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## The Readmission Agreement of Turkey | Evrim Çınar <sup>±</sup>

### Abstract

*The irregular migration flows in the last decade from countries, where there are social unrest, civil wars and economic turmoil, towards developed western countries are one of the most populated human movements since the WWII. Hence each immigration flow has its own characteristics, the current irregular flows reveal a new migration outcome; the balance between State Security and Migrant Security. Since the migration policies are control based in some destination countries, they take precaution in order to reduce the irregular immigration flows by signing bilateral readmission agreements with 3rd countries. In that respect, Turkey and European Union relations in terms of irregular migration flows play a crucial and critical role due to its condition of transit migration state. The European Union accession process brought Turkey heavy duties. Controlling and preventing irregular migration became an obligation to its membership and to achieve its goals Turkey signed a readmission agreement with European Union. However, as any method of preventing irregular migration flows, Readmission Agreement of Turkey effect the balance between destination country security and irregular migrant security, especially refugees and asylum seekers rights. The main goal of this article is to find an answer to this question: does the Readmission Agreement of Turkey provide a balance between State Security and Migrant Security? This article intends to analyze the adverse security conditions of irregular migrants and state security compulsions.*

**Keywords:** *irregular migration; readmission agreement; European Union accession; Turkey; state security; migrant security.*

### Introduction

Irregular immigration flows occur in environments, where destination and transit countries do not provide free mobility for migrants and it is crucial to acknowledge that irregular migration is as old as migration history. In order to reduce irregular immigration flows, destination and transit countries take measures by sending them either back to their country of origin or 3<sup>rd</sup> secure countries, where readmission agreements are one of the most common method. Irregular migration has become a crucial and critical debate in the European Union accession process of Turkey because controlling the irregular migration flows and stocks occurred an obligation, although Turkey's membership is still questioned by some member states due to crinkled relations. Turkey has transformed its migration policies in order to harmonize it with European Union acquies to stop irregular migration flows and human trafficking issues and in this regard Turkey has signed a readmission agreement with Greece on 2001, which was one of the first arrangements between Turkey and European Union. In the first part of this article, I will analyze the reasons and outcomes of the

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Readmission Agreement of Turkey by touching upon to the definition of *irregular migration* and migration policies of European Union destination countries.

In addition, comparing to more control and restrictive oriented migration policies of European Union member states, Turkey comprise yet open border policies for regular and irregular immigrants. Turkey not only hosts more than four million migrants and asylum seekers, where the vast majority is from the Middle East and Africa<sup>1</sup> but also have come to an agreement with European Union to readmit irregular transit migrants, who aspired to arrive to European final destination countries. The more European destination countries set higher restrictions and standards for migrants, provide more control oriented migration policies and come to arrangements of readmission agreements with 3<sup>rd</sup> countries in order to minimize the irregular migration flows, the balance between state security and human security breaks down, where restrictive-based migration policies of European destination countries lead immigrants to find other solutions to arrive their final destination countries. These solutions include, human trafficking and human smuggling, which pose danger for migrants. In other words, more people risk their lives to reach to destination countries due to stricter border regimes and migration policies. In the second part of this article, I will critically analyze the balance between state security and migrants security, which is one of the most current outcome of readmission agreements in general manner. The goal of this article is not only to bring to light the influence of Readmission Agreement of Turkey to the state security and human security balance, but also to bring into question in what extend do destination countries take precautions for human security matters and to question how the irregular migrants are adversely affected because of restrictive-based migration policies of destination countries, where reducing the irregular migration flow one of the most common policy is.

### **The Readmission Agreement of Turkey**

#### **Irregular Immigration**

Irregular immigration flows occur in environments, where migrants cross borders not a regular way because destination countries do not provide free mobility for immigrants. Since border regimes and migration policies are control based in many destination countries, migrants find themselves in irregular conditions. The lack of free mobility for migrants

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<sup>1</sup> İçduygu, Ahmet. 2014. *Irregular Migration Corridor between the EU and Turkey: Is it possible to block it with a Readmission Agreement?*



push them to produce different solutions to reach their final destinations; irregular migration flows.

First of all, it must be highlighted that there is no clear definition of irregular migration in international law, therefore irregular migration is a complex and complicated case for destination countries. The lack of a clear definition of irregular migration in international law, destination countries handle irregular immigration through their national political and economic interests<sup>2</sup>. Each country has unique and diverse naturalization laws and migration policies, where all European Union member states identify the term irregular migration differently<sup>3</sup>. In other words, just in European Union, there are theoretically 28 different irregular migration policies. Since there is not a clear definition of irregular migration and each country does not define irregular migration flows commonly due to different migration policies, the term *irregular migration* will refer in this article to migrants, whose goal to enter to their destination country without proper documents.

Secondly migration flow must be distinguished from irregular migration stock and regular immigration flow. In the first place, even in the most extreme cases; civil wars, social unrests and economic turmoil that last for a long time in emigration countries, the irregular migration flow consists not more than 15-20 % towards destination western countries and in overall 50 % because most migration flows are regular<sup>4</sup>. On the one hand, in order to benefit from welfare state rights, where destination countries provide commonly proper services both for nationals and non-citizens, people tend to migrate from one place to another in a regular way. On the other hand, both destination and transit countries require people to be regular immigrants that they have the rights to benefit from welfare services boundlessly; such as education, healthcare, residence and employment.

In addition, the highest populated regular and irregular migration flows are not towards European destination countries. Khalid Koser highlights that the majority of migration flows occur among developing countries rather than towards developed western European countries. “According to some estimates, for example, there are several million irregular migrants in South and South East Asia, and between three and five million in South Africa.”<sup>5</sup>

<sup>2</sup> Okyavuz, Mehmet. 1999. *Federal Almanya'nın Yabancılar Politikası*

<sup>3</sup> Triandafyllidou, Anna., Maroukis, Thanos. 2012. *Migrant Smuggling: Irregular Migration from Asia and Africa to Europe*

<sup>4</sup> Khalid. 2005. *Irregular Migration, State Security and Human Security*

<sup>5</sup> Morehouse, Christal., Blomfield, Michael. 2011. *Irregular Migration in Europe*



Finally the different types of migration irregularity should be revealed in order to prevent any mixture of diversified immigration groups. In this regard, there are four types of irregular migration:

- Those, who entered to a destination/transit country without proper documents (passport, visa, work permit etc.)
- Those, who overstayed their visas, work permits, residence permits
- Migrants that failed to receive asylum seeker or refugee status
- Migrants reached to a destination/transit country through human traffickers and human smugglers

Although there are some supranational arrangements among member states in terms of visa agreements and border protection, irregular migration is still a local matter for them.

Member states and European Union approach migration in a different way, but destination countries force the EU institutions to provide regulations that are for the benefits of member states. In this regard, on 1998 *High-Level Working Group on Asylum and Migration* has been established under the leadership of the Netherlands, in order to prepare for concrete actions of implementation: external dimension of European Union asylum and migration policies; dialogue, cooperation and partnership with countries of origin and transit countries; development for regular, irregular migration and asylum.

Since migration policies of many destination countries are control-oriented, they tend to impose that not only irregular migration flows and stocks, but also even regular migration overburden their economies, welfare rights and national security matters. One of the most proper example for control and restriction oriented migration policy of Germany is that even suspicions of threats for public health and security become a reason for termination of residence and work permits and deportation for even regular immigrants in most of destination countries in the 70's and 80's<sup>6</sup>.

These sanctions were asserted by the authorities of destination countries to not only protect their economic, social and political interests, but also to fulfill the obligations of their nationals: *"to consider the public unrest towards the non-european migrants by the vast majority of the society"*. These approaches for migrants did not yield any type of liberal policy in terms of migration even for regular migration stock.

Migration destination countries influence European Union institutions establishing stricter regulations and norms through their national interests in order to minimize irregular migration. These regulations include: pre-

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<sup>6</sup> Okyavuz, Mehmet. 1999. *Federal Almanya'nın Yabancılar Politikası*



frontier measures (deeper visa requirements, carrier sanctions, interdiction and interception), strengthened physical borders, documentation with enhanced security features and biometric data and post-entry measures such as detention, workplace inspections and employer sanctions.

Instead of deciding to provide policies in favor of irregular migrants and refugees, European Union shift the population of migration burden towards 3<sup>rd</sup> countries and encumber them to *deal* with irregular migration, although 1951 Geneva Convention require states to cooperate for burden-sharing of refugees and asylum seekers in order to evade the social and political responsibilities of immigrants<sup>7</sup>.

### **The Readmission Agreement of Turkey**

Through its growing economy and progressing democracy in the region, Turkey completed the transition from a country of emigration to immigration. In last decade the current government party of Turkey provides open-border policies and visa-free agreements for the nationals of neighbouring countries that leads Turkey to be a transit country for migrants, who are form the Middle East, the Balkans and Africa. The nationals of these countries aim to move to developed countries in order to find better economic conditions in an environment with political and social rights. Although the vast majority of these people enter the developed countries in regular ways, some fall within asylum and refugee status, while the rest of them either enter irregularly or become irregular due to overstaying their visas, residence permits, work permits.

Since the aspect of irregular migration management turns into a type of conditionally measure for Turkey's EU membership<sup>8</sup>, Turkey transformed its migration, refugee and asylum policies and regime with accession process and harmonizing these policies with European Union acquis. With accession process, fighting against irregular migration turns to a harmonization obligation along with controlling the entire migration issues in a regular form because the membership accession process of European Union brought Turkey heavy duties controlling irregular migration flows. European Union overemphasizes the irregular immigration flows, stocks and sources.

Destination and transit countries view return as an important tool to reduce irregular migrant stocks. Irregular migrants have been deported or forcibly returned from countries of destination. There are two options for

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<sup>7</sup> Betts, Alexander., Loescher Gil., Milner James. 2012. *The Politics and Practice of Refugee Protection*

<sup>8</sup> İçduygu, Ahmet. 2005. *Irregular Migration Control between the EU and Turkey*



irregular migrants and unsuccessful asylum seekers to return their country of origin: deportation, promoting return or readmission agreements with 3<sup>rd</sup> countries<sup>9</sup>. In this regard, the relations between Turkey and European Union in terms of immigration are located in obstacles for irregular migration flows, since the migration corridor of Turkey is commonly used towards developed countries of the European Union.

Even before the accession process had been started, Turkey and Greece signed a readmission protocol, which remained in force between 2002 – 2010 in order to stop irregular immigrants towards European Union. In this protocol:

- Greece claimed to be readmitted in total was 65 300
- Turkey accepted to be readmitted in total was 10 124
- Greece sent and Turkey readmitted in total was 2 425<sup>10</sup>

Readmission Agreements in general are one of the most common method for destination countries to stop and prevent irregular migration flows, where externalization of borders is a widespread policy for EU member states and in this regard, the role of Turkey is vital to control irregular migration towards European Union member states. Since the 1990's, when Justice and Home Affairs became a crucial debate for European Union, a large number of bilateral Readmission agreements were signed around the World, the vast majority by European Union<sup>11</sup>.

The involving outcome of the readmission agreement is that Turkey will be a storage for transit irregular migrants and those, who did not receive the regular status in destination countries in short notice, where the destination countries are already eager to deport these unwanted migrants in their territories in order to reduce the numbers of irregular migration flows and stocks. There is no obligatory international law for a state to readmit any person, who is rejected from a different state because of lack of regular status to stay, other than the readmission of its own nationals<sup>12</sup>. In this respect, there is no obligation, practically, for Turkey to readmit irregular migrants from European Union member states of 3<sup>rd</sup> states citizens, although these irregular migrants entered the EU from Turkey. It is all about international relations, mainly; political balance and for EU-Turkey Relations about *burden-sharing*.

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<sup>9</sup> David, Fiona. 2000. *Human Smuggling and Trafficking: An Overview of the Response at the Federal Level*

<sup>10</sup> İçduygu, Ahmet. 2014. *Irregular Migration Corridor between the EU and Turkey: Is it possible to block it with a Readmission Agreement?*

<sup>11</sup> Coleman, Nils. 2009. *Third Country Interests and Refugee Rights*

<sup>12</sup> İçduygu, Ahmet. 2005. *Irregular Migration Control between the EU and Turkey*



Readmission Agreements in general are prepared bilaterally without regarding the special cases of asylum seekers and refugees. One of the main critics by civil society, NGOs and academics for Readmission Agreements are risky instruments for refugees, irregular immigrants and asylum seekers. According to international law and 1951 Geneva Convention, refugees should be protected. The Geneva Convention guarantees the refugees to be protected and not to be expelled or returned by any state because of their life or freedom are under threat due to race, religion, nationality, membership of a particular social group or political opinion. It is a fact that there are obligations for each state to protect the refugees and asylum seekers by international law. In addition, the *non-refoulement* principle of migrants will be violated through the Readmission Agreement.

The biggest concern and critic for Readmission Agreement is that migrant entry, particularly moving due to political reasons, will be much harder towards developed countries. Turkish civil society see the agreement another tool in order to control migration tighter and border regimes harder rather than to see the agreement as “burden-sharing” in terms of irregular transit migration control. Readmission Agreement of Turkey is a pre-warning for transit irregular migrants in advance that will make them to be send their homes in case of being captured in European Union territories. The Readmission Agreement will lead to weaken the entry of refugees and asylum seekers and will strengthen the preclusion of irregular migration flows that will condemn the refugees and asylum seekers to human traffickers and smugglers that endangers migrant security.

### **The Balance between State Security and Migrant Security**

In last decade a large number of people migrate from their countries because of persecution, human rights violations, armed conflicts and social unrests towards developed countries, who seek asylum in the destination countries. As defined 1951 Geneva Convention, some of these migrants receive refugee status because they need protection and relief, while the others either fall within asylum seeking or irregular migration status.

The social and economic outcomes of globalization influence the sovereignty of all states, where they aim to reclaim their traditional task; national security. Since the end of cold war, *securitization* has emerged in the political sphere in sovereign states, which gain new field of government actions in terms of immigration: state security and human security<sup>13</sup>. The controls of irregular immigration occur a crucial part in the securitization

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<sup>13</sup> Faist, Thomas. 2004. *International Migration and Security before and after 9/11*



agenda of destination and transit countries, although these controls have been started before 9/11, which was a milestone for destination countries to provide harsher and stricter policies and take measurements to prevent the entry of those so called *unwanted* immigrants.

First of all, state security and sovereignty should be correctly identified with objective analysis. Although irregular migration flows only consist a small percentage of entire migration flow, the argument of discourses for irregular migrants claims that the security of destination countries are under risk and danger due to enormous migration flow, where the political significance of irregular migration outweighs its numerical importance.

Secondly, irregular migration flows have been mentioned in political discourses to be threats for state sovereignty, since controlling the borders and recording who enter and cross their borders is a sovereignty right for each state, because irregular migration cannot be controlled by emigration and immigration countries, which occur a threat for state sovereignty. In addition to this, stopping irregular migration is fundamental to reasserting full sovereignty.

Also irregular migration is seen as a threat for economic stability and increased of unemployment, where at the end it is combined with xenophobia. In fact migration can be correlated of main indicator of fall through of with ethnic, religious and cultural diversity.

In order to prevent irregular migration flows and control their borders, governments have several strategies. Fortress Europe is a definitive and certain goal for European Union member states in order to prevent the irregular migration flows. To fulfill this goal, destination countries implement extensive visa requirements and deportation policies for irregular migrants via Readmission Agreements with 3<sup>rd</sup> countries<sup>14</sup>. On the one hand, these policies might be established by European Union member states for justifiable reasons for state security matters since controlling the borders and preventing irregular entry are their sovereignty rights that are protected by international laws. On the other hand, these border regimes and migration policies are only based on limitation, restriction and termination of irregular migrants and especially refugees and asylum seekers. Refugees and irregular migrants fall into traps of human traffickers and smugglers in order to reach to destination countries. At this point, migrant security is under threat by smugglers and traffickers and most obviously women and children. In order to pay the over high cost of irregular “travel”, irregular migrants and refugees try to enter irregularly, they are forced to work in the crime organizations; organized mendicity,

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<sup>14</sup> Koser, Khalid. 2005. *Irregular Migration, State Security and Human Security*



drug trafficking, child pornography and sex industry. Irregular migrants often work in the most dangerous and inhuman jobs and they are excluded from all fundamental human rights, social welfare provisions, health-care, education and residence. Migration in an irregular way does not jeopardise the migrants themselves, but also their status because this is a certain and significant concern that irregular migrants will receive a valid asylum claim.

In addition, in many 3<sup>rd</sup> world countries, because of social and political unrests and weak administrations, where there are violations of human rights and democracy, their nationals are not allowed to migrate to other countries, otherwise there are harsh penalties to their security. Nationals of these countries are tortured, imprisoned and even deprived from rights to life and such a readmission agreement between Turkey and European Union, citizens of these countries will be passed along to underdemocratic governments.

### **Conclusion**

Destination countries aim to govern the extra ordinary over populated migration flows with ordinary control based migrant policies and strategies. Instead of focusing on to provide effective and efficient legislations for the irregular migration and to consider for the outcomes and impact on social and economic matters, member states of European Union aim to manage the irregular migration management crisis with existing preventing oriented strategies. This situation leads ignoring the reasons and outcomes of over populated irregular migration flows.

First of all, this readmission agreement will open channels to deport any unwanted irregular migration to the territories of Turkey that may lead becoming Turkey a storage of migrants, where Turkey will be unable to carry out sufficient responsibilities in terms of migration protection and welfare rights. Since the destination countries influence European Union to take decisions in the favor of their interests in terms of irregular migration, the burden-sharing principle along with refugee protection obligations are shifted to the 3<sup>rd</sup> countries' political and social areas of responsibilities. In other words, European Union comes to arrangements with non-member states to manage the irregular migration in their territories by expressing state security matters of destination countries. They also refer in political discourses that irregular migration cause for potential state security threats such as: terror, unemployment, lack of integration, public health and public security. However these are overgeneralizations and especially stereotypes in political discourses to influence the voters during election periods.



Secondly, criticized concerns for the Readmission Agreement of Turkey is that it is violation of refugee protection laws and 1951 Geneva Convention non-refoulement principle, where even irregular immigrants should have benefit from fundamental protection. It also will probably induce the irregular immigrants to be exploited socially and economically by human traffickers and smugglers both pre-entry and post-entry processes to destination countries.

Open-border migration policies are not efficient strategies without providing infrastructures for migrants. They include education, employment, healthcare and residence. The turkish open-border migrant policy, infrastructure for over-populated irregular migrants are not fulfilled yet, therefore a large number of children cannot benefit from primary education, the number of registered employees is very low and those, who can benefit from healthcare is not adequate.

The solutions is to provide refugee and asylum seeker protection obligations by ensuring destination countries' security measures. To fulfill these obligations are crucial indicators for even legitimacy of destination countries' governments in terms of implementations of international agreements and human rights because sovereignty cannot be an excuse to violated migration protection obligations. In this context, burden-sharing must be performed among the member states and 3<sup>rd</sup> countries by distribution of irregular immigrants eachother, where neither all destination countries nor all non member states supposed to take all responsibility for over-populated immigrants. Burden sharing is the most effective way, rather than Readmission agreement or other control-based migrant policies.

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