Turkey's New Direction for Free Movement of Persons: Challenges in Turkey

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Abstract

Migration is a salient phenomenon in the European Union, including non-European and intra-European migration. European citizenship contributed to this process a lot under the praxis of free movement of persons. Also the right to vote and to stand in municipal and European Parliament elections has opened a new path for political transformation of citizens' and European migrants' rights. Turkey, as a candidate for EU membership, has a different political and legal structure for migrants. Even if there are settled foreigners coming from EU member countries, yet there is no institutional (municipal, regional or central level) and constitutional development for them. Also, the right to vote is exercised only by Turkish citizens. In the case of EU membership, there will be a considerable debate on citizenship and migrants' rights, including institutional arrangements. So, this paper aims to analyze current preparations of Turkey for the free movement of persons. Thus, the detailed concept of the migration flow into Turkey will be defined and differences will be compared with European member countries. Then, Turkey's current migration and citizenship policy, as well as its administrative practices at institutional level will be discussed.

Keywords: *European citizenship, nation-state citizenship, migration, institutional reforms, citizenship policy, free movement of persons*

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Turkey, especially since the 2000s, started to receive migrants from European countries. These European Union citizens, mostly with a high income and a high educational level, have settled for a long term with aims of work, education, marriage or retirement.

Settled foreigners, who are still seen as tourists through Turkish peoples' eyes, are the main factor for the new route of Turkey's migration policy. That is because being settled in a country brings claims of participation to the economic, social and political structure. Yet, Turkey has no administrative and legal mechanisms to meet those expectations. So, in this new process, which will bring new reforms at legal and administrative levels, Turkey has to go over its current migration policy.

While Turkey's candidateship to the European Union is still ongoing, it is important to notice and measure these changes at political level. EU membership will provide *settlement and free movement* of European citizens in Turkey, as well as Turkish people's free movement on the European continent.[1] So, it is important to take political and legal measures that, considering new developments, can prevent negative effects[2] for European citizenship and can contribute to social welfare and social order.

Briefly, the outcomes of European citizenship and the free movement of persons, which will be on agenda of Turkey's political system after its accession to the EU, can be enriched by improving experiences with settled foreigners living in Turkey and by building new politics for them.

It is important to know that Turkey's migration experience with settled foreigners is different than that of European countries. Apart from non-European migration, European states face 'intra-European migration', which is part of the European citizenship project and the Schengen Agreement. It consists of European Union member countries and migration flow is directed from mostly Eastern European countries to rich Western and Northern European countries, for employment and better life opportunities. So, the multicultural politics of the European states aim to integrate these immigrants into their society. But, Turkey faces a new kind of migration from European countries, which can be called 'retirement migration'. So, Turkey's migration

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[1] Before the EU enlargement to 10 new member countries, there was a general fear among the European public that a big migration flow from Eastern Europe, consisting of low educated people with lower incomes, will be directed to more developed European countries. The same suspicion repeats also for Turkey, because of its high population (over 70 million people).

[2] Negative effects can be defined as: 1-) to accept settled foreigners as tourists or temporary visitors, 2-) to lose national sovereignty as a result of the rising number of foreigners' properties in the country.

strategy and politics, which will be built towards meeting the expectations of these groups, will surely differ from those of European states.

So, this paper aims to find out a better management for Turkey's migration policy as it prepares its administrative and legal system for a prospective EU membership in the field of EU citizenship and free movement of persons.

A new route of migration: a European experience

Migration is a very old phenomenon in human history. The reasons why people have a tendency to migrate are diverse (Ündücü, 2009: 160). But, from the 20th century onwards, humanity has been facing migration on a large scale, especially considering the development of new means of communication and of the transportation system as a result of globalization.

European states face migration for a long period in their history. France, which was one of the famous 'migrant receiving countries', changed its statute, as did the whole Europe after the Second World War. Especially the fifth migration flow, including employment and development strategies of the defeated European states, displayed fundamental transformations on migration politics. Post-war, considering the demands for settlement of guest workers (including their second and third generations), European states implemented several politics for them on a large scale - from assimilation to integration. These settled foreigners did not remain as foreigners in the country; they also affected citizenship politics by claiming the recognition of their status. Especially, the collapse of the Berlin Wall has brought new approaches on citizenship into the political scene (Gusteren, 1998). So in Europe new citizenship categories are still under discussion today.

For Europe, it is possible to list two dimensions of migration flows: *Non-European and intra-European.* Especially after the signing of the Schengen Agreement, the number of intra-Europe migrants, by praxis of the 'European citizenship', has increased.

European citizenship: a new citizenship model?

The classical roots of citizenship acquisition (ius sanguinis and ius soli) have been different in each country. So, citizenship is assessed as a political tie,

which consists of minimal rights and duties between the individual and the state (like in most Western countries) or as a political, social and cultural tie (like in Turkey). This classification depends on each country's political and historical experiences.

Post-war era has introduced *post-modern citizenship* and *European citizenship* in the historical scene. Post-modern citizenship is not beyond nation-state, but European citizenship is. The latter has a new frame of supranational organization (EU) and it burdens up European nation states with new responsibilities.

Apart from questions of identity and culture[3], the development of the European citizenship concept began very early in history.[4] The Maastricht Treaty (1992) is the first document in which European citizenship was expressed for the first time. (Republic of Turkey-Ministry of EU Affairs, Report, 2010)

European citizenship is defined as follows (European Union Official Website, 2014):

> *'All nationals of a European Union member country are automatically citizens of the EU. EU citizenship complements national citizenship and gives some **important additional rights….**Since the Treaty of Maastricht, European citizenship has granted additional rights to Member States' citizens, including the right to move and reside freely, the right to vote and stand as candidates in municipal elections and in elections to the European Parliament, access to diplomatic protection by another Member State outside the EU, the right to submit a petition to the European Parliament and to the European Ombudsman.'*

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[3] The identity dimension of European citizenship is still under scrutiny. The origin of these debates includes the question of '**whether the European identity already exists? Or was it formed as a top-down identity?**'. One of the views – on which I also agree – claims that European identity is an articulated part of the EU Project. So here, we can ask what is Turkey's position in that project? In Yılmaz's article, we find out the importance of common culture to create European citizens and how Turkey was marginalized in the European history because of its religion, civilization and culture. In his article, the reasons why Turks were marginalized through Europeans' eye are listed as: 1-) the Turks were seen as blasphemous and opponent to Jesus (as religious factor) 2-) the Turks were seen as barbarian, who had prevented European civilization for centuries (as civilization factor) 3-) The EU is only for Europeans (cultural factor). (Yılmaz, 2005, pg: 4-10)

[4] The idea of European citizenship first found ground in Christianity. But, because of the lack of confidence in the church and its associations, Europeans needed to integrate themselves on the basis of a new identity. So, the idea of a new identity emerged before the Maastricht Treaty (1992) in: Treaty of Rome (1957), Paris Summit (1972), Copenhagen Summit (1973), Luxembourg Summit (1981), Fontainbleu Summit (1984), Schengen Agreement (June 14th, 1985) and Single European Act (July 1st,1987) (Özdaş, 2014)

Even if it is stated that European citizenship is complementary to national citizenship, its application and outcomes go beyond, resulting in changes in the migration structure within the state at political and administrative levels. Thus, we can observe that European citizenship has opened a new gate as *continental citizenship,* which can be seen as supplementary to national citizenship.

Settled migrants in Europe

The right to free movement has changed the immigrant profile in Europe. Even if all countries have their own immigrant profile[5], the immigration flow from Eastern European countries has articulated to non-European immigration, which is directed to Northern and Western Europe for the aim of better life standards and better economic conditions.

Apart from employment-based immigration, there is also another type, which can be called 'retirement migration' directed from north to south (for example, in Europe's case, this flow is directed to Italy (Tuscany), Spain, Portugal and Malta).

European migrants in Turkey

Settled foreigners' migration can be categorized as elective migration and environmental choice migration. [6] Thus, retirement migration should be assessed (Ündücü, ibid, pg: 163) according to elective migration, which is based on individual choice, and according to environmental choice migration, which gives priority to life quality and aesthetical taste instead of income (Ündücü, ibid; pg: 164). In that concept, any individual who visits any country for the reason of holiday or work, and who then wishes to live in that country and settle there for a long term, can be counted under this categorization. What

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[5] For example, Britain as a colonizer country, provides facilities for its former colonies. The same goes for France, as some facilities are provided for Morocco, Algeria and Tunusia because of historical colonist ties they had in the past.

[6] Another categorization, 'tourism led migration' and 'migration led tourism', can be found in Deniz and Özgür's work (Deniz and Özgür, 2010, pg: 14)

forms the migration wave is the information flow between migrants and their expats[7], who encourage them to settle in another country. So, it is possible to say that international retirement migration changes the geographical and sociological map of Europe. (Ündücü, ibid; pg: 167).

Turkey also has a place in that transformation process. Until 2000, Turkey was a kind of migrant sending country. Turkish migrants were common in developed European countries (like Germany, the Netherlands and France etc…) with the aim of employment. But, because of Turkey's candidateship to the EU, the migration wind has started to blow in the opposite direction. Nowadays, Turkey hosts retirement migrants from Northern and Western Europe especially in seacoast cities like Alanya, Antalya, Kemer, Kaş, Kalkan, Bodrum and Didim. Those migrants settle there not only for holidays; they have bought properties, and some of them are involved in trade.

Legal and administrative situation in Turkey

Turkey is in a new process of reorganizing its migration policy. Thus, Turkey has to adopt new rules and to form new administrative systems which suit its national values. In this section, I will be analyzing the current situation and perspectives in Turkey, which are different from European states and then the current legal steps which were taken by the effect of Turkey's EU candidateship process.

Current Situation and Perspective in Turkey

Differences in Liberal and Communitarian View

According to the liberal view, individuals become member of a society by meeting minimum criteria beyond identity, religion or ethnicity. This view mostly fits with Western European countries' political regimes. This perspective reflects on human rights practices and migration. But, countries like Turkey, which internalize communitarian views, accept that a country is a whole of shared common sense and values. According to this view, those who will settle in a

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[7] In the sample of Western and Northern Europe, those factors can be listed as: rising economic welfare, developed technologies and negative burden of oldsters' economic costs.

society as outsiders may cause differences, so a society should choose a migrant according to his/her easy integration in society. (Ündücü, ibid, pg: 163)

Liberal or communitarian views are applied in each nation state according to their own historical developments. My argument here is that no view is superior to the other. All societies must adapt themselves to the current developments of the globalized world according to their own historical developments and past experiences. So, in countries internalizing the communitarian view like Turkey, the nationalist sentiments will be in the forefront and politics will be based on the communitarian sense. But also, those countries will design politics that protect minority and majority rights. So, I can say that the liberal politics of Europe may not have the same result in other countries. Turkey should design new politics for the inclusion of newcomers by meeting the expectations of the majority of its citizens.

Golden Ghetto[8]

Turkey's – prospective – EU membership and thus the right to free movement will revive the concerns that a big migration flow from Turkey will be directed to Europe.[9] But, recent developments in Turkey show that those concerns will also be subject to Turkey's politics. And that is because Turkey's position on international migration has started to change from a migrant sending country to a migrant receiving one. Also, Turkey has become one of the main attraction centers for international population movement.

Turkey faces migration flows from the Middle East as a result of the political instability there, and from periphery countries which have weak economic conditions (Südaş, 2008, pg: 52). But recently, retirement persons' migration from European countries seems to be a third wave of migration in Turkey. I assume that the right to free movement of persons after Turkey's accession to the EU will enhance the European retirement migration flow in seacoast cities of Turkey. I also argue that golden ghettos[10] in those cities may cause integration problems.

Additionally, some financial solutions in welfare countries (like in

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[8] Golden Ghetto is described as a part of the city in which rich tourists prefer to live, with higher standards than local people living in.

[9] Same concerns were expressed when Eastern European states were in a process for free movement in the EU.

[10] Accepting only their expats as neighbours, having a low desire to use Turkish as a language in daily communication and being introverted, can be counted as samples of golden ghetto. (International Strategic Research Organization, 2008)

England), which encourage migration in order to reduce retirement costs, may direct foreigners' interest towards Turkey. Because population in Europe is getting older and Turkey's membership of the European Union may provide population exchanges. This may result in young Turkish population migrating to Europe for new job opportunities, but also in European elders migrating to Turkey because of lower costs of living in Turkey.

Deficiency of Administrative Applications

In Turkey, there is lack of administrative structure at local and central levels for settled foreigners. This is due to the fact that they are still seen as tourists.

Of course, there are some units formed by settled foreigners in order to integrate themselves into the Turkish society. And also through local NGOs[11], they facilitate contribution to daily life activities, also by exchanging cultures and defining themselves in relation to the Turkish society.

Current Legal and Administrative Situation in Turkey

In this section, Strategy Papers of Turkey and Progress Report for EU candidateship will be analyzed in order to locate Turkey on the political map for the free movement of persons.

Also, regarding negotiations with the EU which started in October 2005, only Chapter 24 named 'Justice, Freedom and Security' will be analyzed in this part because of its related concept on migration and visa applications.

Strategy Papers

EU Enlargement Strategy Papers are important for the political analysis of a candidate country's performance as they provide a road map for future applications.

In the introduction part of the 2011 Enlargement Strategy Paper, it was

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[11] Some NGOs can be listed as:

-Türk-İngiliz Kültür Derneği (Cultural Association for Turks and British)

-Rus Kültür ve Dayanışma Derneği (Cultural Association for Turks and Russians)

-Türk-Alman Dostluk Derneği (Association for Turks and Germans)

-Türk-Alman TANDEM Dayanışma ve Entegrasyon Derneği (Association for Turks and Germans)

-Türk- Hollanda Dostluk Derneği (Association for Turks and Dutchs)

expressed that a positive agenda should be formed for Turkey's harmonization in the EU. In this regard, participation to the 'Citizens for Europe' Program, visa and movement, and cooperation on migration problem were put on agenda.[12]

Also, in a European Parliament Resolution (29 March 2012) on the 2011 Progress Report of Turkey, it was emphasized that Turkey is the only candidate country who does not have visa liberalization. So, it was stated that the Comission and members states' efforts to simplify visa process will be supported.[13]

All those expressions and hopes found their place in the next report (in the 2012 Enlargement Strategy Paper). In that paper, importance was given to visa liberalization dialogue, which is the first step towards the free movement of persons. Thus, Turkey was invited for a long term process to provide visa liberalization step by step.[14]

The last report (of October 2013) gave importance on minorities under fundamental rights section.[15] Also, the report strongly emphasized the EU-Turkey Readmission Agreement and the visa dialogue towards visa liberalization.[16]

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[12] It is stated in the report as: *'The EU and Turkey started to intensify their cooperation on visa issues, while the Commission entered into a dialogue with Turkey on visa, mobility and migration, in line with the Council conclusions of February 2011. This process started delivering results on both the issuance of visas for Turkish travellers and the tackling of irregular immigration to the EU and will help identify concrete steps required from Turkey in view of a future visa liberalisation. In this context, an important step would be that Turkey take the necessary action for the swift conclusion of the readmission agreement'* (European Commission Report, 2011, pg: 19)

[13] It is stated in the report that *Turkey is the only candidate country which does not have visa liberalisation; stresses the importance of facilitating access to the European Union for business people, academics, students and representatives of civil society; supports the efforts of the Commission and the Member States to implement the visa code, harmonise and simplify visa requirements and create new visa facilitating centres in Turkey…'* (European Parliament Resolution of 29 March 2012 on the 2011 Progress Report on Turkey,2012, pg:4)

[14] In 2012 Strategy Paper, it is stated as *'…a positive agenda in the relations with Turkey was launched by the Commission in May 2012 to revive the accession process after a period of stagnation and bring fresh dynamism to the EU-Turkey relations. The positive agenda is not an alternative to the accession negotiations but rather a way of supporting them. It focuses efforts on areas of common interest such as legislative alignment, enhanced energy cooperation, visa, mobility and migration, Customs Union, foreign policy, political reform, counter terrorism and increased participation in people-to-people programmes….'* (European Commission Report, 2012)

[15] European Commission, Communication From The Commission to the European Parliament and The Council, Enlargement Strategy and Main Challenges 2013-2014 Report, page:9 http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/strategy_paper_2013_en.pdf,

[16] It is stated in the report that *'With the adoption of a comprehensive law on foreigners and international protection, an important step has been taken towards adequate protection of asylum seekers…'*
'The signature of the EU-Turkey readmission agreement and the simultaneous start of the visa dialogue towards visa liberalisation would give a new momentum to EU-Turkey relations and bring concrete benefits for both. It is important that these two processes move forward and that the signature and ratification of the readmission agreement in Turkey be swiftly finalised.' (European Commission Report, 2013, pg: 21)

Regular Progress Reports

Chapter 24 named 'Justice, Security and Freedom' has significance in the sense that it conceives Turkey's borders as the last border of the EU. Also, a road map for visa and migration politics was emphasized in that chapter.

In that respect, in the 2012 Progress Report of Turkey, importance was given to Law on Foreigners and International Protection, as well as governing Turkey's relations with foreigners and safeguarding the rights of migrants.'[17] Also, concerns were raised on the point of limited progress on visa policy.[18]

Despite concerns about visa policy raised by the EU, Turkey took significant steps for its adoption into the new migration policy. As stated in the 2012 report, European citizens especially from Germany, Britain and the Netherlands prefer to settle in Turkey. Also, Turkish migrants living in Europe prefer to return to Turkey. So, the need to enhance the current capacity for migration policy and more effort on border controls and encountering irregular migration were put on the agenda. Thus, a new administrative model for migration management, named the General Directorate of Migration Management-GDMM (T.C İçişleri Bakanlığı Göç İdaresi Genel Müdürlüğü, in Turkish) was established with the aim of forming institutional structure to develop strategy directed by political will. (Republic of Turkey, Ministry of EU Affairs, Progress Report, December 2012)

In the 2013 Regular Report, EU views were quite positive for Turkey on the adoption of The Law on Foreigners and International Protection in April 2013 and also as regards the new civilian institution establishment named GDMM. (2013 Regular Progress Report, pg: 64)

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[17] It is stated in the report that *'Limited progress can be reported in the area of **migration**. The Law on Foreigners and International Protection was submitted to the parliament in May 2012 but still needs to be adopted. Its adoption is key to providing a single, coherent legislative framework governing Turkey's relations with foreigners and safeguarding the rights of migrants and refugees in line with EU and international standards'* (2012 Regular Progress Report of Turkey, pg: 75)

[18] *'There has been limited progress on visa policy. The Ministry of the Interior has introduced new provisions on short stays in Turkey. However, Turkey did not align with the EU lists of countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. No additional measures were taken to further strengthen checks at borders following the visa exemptions launched in early 2009. Furthermore, Turkey continue discriminating between Member States as regards visa policy: the citizens of 11 EU Member States continue to be required to hold a visa before entering Turkey, while the citizens of 16 Member States are exempted from this obligation. There is a clear need to step up training for consular staff, in particular on document security'* (2012 Regular Progress Report of Turkey, pg: 76)

Conclusions

Visa liberalization dialogues between Turkey and the EU is an important step for the free movement of persons. Even if current migration politics allow Europeans to enter Turkey and to be settled with easy administrative processes, the right to free movement will simplify this process even more.

The free movement of persons will not only increase the movement of Turks into Europe, it will also provide more opportunities for Europeans to settle in Turkey.

To reduce negative effects of foreigners' settlement in the country, Turkey has to measure the current situation of settled foreigners and their expectations should be taken into account in the political agenda. It is also important that all countries have their own development in their history. So, new rules and new transformations should be internalized according to national values and benefits. In Turkey's case, Turkey has a different migration story in world history. It was the country from where, before 2000s, Turkish people were migrating to Europe for better life conditions and higher standards. But currently, Turkey is one of the countries which receive immigrants not only from periphery countries, but also from Europe. This changing category of immigration should be analyzed well and new arguments on how to adapt to EU norms should be internalized according to Turkey's own national values.

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