

The New Draft Law on Foreigners and International Protection in Turkey

By Cavidan Soykan

Introduction

The Draft Law on Foreigners and International Protection (henceforth: Draft Law) is ready to be debated in Turkey's Grand National Assembly this new legislative year, which begun on the 1st of October, 2012. The Draft Law was prepared by the Bureau for the Development and Implementation of Asylum and Migration Legislation and Strengthening the Administrative Capacity, founded under the Ministry of Interior in accordance with Turkey's EU accession process.¹ According to *The Action Plan*, prepared in 2005 after the announcement of Turkey's National Programme for the adoption of the EU *Acquis*, the Turkish government was expected to bring its legislation in the field of migration and asylum in line with the EU standards. This alignment required a comprehensive codification of the national laws on foreigners, asylum, and migration (i.e. border management and visa regulation), as well as lifting the geographical limitation to the 1951 Convention Relating to the Status of Refugees (henceforth: 1951 Refugee Convention) upon the completion of the EU accession negotiations.² This recent legislative attempt constitutes one of the first main steps towards the accomplishment of these goals.

In this short piece, I offer a timely and critical analysis of the Draft Law and Turkey's framework of asylum. To do so, this article proceeds as follows: First, I contextualise asylum in Turkey, tracing the evolution of Turkish refugee and asylum law and introduce the contemporary situation of forced migrants in the country. I subsequently explore the key strengths of the Draft Law, and discuss some of the remaining legal shortfalls. Ultimately, this article shows that whilst the Draft Law incorporates international principles into domestic law, a closer analysis reveals that, if passed, the law could effectively re-instate the elements of the current asylum system under a new guise.

Background and Context

Turkey was one of the drafters and first signatories of the 1951 Refugee Convention. However, at the time of the ratification of the attendant Protocol Relating to the Status of Refugees in 1968, Turkey opted for the geographical limitation pursuant to Article 1b of the Convention, limiting the scope of the Convention to 'persons who have become refugees as a result of events occurring in Europe'.^{3/4} Thus, Turkey can only legally accept European asylum seekers as 'refugees' *stricto sensu*. Contrary to this legal context, however, the majority of asylum seekers in

¹This new Bureau was founded in 2008. The drafting process was officially launched in early 2010 and completed in 2011 with the contributions of academics, UNHCR Turkey and representatives of NGOs working in the field. The final draft also received comments from the Council of Europe and the European Union and was made public in January, 2011 on the Bureau's website (UNHCR 2011: 18). The Draft Law was accepted by the Council of Ministers on 16 January, 2012 and came to the parliament on 3 May, 2012. For this article, I drew on the government's draft.

²The Turkish government adopted the revised Accession Partnership document and announced its National Programme in 2003. The National Action Plan for Asylum and Migration which detailed the objectives set out in the National Programme was adopted on 17, January, 2005.

³Turkey ratified the Protocol on 31 July, 1968. There were only three other states which opted for this geographical limitation apart from Turkey: Congo, Madagascar and Monaco. Monaco ratified the 1967 New York Protocol and while doing so it did not retain the geographical limitation with a declaration (16 June, 2010). This means Turkey is one of the three countries in the world which has this limitation among the parties to The Convention (Goodwin-Gill 2008: 7).

⁴ Turkey defines Europe as all members of the Council of Europe including Russia and ex-Soviet states west of the Urals including the Caucasus (UNHCR 2010: 7).

Turkey originate from non-European states, notably from Iraq, Iran, Afghanistan, Somalia and Sudan.⁵

To accommodate for this reality, Turkey created its own ‘temporary’ protection mechanism in the mid-1990s under the Regulation on Asylum.⁶ According to this mechanism, both non-European and European asylum seekers have to apply for a residence permit to the Department of Foreigners, Passport, Borders and Asylum under the General Directorate of Security of the Ministry of Interior. The non-European applicants must then register with the police and comply with a reporting duty in order to be eligible for resettlement outside of Turkey via UNHCR. Crucially, Turkey’s asylum system currently does not provide for long term local integration for this group in the country. Thus, the temporary protection/asylum mechanism runs parallel with UNHCR procedure and requires that all applicants have valid residence permits. Under this system, both the Turkish state and UNHCR conduct Refugee Status Determination (RSD) interviews for non-Europeans. When the non-European applicants are recognised as ‘refugees’ by both institutions, they may be eligible for resettlement in a third country. Currently only Canada, Australia, Sweden, Finland and Norway accept small numbers of refugees recognised in Turkey, while the USA set up a resettlement programme specifically for Iraqi refugees in 2007 (UNHCR 2007: 10). There is no guarantee that every non-European refugee will be resettled in a third country (UNHCR 2010: 20). In fact, due to the growing number of asylum applicants, the chance of resettlement has in recent years become increasingly elusive (Güsten 2012).

There is no mechanism to ensure UNHCR’s involvement with all asylum cases due to the absence of a formal Host Country agreement between the Turkish state and the UNHCR Office in Turkey (UNHCR 2010: 9). In addition, during the waiting period, which can last up to five years depending on the country of origin of the applicant⁷ asylum applicants are subject to the foreigners’ law.⁸ In the absence of an asylum law regulating the procedure and the rights of applicants, all asylum seekers are required to pay a residence permit fee⁹ like any other non-citizen wishing to live and work in Turkey as, for instance, economic migrants.¹⁰ Without the prospect of local integration and rights explicitly guaranteed by law,¹¹ the recognised non-

⁵ As of the beginning of 2012, there were only forty-four European refugees known under the Convention status in Turkey. These refugees were from Greece, Bulgaria, Serbia, Azerbaijan and Albania (UNHCR 2011: 25).

⁶ The 1994 Regulation on Procedures and Principles related to Mass Influx and Foreigners Arriving in Turkey either as Individuals or in Groups wishing to Seek Asylum either from Turkey or Requesting Residence Permits with the Intention of Seeking Asylum from a Third Country, No: 94/6169, the *Official Gazette*, No. 22127, 30 November, 1994.

⁷ For instance, Iraqis sometimes have a shorter waiting period compared to the other applicants because of the afore-mentioned resettlement programme run by the USA.

⁸ The Law on Sojourn and Movement of Foreigners in Turkey, Numbered 5683, 15.07.1950, the *Official Gazette* No: 7564, 24.07.1950 and the Passport Law, Numbered 5682, 15.07.1950, the *Official Gazette* No: 7564, 24.07.1950 and the Law on Work Permits for Foreigners, Numbered 4817, 27.02.2003, the *Official Gazette* No: 25040, 06.03.2003.

⁹ This fee is the biggest burden on the asylum applicants and it was raised every year until 2012. For instance in 2010 when I conducted a field work in Turkey, asylum applicants were required to pay 441, 30 TL (€158) -including the booklet fee- for themselves and 288, 15 TL (€104) for their children -aged between 15 and 18- every six months to renew their legal residency in Turkey like any other foreigners (UNHCR 2010: 9).

¹⁰ Although the Ministry of Interior issued a circular in March, 2010 to waive the fee for those applicants who are not able to pay it, in practice there are still some problems in the so-called satellite cities where the applicants have to reside during the waiting period as part of a dispersal policy. In fact this circular was just a reminder to the authorities that there is an exception clause in Article 88 of the Law on Fees which can be used in favour of asylum seekers and refugees who are considered as poor. The Circular (2010/19) numbered B.050.OKM.0000.11-12/631 by the Ministry of Interior.

¹¹ At present the Turkish asylum system is based on two documents; the 1994 Regulation on Asylum and the 2006 Circular (Circular No: 57 regarding the procedures and principles to be applied when implementing the 1994 Regulation on Asylum, 22.06.2006). Both of these texts represent secondary legislation, meaning that they are not as strongly binding as a law.

European refugees are, within the current system, seen by the state as foreigners 'honoured' with the (temporary) protection against deportation, rather than as bearers of international rights.

As of September 2012, the number of individuals (both recognised refugees and new applicants) registered with UNHCR Turkey was 28,791 and, among them 12,006 are from Iraq. Countries of origin from which significant numbers of refugees and asylum seekers also herald from include: Iran, Afghanistan and Somalia.¹² Moreover, Turkey has also become host to more than 80,000 Syrian refugees over the past year. However, the protection provided to Syrians in the camps near the border is temporary, as stipulated by sections three and four on mass flows in the 1994 Regulation on Asylum. This *de facto* protection does not involve UNHCR's resettlement programmes, and ensures an open border policy, that is, with no forced return, no limit of duration of stay in Turkey, and offers the possibility of getting assistance in the camps in Hatay province (UNHCR 2012).

Having broadly contextualised the current asylum in Turkey, highlighting the secondary nature of the current legislation and the temporary protection for non-Europeans, this article now turns to critically examining the proposed Draft Law.

Draft Law on Foreigners and International Protection: Sign of Progress for Turkey's Asylum System?

As discussed above, refugee protection in Turkey is regulated by secondary legislation, that is, mostly by administrative circulars.¹³ This can, and has, lead to the *ad hoc* implementation of different practices towards asylum seekers in different cities by the police at an informal level since these rules are non-binding. Crucially, therefore, if adopted, the Draft Law on Foreigners and International Protection would be the first domestic *law* regulating practices of asylum in Turkey. The new law in many ways represents a vast step forward towards the transformation and regulation of asylum and migration for Turkey since the country ratified the 1951 Refugee Convention. This section considers some of the advances in refugee protection afforded by the Draft Law.

The proposed law will regulate the entry, exit and the stay of migrants in the country, along with the scope of international protection for those who seek asylum in Turkey. With its entry into force, the main body of the current foreigners' law will completely change. The Law on Sojourn and Movement of Foreigners in Turkey will be abolished and the Passport Law will largely be invalidated. This law will also bring changes to the Law on Work Permits for Foreigners.

As noted above, this new law would mark the end of a period in which asylum was regulated by secondary legislation. The current body of secondary legislation requires referring to different laws with regards to the rights of applicants, which often leads of contradictions and misinterpretations in practice. Under the Draft Law, however, the management of the Turkish asylum system will be taken over by a civil authority under the Ministry of Interior and a standardised practice will be ensured across the country. At present, the police officers working

¹³A number of circulars were issued within the past two years to improve the practice. A Circular by the Ministry of Interior specified some rules and procedures that should be followed in the return centres by the local police in 2010. The Circular 2010/18, numbered B.050.OKM.0000.11-12/632 (19.03.2010). Another circular issued in March, 2010 (No: B.050.OKM.0000.11-12/631, Circular 2010/19, 19.03.2010) for the security forces so that they take into consideration the asylum applications of irregular migrants in detention if they wish to seek asylum before their deportation process is completed. Another circular which came out in July, 2011 empowered the governorships of seven cities (Ankara, Izmir, Gaziantep, Van, Kayseri, Kırklareli and Erzurum) together with the Istanbul Ataturk Airport border management authority as the last decision making bodies for the initial process of asylum applications (Circular Number: B.05.1.EGM.0.13.49548, 18.07.2011).

under the authority of local Departments of Foreigners, Passport, Borders and Asylum deal with asylum applicants in every city.¹⁴ The governing of asylum by police can put additional constraints on the lives of applicants, as reflected, for instance in the author's research, in reported cases of harassment and discrimination by certain officers (Soykan forthcoming).

If we look more closely at the Draft Law, the second important point is its scope. As suggested by the Draft Law's title itself, it regulates both international protection and the statuses and the rights of foreigners in the country.¹⁵ As Article 1 states, the main aim of the law is to regulate the entry, exit and the stay of foreigners in Turkey and to establish the procedures and guidelines for the protection that will be provided to those who seek protection from Turkey. The novelty of the law is that it legally defines and brings together all the definitions used in the field under the same legal framework for the first time. In this sense, it defines not only who is entitled to refugee status, subsidiary protection and humanitarian leave to remain, but also terms such as human trafficking victim, unaccompanied minor, stateless person, and the persons with special needs seeking international protection (such as disabled people, single women, single mothers and the victims of torture or sexual harassment). Under this law, the personnel working in the field would be able to identify the special needs of persons who belong to different groups.

Interestingly, the Draft Law preserves the geographical limitation. As such, the term 'conditional refugee' is used for non-European recognised refugees in the process. In the current system, due to Turkey's geographical limitation to the 1951 Refugee Convention, the terms 'refugee' and 'asylum seeker' are defined differently than those of international law. According to international law, an asylum seeker is someone who has applied for asylum and who may be a refugee (UNHCR 2001: 1). An asylum seeker becomes a refugee, legally speaking, after the RSD procedure based on the 1951 Refugee Convention criteria. The 1951 Geneva Convention defines refugee as an individual who 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 (Article 1 a/2). In Turkey's 1994 Regulation, the same definition is used to define someone of *European* origin when s/he is recognised as a refugee. On the other hand, someone coming from a country outside of Europe will be termed an asylum seeker.¹⁶ The important point here is, therefore, that even after the RSD procedure, a non-European refugee, as recognised under the 1951 Refugee Convention criteria, is still referred to as an 'asylum seeker' in Turkish national law. With the new law, however, this confusion and its implications in access to rights for the non-European refugees will be eliminated.¹⁷

The Draft Law, furthermore, expands Turkey's protective scope towards forced migrants through a provision of 'subsidiary protection', as enumerated in Article 63 on 'types of international protection'. This would afford protection to individuals who cannot be called 'refugees' or 'conditional refugees', but who, however, are unable to return to their countries where they might face the death penalty, torture or inhuman or degrading treatment or punishment or where there is ongoing generalised violence or armed conflict. This is in line with

¹⁴The law requires the establishment of the General Directorate of Migration Management under the Ministry of Interior (Articles 108-127).

¹⁵Although the Bureau initially prepared separate draft laws related to these two different areas, in the end they were merged into a single one.

¹⁶Definitions from the 2006 Asylum Circular, 22.06.2006, Circular No: 57 regarding the procedures and principles to be applied when implementing the 1994 Regulation on Asylum by the Ministry of Interior.

¹⁷At present due to this confusing definition, the non-European applicants (called asylum seekers in the system) face, for example, difficulties accessing health services (e.g. Amnesty International 2012).

complementary protection mechanisms in refugee law. As such, the right to life and the absolute prohibition of torture or cruel, inhuman and degrading treatment or punishment have been interpreted by the supervisory organs of the human rights instruments as prohibiting *refoulement* to such treatment. Article 3 of the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and of the European Convention on Human Rights (henceforth: ECHR) both refer to the obligation of *non-refoulement* of an individual to a country where he or she would be in danger of being subjected to torture (UNHCR 2005: 5). In the current Turkish system, if the final decision is negative, UNHCR can recommend to the Turkish state to consider the application under the complementary protection procedure based on Article 3 of ECHR.¹⁸ However, this procedure is not standard and applied to every case in practice.

The Draft Law also limits the waiting period for an RSD interview to thirty days, and to six months for a result, and guarantees two review procedures – one internal, one external by an independent body (an administrative court in this case), for the final decision as is required by the standards of UNHCR. At present there is no such time limit in practice and the asylum applicants are left in uncertainty, especially by the UNHCR side of the parallel procedure.

Overall, the Draft Law can be called a benchmark simply because it will be the first law of its kind in Turkey and would fill a number of the legal gaps in the current asylum system. With this law, applicants would be entitled free legal aid in case of a negative decision (Article 81); financial support for voluntary repatriation (Article 87); a stipend (Article 94) and; would be able to stay at reception centres during the process (Article 100). If passed, the new law would also abolish the residence permit fee and establish a country of origin database. Thus, the Draft Law could, *prima facie*, signify important changes for Turkey's asylum system, and therefore for individuals seeking asylum in the country.

Legal Shortfalls: Safe Third Country, Fast-track Procedure and Detention

Despite the advances that the Draft Law would bring for individuals seeking protection in Turkey, it is important to note the legal shortfalls that remain. In this section, I discuss some of these legal gaps, and in particular, address the issue of immigration detention in Turkey.

States are responsible for examining asylum claims made in their jurisdiction. However, there exists a common trend of industrialised states seeking to erode refugee protection and state responsibility either by deterring or deflecting asylum seekers through the implementation of restrictive measures. These include denying access to territory to claim asylum through, for example, forcible returns and illegal deportations at the territorial borders and restricting access to refugee status determination procedures via policies of detention for unauthorised entries and the so-called safe country mechanism (Kneebone 2009: 3).

As one of these restrictive measures, the concept of 'safe country' – either as safe first country of asylum or safe third country – helps states avoid the responsibility of examining the merits of an asylum claim by shuttling asylum seekers to other states where they could have received effective protection. This technique is also generally associated with accelerated procedures and usually reduces or excludes rights of appeal (Goodwin-Gill and McAdam 2007: 392). The Turkish Draft Law includes these notions of the first country of asylum and safe third country, as well as the fast track procedure from the European context.¹⁹ Article 72 states that the applications of persons coming from a first country of asylum or a safe third country will be *ipso*

¹⁸ The 2006 Circular on Asylum, Section 12. If the applicant will face a real risk of being subjected to treatment contrary to Article 3 of ECHR in his/her country of origin, s/he should be granted a complementary protection on humanitarian grounds. According to the UNHCR records, there were only thirty six such cases, mostly from Iran between 2006 and August-2009 (Interview with an officer in UNHCR Ankara, 11.08.2009).

¹⁹ This procedure has been particularly adopted by European states (Goodwin-Gill and McAdam 2007: 392).

facto refused. Article 79 asserts that the applications of persons who used forged documents or identities, who are to be deported waiting in detention and who purportedly apply for asylum to delay or stop their deportation will be fast-tracked within five days. Article 80 completes this picture by reducing the right to appeal only to a judicial review against the decisions made under Article 72 and 79, eliminating the administrative review from the procedure.

The Draft Law also introduces administrative detention for asylum applicants. Article 68 states that applicants might be detained as an exception if there is a serious question that: 1) the applicant has used forged documents and her/his ID or nationality needs to be verified; 2) to prevent her/him from entering the country in an unauthorised way; 3) if s/he might constitute a threat to public order and security or the assessment of the grounds of her/his application is otherwise not possible. Detention is limited to thirty days and its necessity can be reviewed by a magistrates' court at any time upon appeal (Article 68/5).

Foreigners can be detained in Turkey for a number of reasons, including irregular entry, exit and presence in the country but not for the mere act of seeking asylum. Asylum applicants are usually detained if they fail to comply with the reporting duty of the dispersal policy and/or if they leave their residency without permission from the local police (Helsinki Citizens' Assembly 2007). At present, there are no clear legal grounds for detention in existing national law and the detention is not decided through court order. Article 4 and 23 of the 1950 Passport Law are referred to as the legal basis by the government, however neither of these provisions provides a framework for the duration and the conditions of detention. In 2009, the European Court of Human Rights stated that the practice of detention in Turkey does not have a sufficient legal basis, and is thus unlawful (*Abdolkhani and Karimnia v. Turkey* 2009). The Court also stated that the conditions in two detention facilities amounted to inhuman or degrading treatment or punishment in violation of Article 3 of the Convention (e.g. *Tebrani and Others v. Turkey* 2010; *Charabili v. Turkey* 2010).

The author's doctoral research in Turkey revealed that the practice of detention and access to asylum from detention is a challenge facing irregular transit migrants,²⁰ rather than those who enter the country with their passports and visas and who approach the authorities as soon as possible with the intention of seeking asylum. As a whole, this research suggested that the Turkish asylum system tries to minimise the number of applications, especially from those who were initially *en route* to Europe via Turkey because of the limited chances of resettlement in third countries for this group.²¹ Before access to RSD by UNHCR the system works at two levels: deferring or deterring asylum seekers through both informal and formal mechanisms. At the informal level, 'illegal forcible returns' defer the arrival of asylum seekers onto the Turkish territory, while the indefinite administrative detention works as a formal deterrent together with its degrading conditions which, in turn, create another informal deterrent effect on potential applicants (see e.g. Cavidan forthcoming).

According to the report of the Commissioner for Human Rights of Council of Europe, in 2008 UNHCR only intervened in 393 incidents, out of a total of 3351 irregular migrants, many of whom wished to seek asylum in Turkey. In fact, UNHCR was given permission to see only seventy two individuals and access to all others was denied by the Turkish authorities

²⁰I use the term 'irregular migrant' to indicate the character of migrant's movement. Irregular migrants, for instance, travel without a passport with the help of human smugglers, however they might, nevertheless, be refugees according to the 1951 Refugee Convention criteria.

²¹Some of the resettlement countries prioritize the files of refugees who are from one of the neighbouring countries of Turkey, notably from Iraq and Iran. This policy together with the UNHCR's Afghan refugee policy in the world, that is to say protecting them under 'the mandate refugee status/extended refugee definition' caused Afghan and African refugees to be disqualified for a resettlement from Turkey.

(Hammarberg 2009: 11). Furthermore, according to the report of Multeci-Der,²² between 2004 and 2008, 258,590 out of 300,666 apprehended irregular migrants were deported from Turkey. The state officials acknowledged that 548 people out of this total made an asylum application in detention, but only sixty-seven applications out of this 548 were accepted and processed. This means only 0.18% of irregular migrants could seek asylum in Turkey when they were detained and only 0.02% of them were actually granted access to RSD during that period (Multeci-Der 2010: 25). This shows irregular transit migrants as potential asylum applicants face serious impediments in access to protection in Turkey.

If we look at the section on deportation in the Draft Law (Article 52-60), we find another type of administrative detention for irregular migrants. Article 54 requires the deportation of those who entered or exited the country in an irregular manner or without legal documents and of those who overstayed their visas for more than ten days or worked in the country 'illegally'. When this group of people are caught by security forces, they can be detained up to a year in return centres. There are procedural guarantees provided in the draft to avoid the current problems of the system such as the limited access of asylum seekers in detention to UNHCR and to RSD. In this sense, Article 55 prohibits the return of individuals, who would need humanitarian leave to remain and/or subsidiary protection, while Article 59 grants the access of UNHCR to the return centres. Article 57 also authorises governorships for reviewing the necessity of the detention every thirty days. Moreover, detainees are provided with the right to appeal to the magistrates' court. Yet, the achievement of all these guarantees provided to irregular migrants who are in need of protection still depends on the interpretation of the rules by the authorities. At present, detention is used as a deterrent against irregular transit migrants who are in need of protection but are caught in Turkey *en route* to Europe. When the whole system goes through such a transition –which could take up to two or three years – and the power is being transferred to a civil authority from the police, all the personnel working in this field should be trained in human rights and refugee law. Without such training/knowledge, it is likely that the current asylum system and practices might prevail despite changes because of institutional memory and lack of correct implementation.

At present, the Turkish asylum system heavily relies on the work of UNHCR despite its legally weak position in the system. If the Draft Law is adopted, Turkey's collaboration with UNHCR for the resettlement of non-European applicants will nevertheless continue. In the absence of an integration/naturalisation option in Turkey, non-European refugees would still be expected to leave the country in the long term. Unfortunately, the Draft Law remains silent on the issue of integration and it does not allow international status holders (refugees, conditional refugees as well as subsidiary protection and humanitarian leave holders) to apply for a permanent resident status which will be the closest status to citizenship for foreigners after this law (Article 42/2).

Conclusion

In this article, I explored and analysed Turkey's Draft Law on Foreigners and International Protection, which will be debated in parliament in this legislative year. I demonstrated that the Draft Law would be the first *law* regulating practices of asylum in Turkey since the Turkish state's ratification of the 1951 Refugee Convention. With this law, the rights and the statuses of people in need of international protection in Turkey would be legally guaranteed for the first time. The new law would also extend the protection to the other groups that are not covered by the 1951 Refugee Convention, such as victims of human trafficking and the people who need subsidiary protection and humanitarian leave to remain. However, the Draft Law adopts the current system as it stands in a number of ways, notably with regards to the geographical

²²The Association for Solidarity with Refugees, Multeci-Der is an Izmir based NGO and helps the migrants in detention to get in contact with UNHCR.

limitation. In the absence of an integration/naturalisation option provided by the Draft Law – even for European recognised refugees – and an adequate resettlement quota by the third countries, non-European refugees would still be expected to leave the country in the long term. The uncertainty of the wait in Turkey would eventually make non-European refugees vulnerable to human smugglers with the hope of seeking refuge elsewhere in Europe as it does today.²³ Although the Draft Law strengthens the position of UNHCR by including provisions on its role, it is unclear how the new context will differ from the current one with regards to detention and the parallel process of refugee status determination. Currently, detention is used as a formal deterrent by the state on the potential applicants. Moreover, without an effective and comprehensive training in human rights and refugee law provided to those who will work under the new Directorate of Migration Management, the new law carries the potential for the reproduction of the current practice.

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References Cited

AMNESTY INTERNATIONAL (2012) 'New Regulations In the Field of Social Security in Turkey and Access of Refugees and Asylum Seekers to Health Services', *Press Release*, Amnesty International Turkey, 24 February. Available from: <<http://www.amnesty.org.tr/ai/node/1875>> (accessed 18 September 2012).

GOODWIN-GILL, G. S. and **MCADAM, J.** (2007) *The Refugee in International Law*, 3rd ed, Oxford, Oxford University Press.

____ (2008) 'Convention Relating to the Status of Refugees, Protocol Relating to the Status of Refugees', *United Nations Audio-visual Library of International Law*. Available from: <http://untreaty.un.org/cod/avl/pdf/ha/prsr/prsr_e.pdf> (accessed 18 September 2012).

GÜSTEN, S. (2012) 'As Refugees Flood Turkey, Asylum System Nears Breakdown', *The New York Times*, 26 September. Available from: <http://www.nytimes.com/2012/09/27/world/middleeast/as-refugees-flood-turkey-asylum-system-nears-breakdown.html?_r=1&emc=tnt&tntemail1=y> (accessed 27 September 2012).

²³ In a recent boat incident in September 2012, more than 60 people died in Izmir (Multeci-Der 2012).

- HAMMARBERG, T.** (2009) *The Report on Human Rights of Asylum seekers and Refugees by the Commissioner for Human Rights of the Council of Europe, following his visit to Turkey on 28 June – 3 July 2009, CommDH 31.* Available from: <<https://wcd.coe.int/ViewDoc.jsp?id=1511197&Site=CommDH&BackColorInternet=FEC65B&BackColorIntranet=FEC65B&BackColorLogged=FFC679>> (accessed 18 September 2012).
- HELSINKI CITIZENS' ASSEMBLY** (2007) *'Unwelcome Guests: The Detention of Refugees in Turkey's "Foreigners' Guesthouses"',* Refugee Advocacy and Support Program, November. Available from: <http://www.hyd.org.tr/staticfiles/files/rasp_detention_report.pdf> (accessed 20 September 2012).
- KNEEBONE, S.** (2009) *Refugees, Asylum Seekers and the Rule of Law: Comparative Perspectives,* Cambridge, Cambridge University Press.
- MULTECI-DER** (2010) *A General View of Developments in the Field of Asylum and Migration,* Izmir.
- _____ (2012) 'Tragedy in Aegean Sea on 6 Sept 2012', *Press release,* 6 September. Available from: <<http://www.multeci.org.tr/?p=886>> (accessed on 26 September 2012).
- REPUBLIC OF TURKEY MINISTRY OF INTERIOR** (2005) Turkish National Action Plan for the Adoption of the 'EU acquis' in the Field of Asylum and Migration, General Directorate of Security, Document Number B.05.1.EGM.0.13.03.02 1260-18783 71810-12/Gnl.AB (Twining D.), 17 January. Available from: <<http://www.imldb.iom.int/search.do?action=search&LinkItem=dl&languageId=en&classDescription=NationalInstruments&searchType=advanced&Country=Turkey>> (accessed 17 September 2012).
- SOYKAN, C.** (forthcoming in 2013), *Seeking Refuge: An Analysis of the Turkish Asylum System through the Stories of Migrants* (Provisional title), Unpublished PhD Thesis, the Department of Sociology, University of Essex.
- THE GRAND NATIONAL ASSEMBLY OF TURKEY** (2012) *The Draft of Law on Foreigners and International Protection.* Available from: <<http://www.tbmm.gov.tr/d24/1/1-0619.pdf>> (accessed 24 August 2012).
- UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR)** (2001) 'Reception of Asylum Seekers, including Standards of Treatment in the Context of Individual Asylum Systems', *Global Consultations on International Protection,* UN Doc. EC/GC/01/17. Available from: <<http://www.unhcr.org/refworld/pdfid/3bfa81864.pdf>> (accessed 27 September 2012).
- _____ (2005), 'Providing International Protection Including Through Complementary Forms of Protection'. Available from: <http://www.en.refugeelawreader.org/index.php?option=com_docman&task=doc_view&lang=en&gid=826&level=1&ml=5&mlt=system&tmpl=component> (accessed 27 September 2012).
- _____ (2007) *Resettlement of Iraqi Refugees,* 12 March. Available from: <<http://www.unhcr.org/45f80f9d2.html>> (accessed 1 October 2012).
- _____ (2010) *Facts and Figures,* Ankara: Anil Publishing.

_____ (2011) *Facts and Figures*, Vol.3, Ankara: Anil Publishing.

_____ (2012) '2012 UNHCR Country Operations Profile-Turkey'. Available from:
<<http://www.unhcr.org/pages/49e48e0fa7f.html>> (accessed 18 September 2012).

_____ (2012) 'UNHCR Monthly Caseload by Country of Origin', January-August 2012.
Available from:
<[http://www.unhcr.org.tr/uploads/root/act_caseload_merged_document\(1\).pdf](http://www.unhcr.org.tr/uploads/root/act_caseload_merged_document(1).pdf)>
(accessed 18 September 2012).

Legal Instruments:

The Law on Sojourn and Movement of Foreigners in Turkey, Numbered 5683, 15.07.1950, *The Official Gazette*, No. 7564, 24.07.1950.

The Law on Work Permits for Foreigners, Numbered 4817, 27.02.2003, *The Official Gazette*, No. 25040, 06.03.2003.

The Passport Law, Numbered 5682, 15.07.1950, *The Official Gazette*, No: 7564, 24.07.1950.

The 1994 Regulation on Procedures and Principles related to Mass Influx and Foreigners arriving in Turkey either as Individuals or in Groups wishing to seek Asylum either from Turkey or requesting Residence Permits with the Intension of seeking Asylum from a Third Country, No: 94/6169, *The Official Gazette*, No. 22127, 30 November, 1994.

Case Law:

Abdolkhani and Karimnia v. Turkey, No. 30471/08, 22 September, 2009.

Charabili v. Turkey, No. 46605/07, 13 April, 2010.

Tebrani and Others v. Turkey; Nos. 32940/08, 41626/08, 43616/08, 13 April 2010.