir. Genel olarak, Suriyeliler için işe erişim, başlangıçtan 2016 yılına kadar seçici ve kısıtlayıcı olmuştur.

Başlarda, eskiden yaptıkları gibi, Suriyelilerin tüm işlerini BMMYK'ya bırakan iki ülke, Türkiye'nin 2014 yılında Yabancılar ve Uluslararası Koruma Kanununu onaylamasıyla ve aynı kanunla ülkenin ilk sivil iltica kurumu olan Göç İdaresi Genel Müdürlüğü'nü kurarak, Türkiye bu alanda büyük bir adım atmıştır. Bu iki önemli adımın atılmasında AB'nin rolü çok büyüktür. Türkiye'nin AB'ye aday olmak için

topluluk müktesebatını (Acquis Communautaire) uygulamak zorundaydı ve bunun için Türkiye tarafından gerçekleştirilmesi gereken hedefleri içeren Katılım Ortaklığı Belgeleri hazırlanmış ve buna takiben hedefleri gerçekleştirmek için Türkiye tarafından Ulusal Programlar hazırlanmıştır. Bunun yanı sıra, Türkiye göç ve iltica alanında istenilen hedefleri gerçekleştirmek için ayrı bir Ulusal Program hazırlamıştır. Buna istinaden, Türkiye göç ve iltica için 2008 yılında bir kanun tasarısı için çalışmalara başlamıştır. Yeni kanuna göre, Suriyelilere geçici koruma verilmiş ve ayrıca Suriyelilerin durumunu daha detaylı bir şekilde düzenleyecek Geçici Koruma Yönetmenliği de 2014 yılında onaylanmıştır. Bunların sayesinde, mülteciler ile ilgili tüm işlemler ve işler BMMYK'dan Türk devleti kurumlarına geçmiş ve 2018 yılından itibaren BMMYK sadece Türk devletine bazı koruma hizmetleri ve yeniden yerleştirme dışında mültecileri kaydetme veya belirleme işlemlerinde çalışmamaktadır.

Diğer yandan Ürdün'de Suriyelilerin gelişi böyle önemli değişikliklere yol açmamış, BMMYK'nın görevi eskisi gibi devam etmiştir. Ürdün, kamplardaki işlerle ilgilenmek için İçişleri Bakanlığı altında Suriyeli Mülteciler İşleri Müdürlüğü'nü kurarak ve uluslararası kuruluşlar ve donörlerle krize müdahale konusundaki işbirliği idare etmek için girişimlerde bulunarak, eskiye nazaran biraz daha aktif rol oynamıştır. Planlama ve Uluslararası İşbirliği Bakanlığı altında Suriye Krizi için Ürdün Müdahale Platformunu (Jordan Response Platform for the Syria Crisis) kurarak, bakanlık BM ile birlikte hem Suriyelilere hem de ev sahibi topluluklara hizmet edecek dayanıklılık (resilience) programları içeren senelik müdahale planları geliştirmiştir. Bu adım da Ürdün için bir ilk sayılmaktadır.

2016, hem Türkiye hem de Ürdün için, ülkelerinde bulunan Suriyeli mültecileri de ilgilendirecek şekilde, AB ile ilişkilerinde bir dönüm noktası olmuştur. 2015 yılında Avrupa'ya ulaşan göçmen sayısının rekor seviyeye ulaşmasıyla, 2016 yılı AB'nin bu akımı engellemek için harekete geçtiği bir yıl olmuştur. Bu hareketin sonucunda, Suriyelileri bu iki ülkede tutma ve onlara Avrupa'ya gitmeye çalışmaktan caydırmak için orada kalıcı ve bağımsız bir yaşam sağlama yönündeki AB-Türkiye Bildirisi ve AB-Ürdün Mutabakatı imzalanmıştır. Konular arası-bağlantı (issue-linkage)

stratejisini kullanarak, AB iki ülkeye mültecilerin hareketini önlemeleri şartıyla, göç ve iltica alanı içinde ve dışında teşvikler verilmiştir.

AB-Türkiye Bildirisi'ne göre, 20 Mart 2016 tarihi itibarıyla Türkiye'den Yunan adalarına geçen tüm yeni düzensiz göçmenler, ulaşıp iltica başvurusunda bulunmayan veya başvuruları, dayanaktan yoksun ya da kabul edilemez bulunanlar Türkiye'ye iade edilecektir. Ayrıca, Türkiye, Türkiye'den AB'ye yasadışı göçe yönelik yeni deniz ve kara güzergahlarını önlemek için gerekli her türlü tedbiri alacaktır ve bu amaç doğrultusunda AB'nin yanı sıra komşu devletlerle de işbirliği yapacaktır. Bunun karşılığında korunmaya muhtaç gruplara yönelik BM Kriterleri dikkate alınmak suretiyle, Yunan adalarından Türkiye'ye iade edilen her bir Suriyeli için Türkiye'den bir diğer Suriyeli AB'ye yerleştirilecek ve Türkiye ve AB arasındaki düzensiz geçişler sona erdiğinde ya da en azından büyük ölçüde ve sürdürülebilir şekilde azaltıldığında Gönüllü İnsani Kabul Planı uygulamaya konulacaktır. AB üye devletleri bu plana gönüllülük esasında katkıda bulunacaktır. Bunun yanı sıra, Türkiye yerine getirmesi gereken yükümlükleri yerine getirdiği taktirde, en geç Haziran 2016 sonuna kadar Türk vatandaşlarına vize gerekliliklerinin kaldırılacaktır. Ayrıca, 2015 yılında kabul edilmiş Eylem Planı'nda belirtilmiş müzakere sürecini yeniden canlandırmaya yönelik iki taraf kararlılıklarını tekrar teyit etmiştir. Aynı planda belirtilen Suriyeliler için AB tarafından verilecek mali yardımın, Türkiye'nin Mart ayı sonundan önce, sağlayacağı hızlı bildirimler ile sağlık, eğitim, altyapı, gıda ve diğer yaşam giderleri alanlarında daha çok sayıda projenin finansmanını için 3 milyar avro ödenmesi hızlandıracaktır. Bu kaynaklar tamamıyla kullanılması aşamasına yaklaşıldığında ve yukarıdaki yükümlülükler karşılandığında, AB, Sığınmacı Mali İmkânı çerçevesinde 2018 'in sonuna kadar 3 milyar avroluk ilave bir fonu devreye sokacaktır (Avrupa Birliği Başkanlığı).

Ürdün, önceden Avrupa-Akdeniz Ortaklığı olarak başlayan, Akdeniz için Birliğ'inin önemli üye ülkelerden bir tanesi. AB ile Ürdün arasında 1997 yılında imzalanan ve Serbest Ticaret Bölgesi kurulmasına yol açan Ortaklık Anlaşması, 2002 yılında yürürlüğe girmiştir. 2004 yılında ise iki taraf arasında Avrupa Komşuluk Politikası başlatılmış ve 2005 yılında, Ürdün'ün Siyasi Gelişim Ulusal Planı ve Ulusal Sosyal ve Ekonomik Eylem Planı çerçevesinde Ürdün tarafından gerçekleştirilecek siyasi ve

ekonomik reformları içeren AB-Ürdün Eylem Planı kabul edilmiştir. O zamanlar göç konularına çok fazla öncelik verilmemiştir. 'Suriyeli Mülteci Krizi'nden sonra, AB 2013 bölge ülkelerine Suriyeli mültecilerle yardım etmek için, bir Bölgesel Kalkınma ve Koruma Programları (RDPP) kurmaya karar vermiştir. 2014 yılında başlayan bu program, Ürdün, Lübnan ve Irak dahil olmak üzere, mültecilerin ve yerel nüfusun tüm haklarına erişebilmelerine, güvenli bir şekilde yaşamalarına ve mültecilerin yardımlardan bağımsız olarak kendi kendilerine yetinmelerine ve durumlarına kalıcı bir çözüme kavuşmalarını hedefleyen çoklu-donörlü uzun vadeli bir girişim olarak kurulmuştur. Aynı yıl içinde, AB Ürdün ile bir Hareketlilik Ortaklığı imzalamıştır. Bu ortaklığın hedefleri arasında kişilerin kısa süreli yasal hareketliliğini ve işgücü göçünü daha etkin bir şekilde yönetmek, düzensiz göç ve insan ticareti ve kaçakçılığına karışan ağlarla mücadele etmek ve etkili bir geri dönüş ve geri kabul politikasını teşvik etmek ve mültecileri uluslararası standartlar doğrultusunda yönetme kapasitesini güçlendirmek yer almıştır. Bunu takiben, Ürdün ile uluslararası toplum arasında Suriyeliler için sürdürülebilir ve uzun vadeli çözümler ve geçim kaynakları sağlama konusunda, Ürdün'ün buna uygun ortamı sağlaması karşılığında, Ürdün'ü finansal olarak desteklemeyi taahhüt eden Ürdün Sözleşmesi'nin bir devamı olarak gelen 2016'daki AB-Ürdün Anlaşması izlemiştir. AB-Ürdün Anlaşması'nın, bir eylem planı olarak birkaç eylem alanı olmasına rağmen, Ürdün'ün Suriyelilere Ürdün'ün eğitim sisteminde bir yer ve iş fırsatları sağlama konusundaki kararlılığı vurgulanmaktadır. İş imkanı sağlamak, Suriyeliler için bir tür ekonomik entegrasyon olarak kabul ettiğinden, Ürdün'ün yapmaya hevesli olduğu bir şey olmamıştır. Anlaşma, Suriyelilere tekrar göçe kalkışmamak için ve yardımlara bağımlı kalmadan kendi kendine yetinmeleri için ve sürdürülebilir bir hayat yaşamalarını sağlaması karşılığında Ürdün'e AB ticari piyasasına artırılmış ve kolaylaştırılmış erişim ve Ürdün vatandaşlarına vize kolaylığı sağlanacaktı.

Beşinci bölümde, bu araştırmanın sonuçları birleştirilmiştir. Buna göre, Türkiye ve Ürdün'ün iltica politikalarında ulusal kimlik ve güvenlik gibi iç politika faktörleri etkili olmaya devam etmesine rağmen, dış politika faktörleri de gittikçe etkili olmuştur. 'Suriyeli Mülteciler Krizi'nden sonra özellikle, AB'nin bir uluslararası aktör olarak gittikçe önemli ve en azından bu iki ülkenin mültecilerin entegrasyonuna yönelik yaklaşımını değiştirmede önemli bir rol oynamıştır. 2016 yılında imzalanmış

AB-Türkiye Bildirisi ve AB-Ürdün Anlaşması bu rolün önemli örnekleridir. AB göç ve iltica politikasını dışsallaştırma ve şartlılık stratejisi ve onun araçları üzerinden, özellikle AB-Türkiye bildirisi ile, Avrupa'ya giden düzensiz göçmenlerin sayısında çok ciddi bir düşüş gerçekleşmiştir. Ancak tamamen durmamıştır. Bunun nedenleri olarak, Türkiye ve Ürdün'ün Suriyelilere özellikle iş sağlamak konusunda verdikleri taahhütleri, sundukları kolaylıklara rağmen, yerine tam olarak getirmemelerinden kaynaklanmaktadır. Suriyelileri entegre etmek konusunda anlaşmalar üzerinde kabul etmelerine rağmen, uygulamada iki ülkedeki Suriyeliler iş bulmak ve kendi kendilerine yetinmek konusunda hala çok zorluk yaşamaktadır. Türkiye seçici bir şekilde Suriyelilere vatandaşlık vermeye başlamasına rağmen, vatandaşlık alanların sayısı çok düşüktür. Ürdün'de Suriyelileri vatandaşlık almaları söz konusu bile olmamaya devam etmektedir. İki ülkede de, Suriyelileri entegrasyonu için hala yasal ve ekonomik altyapı hala çok eksik. Her iki ülkenin hükümetleri, ülkelerindeki Suriyelilerin, savaş bitse bile Suriye'ye geri dönmeyeceklerinin ve Suriyelilerin kalmak için orada olduklarının artık farkındadır. Şimdiye kadar Suriyelilerin kalıcılığına işaret edecek herhangi bir politikanın benimsenmemesi yönünde devam eden söylem ve politika, muhtemelen her iki ülke tarafından da kamuoyunu kızdırmamak için bir stratejidir. Bu koruma alanında yaratılmış istikrar sağlamayan ve arada kalmışlık, Suriyelilerin hayatlarını istikrasızlık ve belirsizlik içinde yaşamalarına yol açmaktadır.

'Suriyeli Mülteci Krizi' ışığında Türkiye ve Ürdün'ü karşılaştırarak ve AB'yi bu 'krizde' önemli bir aktör şeklinde bakarak, Orta Doğu ülkelerin mültecilere yaklaşımlarında ortak bir eğilim göstermeye çalıştım. AB çeşitli ekonomik, politik ve sosyal nedenlerle kitlesel mülteci akımlarını kabul etmek istemeyebilirken, Türkiye ve Ürdün gibi Küresel Güney ülkeleri, kitlesel mülteci akımlarını kabul etme isteksizliği yanı sıra, ekonomik ve yasal altyapıdan da yoksundur. Türkiye ve Ürdün benzer tarihi, kültürel ve dini özellikleri paylaşmak dışında çok farklı siyasi, ekonomik ve sosyal yapılara sahiptir. Bu farklılıklara rağmen, iltica konusundaki strateji ve politikalarının benzer olduğunu bu çalışmada gördük. Bu benzerliğin nedenlerini, bölgesel bir mülteci krizinde uluslararası bir aktör olarak AB'nin rolüne odaklanarak vurgulamaya çalıştım. İltica politikası ulusal düzeyde belirlenmiş bir politika olmasına rağmen, gördüğümüz gibi, uluslararası aktörlerin rolü, komşu ülkelerin mültecilere yönelik

yaklaşımında giderek daha önemli hale gelmektedir. Elbette ulusal çıkarlar ve iltica politikası faktörleri Türkiye ve Ürdün gibi ülkeler için her zaman önemini koruyacaktır. Ancak, Suriyeliler gibi kitlesel bir mülteci akımı durumun, Küresel Kuzey ülkelerine -bizim durumumuzda AB- taşar ve doğrudan etkilerse, iltica politikası üzerinden ulusal ve uluslararası çıkarlar o politikanın ayrılmaz belirleyici faktörleri olmaktadır. 'Suriyeli Mülteci Krizi', en azından AB'nin gözünde, bu iki ülkenin iltica sistemlerinde, Suriyelilerin Avrupa'ya kitlesel göçünün devam etmesini önlemedeki eksiklikleri vurgulamıştır. AB'nin paniği, hem Türkiye hem de Ürdün için 'kriz'i sadece Suriyelilerle çok ihtiyaç duyulan desteği almak için değil, aynı zamanda durumu başka siyasi ve ekonomik faydalar gerçekleştirmeye bir fırsat yaratmıştır.

Söylem olarak tüm taraflar sorumluluk paylaşımına ve krizin insani yönüne vurgu yaparken, eylemsel olarak tüm tarafların Suriyeli mültecileri bir yük olarak gördüklerini ve krizden kendi çıkarlarını yükseltmek için yollar aradıklarını gördük. AB, gelişmiş Küresel Kuzey'in bir temsilcisi olarak, gelişmekte olan Küresel Güney'in temsilcileri olarak Türkiye ve Ürdün'e, Suriyelileri kendi ülkelerinde tutmak ve AB'ye gitmelerini engellemeleri şartıyla, faydalar sağlamakta ve her ikisi de, Suriyelilerin çıkarları üzerinden değil, kendi çıkarları doğrultusunda AB ile sürekli müzakere etmektedirler. Bu durum, küresel mülteci sisteminin yeni büyük uzlaşmasının bir örneğidir; mültecilerin Küresel Güney'de tutulması ve ardından Küresel Kuzey ile Güney arasında bir müzakere kartı haline gelmeleri.

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