

# STUDY GUIDE

EUROPEAN COMMISSION

- ★ Refugee Crisis: Reshaping Europe's Immigration Policies
- ★ Turkey on the Path of EU Enlargement





# European Commission Study Guide

European Union Simulation in Ankara (EUROsimA) 2017

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# Letter from the Secretary-General

Honourable Participants,

I welcome you all to the 13th session of EUROsimA which I believe will be nothing less than a wonderful experience for all the participants. More specifically however, I am joyful to welcome you all to the European Commission.

European Commission is one of the most interesting and also the most complex of all the EU institutions in my opinion. Its slightly complicated decision mechanism and its technocratic structure provides the Commission with the mobility and authority it requires to address even the most problematic agendas. This year, these agendas are indeed problematic but also they require immediate and concrete solutions. First topic that the delegates will be dealing with, which is the restructuring of the immigration policies; will be subject to co-decision. This means, not only the Commission will provide a solution that is suitable for the technical details of the committee but they must ensure that it is also approvable by the Parliament, which is an organ formed directly with the popular vote of the European People.

As of the second topic, delegates will have to address an issue that is more on an intergovernmental level. The European Commission will discuss the prospective membership of Turkey. Considering the tense relations that the EU and Turkey do have recently, it remains a challenge for the EU to decide upon whether the negotiations should be continued and whether Turkey should be a member of the EU.

This study guide is prepared to make sure that each and every delegate finds all the essential information quickly and from one unified source. It has been prepared with the invaluable efforts of Ms. Ekin Su Yılmaz and I am extremely grateful for her contributions to this conference. Moreover, without Mr. Can Baran Beder's additions to the study guide, it would never have been as academically strong as it is now.

I once again welcome you all to EUROsimA and the European Commission and I wish you an amazing MUN experience.

Kindest Regards,

**Ali Berk İdil**

Secretary-General of EUROsimA 2017

## Letter from the Under Secretary-General

Dear participants of EUROsimA 2017,

It is my utmost pleasure to welcome you to EUROsimA 2017, a unique experience where you will get the chance to meet with and practise European politics. Having the honour of serving as the under-secretary general responsible for European Commission, I can assure that this year's session will provide not only a platform of free expression and competition for debate enthusiasts but also an insight on the functioning of the European Union with its multiple committees and multi-dimensional structures. In EUROsimA 2017, each participant will surely go through challenging processes of acknowledging the past, debating the present and deciding for the future of the European Union whose integrity has recently become a topic of question.

As for the committee of the European Commission whose political and functional roles in real life are vital in resolving today's struggles, the Agenda is set on two fundamental objectives. First is to reflect the actual functioning and decision mechanism set within the EU through a process of conciliation called "ordinary legislative procedure". For that, the European Commission's first challenge will be to reshape Europe's immigration policies with a set of directives of which will have to be drafted and sent to European Parliament for discussion and approval. Since this co-decision process will actually present itself during the conference, the solutions set by the delegates of European Commission (which will be called as "Commissioners") will directly be debated by the delegates of the European Parliament (the MEPs). Hence, the organic relation between the European Commission and the European Parliament will be shared through a mutual topic and will be experienced by the participants through an illustration of the co-decision process.

The second topic which will this time not be a mutual one will be the analysis and discussion of Turkish membership to the European Union. The choice of topic stems from the second and most important of objective of the committee of European Commission which is to place Turkey within the whole debate on the European Union and her future. By discussing whether Turkey is complying with European values and standards or not, the Commissioners will have to come up with a decision on Turkey's fate on the path of EU in light of the recent political and diplomatic tensions. The decision-making process will surely be a challenge as the participants will have to let go of their Turkish identity and act as if they are actually members of the European Commission who are responsible of upholding the integrity of the Union by the nature their duty. It will also be advantageous for the participants to discuss on a topic so relevant to the political agenda of today.

Before finalising my words, I'd like to express my sincere gratitude to the Academic Team of EUROsimA 2017 for their hard work and cooperation; specifically and namely

to the under-secretary general responsible for the committee of the European Parliament, Can Baran Beder, to our Academic Assistant Ali Demir and surely to my dearest friend, the Secretary General of EUROsimA 2017, Ali Berk İdil. Finally, I'd like to express my gratefulness to you, the delegates of the conference who will take their time and effort to join us in debating the problems of the past, the present and the future. I hope you will enjoy your participation to the session as much as we have found joy by preparing it.

Should you have any questions regarding the Study Guide, the co-decision procedure or the committee itself, please do not hesitate to contact me as it would be my duty and pleasure to help you.

With regards,

***Ekin Su Yılmaz***

Under Secretary-General

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Agenda Item I:

# **REFUGEE CRISIS: RESHAPING EUROPE'S IMMIGRATION POLICIES**

# 1. Structure

## a. European Commission

The European Commission is the executive body of the European Union, established in the year 1958. As the politically independent body of the EU, the Commission upholds the interests of the EU as a whole, while also representing the union to the outside world with the exception of the common foreign and security policy. Centred in Brussels, Belgium; the Commission has Representations in all EU Member States and 139 Delegations across the globe.<sup>1</sup>

The European Commission is responsible for drawing up proposals for new European legislation, and implementing the decisions of the European Parliament and the Council of the EU. Specifically, the European Commission has 4 main roles: to **propose legislation** which is then adopted by the co-legislators, the European Parliament and the Council of Ministers; to **manage and implement EU policies and the budget**; to **enforce European law** (jointly with the Court of Justice); and to **represent the Union** around the world.

The term “Commission” has 2 implications. As for its composition, The European Commission consists of a team of 28 Commissioners (one from each EU country) – led by the Commission President, who decides who is responsible for which policy area. Hence, “Commission” firstly refers to the ‘Members of the Commission’ appointed by the Member States and the Parliament to run the institution and take its decisions. The College of Commissioners includes the President of the Commission, his seven Vice-Presidents, including the First Vice-President, and the High-Representative of the Union for Foreign Policy and Security Policy and 20 Commissioners in charge of portfolios<sup>2</sup>.

Every 5 years, a new team of 28 Commissioners is appointed within 6 months of the elections to the European Parliament. When appointing the President, the governments of Member States propose a name as the candidate for the President in the European Council. After the proposal, if the candidate gets the majority of votes in an election within European Parliament; the President-elect selects the 27 other members of the Commission, on the basis of the suggestions made by Member States. The final list of Commissioners-designate has then to be agreed between the President-elect and the Council. The Commission as a whole needs the Parliament’s consent. Prior to this, Commissioners-designate are assessed by the European Parliament committees. The current Commission’s term of office runs until 31 October 2019. Its President is Jean-Claude Juncker<sup>1</sup>.

<sup>1</sup> “Organisational structure”, *European Commission*, November 23, 2016, [http://ec.europa.eu/about/index\\_en.htm](http://ec.europa.eu/about/index_en.htm).

<sup>2</sup> “European Commission - European Union Website, The Official EU Website - European Commission”, European Commission, 2017, [https://europa.eu/european-union/about-eu/institutions-bodies/european-commission\\_en](https://europa.eu/european-union/about-eu/institutions-bodies/european-commission_en).

The second implication of the term “Commission” refers to the institution itself and the staff as whole. The day-to-day running of Commission business is performed by its staff (lawyers, economists, etc.), organised into departments known as Directorates-General (DGs), each responsible for a specific policy area.

The Commissioners meet as a College once a week, usually on Wednesday, in Brussels. The College agendas are determined by the President. In terms of the Committee’s strategy, Commissioners appointed to different policy areas by the President decide on strategic objectives and produce an annual work programme.

In the European Commission, every commissioner is equal in the decision-making process and equally accountable for these decisions. Decisions are taken based on collective responsibility, generally by consensus and if not; by simple majority where every Commissioner has one vote. After decisions are taken, they are directed to Directorate-General in the form of draft legislative proposals.

The current Commission’s political guidelines drafted by President Juncker are based on 10 priorities constituting the main political agenda of the Commission. These 10 priorities are: Boosting Jobs, Growth and Investment; A Connected Digital Single Market; Climate Action and Energy; A deeper and fairer Internal Market; A deeper and fairer Economic and Monetary Union; A reasonable and balanced Free Trade Agreement with the US; An area of Justice and Fundamental Rights; A new policy on Migration; Bringing together the tools of Europe’s external action; and Democratic Change within EU.

## **b. European Parliament**

The European Parliament is the parliamentary institution of the European Union, founded in 1952. It is the European Union’s law making body and the European Union citizens elects its members every five years. The European Parliament has three main locations (Strasbourg, Brussels and Luxembourg) and three main roles: Legislative, budgetary and supervisory.

As of July 2014, there are 751 Members representing eight political parties although 17 of the members are non-attached (non-inscrits). Elections take place every five years, and the numbers of the members change accordingly. The population of the member states determines the number of seats per country. These members in the parliament elect the president of the parliament, who is expected to serve for two-and-a-half years. During his term, the president represents the parliament. The Parliament also elects the head of the European Commission.

The Lisbon Treaty extended the European Parliament’s legislative role and brought it to equal terms with the council. Now as a true lawmaker, parliament has a bigger role in legislative procedures. These procedures follow a path, which assures the necessity and accuracy of the law proposals.

The most common law making process is the ordinary legislative procedure, which involves other institutions as well. In order to start an ordinary legislative procedure; the commission must submit a proposal on its initiative or at the demand of the citizens, which makes it an exemplary form of participatory democracy. Other European institutions can request a proposal as well. There is no specific requirement regarding the source of the demand, although the final decision on whether to submit a proposal or not has to be made by the commission. If the commission turns down a demand concerning a proposal made by the parliament, it has to give an explanation for the refusal.

The parliament can have two reading sessions for a single proposal. When the first reading comes to an end, the parliament decides on its position about the proposal. It can accept it with no changes, or it can submit amendments to it. The proposal is then sent to the council, where the parliament's position will either be accepted or changed. If both institutions agree on the same position, the legislation is then adopted. If council does not agree with the parliament's first reading position, the proposal is sent back to the parliament, where the second reading will take place. If the parliament rejects the position of the council, the procedure is concluded, and the proposal is dropped. If the position is approved by the parliament, then the act is adopted.

Another area where parliament is considered powerful is the budgetary procedure. Again, the commission prepares the final estimates taking other institutions' ideas in consideration. The draft budget is then sent to the council and the parliament. The council announces its position on the draft budget, while the parliament divides into committees and discusses the draft budget. Each committee delivers their opinion to the Budgets Committee, which determines the position of the EP. The positions of both the council and the parliament lead to a conciliation committee, where a joint text is written and voted on in the parliament.

### **c. Roles of The European Commission and The European Parliament Within the Legislative Structure (Ordinary Legislative Procedure)**

The Lisbon Treaty announced the ordinary legislative procedure, replacing the co-decision system founded by the Amsterdam Treaty. Until 2009, the co-decision system was in effect, and some 900 legislative acts were made following this procedure. As the pillars matter, this procedure was taken into consideration under the first pillar that was set forth by the Maastricht Treaty firstly. Amsterdam and Nice Treaties revised the co-decision system and finally, Lisbon agreement changed the main regulation itself, renaming it as the "Ordinary Legislative Procedure." The Lisbon Treaty, Treaty on the Functioning of the European Union (TFEU), introduced the Ordinary Legislative Procedure in Article 294. The Article regulates the whole procedure by explaining the

first reading, second reading, third reading, conciliation and special provisions.

“1. Where reference is made in the Treaties to the ordinary legislative procedure for the adoption of an act, the following procedure shall apply.

2. The Commission shall submit a proposal to the European Parliament and the Council.”<sup>3</sup>

The European Commission prepares and submits a proposal for a legislative act to the European Parliament and the Council. The explanation of the procedure will be followed by the criticism of Wim Voermans in this guide.

### **i. First Reading**

“3. The European Parliament shall adopt its position at first reading and communicate it to the Council.

4. If the Council approves the European Parliament’s position, the act concerned shall be adopted in the wording which corresponds to the position of the European Parliament.

5. If the Council does not approve the European Parliament’s position, it shall adopt its position at first reading and communicate it to the European Parliament.

6. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.”<sup>4</sup>

Following the submission of the proposal, European Parliament and the Council start their negotiations to determine a position in favour or against. A first reading agreement is adopted by the European Parliament, which is sent to the Council for their approval. If the Council approves the agreement, the proposal would be adopted. In some cases, Council would disagree with the European Union and adopt its position. This would mean that the act is not adopted and negotiations will continue. Another thing that needs to be mentioned about the first reading process is that there is no time limit for two institutions to adopt their positions.<sup>5</sup>

The Ordinary Legislative Procedure pronounces the European Parliament and the Council as the co-legislators. The Commission is not a weak actor in this procedure, though. If the Council doesn’t react, the Commission has the right to alter or withdraw their proposal. The Commission also is in the advisory position regarding any of its proposals. These powers of three institutions were agreed upon a Joint Declaration. The Commission sends the legislative presentations simultaneously to the EP and the Council.

<sup>3</sup> “Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Consolidated version of the Treaty on the Functioning of the European Union - Protocols - Annexes - Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007 - Tables of equivalences - Article 294” EUR-Lex - 12012E/TXT - EN - EUR-Lex. Accessed March 13, 2017. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012E%2FTXT>.

<sup>4</sup> Ibid.

<sup>5</sup> “JOINT DECLARATION ON PRACTICAL ARRANGEMENTS FOR THE CODECISION PROCEDURE (ARTICLE 251 OF THE EC TREATY)” <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:145:0005:0009:EN:PDF>

## ii. Second Reading

*“7. If, within three months of such communication, the European Parliament:*

*(a) approves the Council’s position at first reading or has not taken a decision, the act concerned shall be deemed to have been adopted in the wording which corresponds to the position of the Council;*

*(b) rejects, by a majority of its component members, the Council’s position at first reading, the proposed act shall be deemed not to have been adopted;*

*(c) proposes, by a majority of its component members, amendments to the Council’s position at first reading, the text thus amended shall be forwarded to the Council and to the Commission, which shall deliver an opinion on those amendments.*

*8. If, within three months of receiving the European Parliament’s amendments, the Council, acting by a qualified majority:*

*(a) approves all those amendments, the act in question shall be deemed to have been adopted;*

*(b) does not approve all the amendments, the President of the Council, in agreement with the President of the European Parliament, shall within six weeks convene a meeting of the Conciliation Committee.*

*9. The Council shall act unanimously on the amendments on which the Commission has delivered a negative opinion.”<sup>6</sup>*

Once the Council has announced their stance with the position of the Parliament, the clock starts ticking for the three-month period. This time can be extended for an extra month on request of any of these institutions. A committee is then formed in the parliament to assess the position of the council and submit a recommendation to the Parliament. The voting regarding the recommendation takes place in the Parliament. If the committee of the parliament advises accepting the position of the Council, and if this recommendation is approved with a simple majority in the Parliament plenary, then the act is adopted accordingly to the Council’s position. If the stance of the council is rejected by the Parliament, then the legislative act is considered not adopted, and the negotiations are over. In some cases, the European Parliament may fail to act within the time limit. This would also lead to an adoption of the act with Council’s first reading reflections. The European Parliament may also add amendments to the 1st reading position of the Council. These amendments can be accepted or rejected. If the amendments are accepted at the Council, the act is adopted without any doubt, according to the amendments. The Council, however, is not obliged to accept these amendments. If an amendment proposed by the Parliament is rejected, then the Conciliation Committee is formed with representatives from both institutions.

<sup>6</sup> “Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union - Consolidated version of the Treaty on the Functioning of the European Union - Protocols - Annexes - Declarations annexed to the Final Act of the Intergovernmental Conference which adopted the Treaty of Lisbon, signed on 13 December 2007 - Tables of equivalences . [Article 294](#)” EUR-Lex - 12012E/TXT - EN - EUR-Lex. Accessed March 13, 2017. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012E%2FTXT>.

### iii. Conciliation

*“10. The Conciliation Committee, which shall be composed of the members of the Council or their representatives and an equal number of members representing the European Parliament, shall have the task of reaching agreement on a joint text, by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.*

*11. The Commission shall take part in the Conciliation Committee’s proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.*

*12. If, within six weeks of its being convened, the Conciliation Committee does not approve the joint text, the proposed act shall be deemed not to have been adopted.”<sup>7</sup>*

The primary goal of the Conciliation Committee is to agree on a joint text. This committee has six weeks to reach a consensus on the final text. European Parliament sends 28 MEPs in total for the conciliation. These representatives hold meetings to discuss the technical aspects of the proposal as well. Before the meeting of the Committee, chairs of both institutions meet to discuss key aspects of the proposal. Once the joint text is established, the committee forwards the text to the European Parliament. The third reading then takes place. If the Conciliation Committee fails to reach a joint text, then the act is considered not adopted.

### iv. Third Reading

*“13. If, within that period, the Conciliation Committee approves a joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall each have a period of six weeks from that approval in which to adopt the act in question in accordance with the joint text. If they fail to do so, the proposed act shall be deemed not to have been adopted.*

*14. The periods of three months and six weeks referred to in this Article shall be extended by a maximum of one month and two weeks respectively at the initiative of the European Parliament or the Council.”<sup>8</sup>*

The subject taken into consideration at the third reading phase is the joint text that has been agreed on at the Conciliation Committee. As mentioned, only 28 MEPs from the European Parliament join the conciliation process. Therefore, the text needs to be approved by the simple majority in the parliament. At the third reading phase, there is no sequence regarding the adoption of the Parliament and the Council. Both institutions have six weeks to discuss and reach a final verdict about the act proposal. The final document submitted by the Conciliation Committee can either be approved

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

or rejected. For the proposal to become an adopted legal act, both institutions need to accept it within six weeks.

### **v. Reflections on The Ordinary Legislative Procedure: Legislative Procedure of The European Union After Lisbon Treaty<sup>9</sup>**

To criticize the legislative procedure renewal of the Lisbon Treaty, the failed constitution attempt of 2004 must be taken into consideration alongside the regulations before the Lisbon Treaty. Firstly, there were 15 legal instruments with around 50 different procedures in the pre-Lisbon era of the European Union, which raised the question; who is the legislator? The works to unify the legislator of the European Union started with the preparation works for the European Constitution, and the necessity was already pointed out in the Laeken Declaration of 2001. Even though the European Constitution failed, the need for a clear legislator was still a question. The Lisbon Treaty was to revise this confusing lot of procedures and legislative actors.

The expectations were that the Parliament would be the primary legislator of the Union, as it was seen on the Treaty on the Functioning of the European Union Article 249. However, when compared to a legislative act in a country, it is hard to say that there is a primary legislator in this procedure. All three of the institutions are free to determine their position regarding a proposal, as well as submitting amendments when bearing in mind the powers of the Council and the Parliament. Considering the freedom given to these institutions, naming a primary legislator in this context would be hard if not impossible.

## **2. Refugee Status Determination**

### **a. Historical Background**

Asylum has always been an escape for people exposed to mistreatment in their countries. Over the centuries there have been many reasons leading people to flee and seek refuge in another country. The reason that triggered asylum seeking was mostly religious in the ancient times. Now in the modern world, political asylum is more of a concern. One should be able to receive protection from another country when under a threat of persecution. First examples of asylum were in the ancient Greece and Rome. In the ancient Greece, religious institutions were entitled to shelter people fleeing from slavery or criminals that were to face persecution. Law did not recognize the authority of these establishments. However, the practice shows that these temples were protecting asylum seekers to an extent. In contrast, ancient Rome has implemented asylum to expand the population of the city. The refuge provided

<sup>9</sup> *For further reading especially on this matter:* Wim Voermans, "Is the European Legislator after Lisbon a real Legislature?" *Legislação (Cadernos de Ciência de Legislação)* N.º 50, Outubro - Dezembro 2009

was limited to slaves mistreated by their masters rather than anyone who has faced persecution in their country. In Roman Empire, law, just like the situation in Greece, did not recognize the asylum. Nonetheless, the term asylum was codified later on. The Egyptians and the Hebrews also recognized asylum in an ethical manner; the church later adopted that. Modern asylum, though, roots back to 1948 Universal Declaration of Human Rights. The declaration stated, “Everyone has the right to seek and to enjoy in other countries asylum from persecution.” The 1951 Geneva Convention and its protocol stressed this statement in a more detailed manner.

“Numerous principles, institutions and theories of international relations developed before that time or were passed down from the Greco-Roman world and continued without interruption even throughout the period concerned, although sooner or later they came under the influence, to a greater or lesser degree, of the new state of affairs.”<sup>10</sup>

Hugo Grotius, a well-known jurist and a big supporter of natural law, was one of the first who referred to the issue of asylum in 1625. He approached the subject matter from the international criminal law side, stating that fugitives fleeing had to be punished on the border of the nation that they were about entering. Considering his way of thinking, anyone who has committed a crime should be punished, no matter where they are. Punishing one for the crime they committed is a duty of the whole humanity. Of course, his sight wasn’t shallow, and he also mentioned about the “those whose mind is innocent”<sup>11</sup> stating that they are the ones who deserve the right of asylum. Extradition was the second choice for the country of destination.

The innocent asylum issue was addressed through religious beliefs in Grotius’ books. He stated that the religious persecution would be an undeserved enmity and one who suffers from it, had the right to seek asylum. Hugo Grotius mentioned the political asylum as well, using the example of King Pepin the “Hunchback.” He also said the political persecution as an undeserved enmity and gave an example of himself too; he stated that he was “undeservedly forced out of his native land”<sup>12</sup> and sought asylum in France.

Grotius overall expressed his thoughts on asylum rather politically. He did mention that one fleeing from persecution should be granted asylum and receive necessary protection. Granting asylum could also mean interfering with internal affairs of a nation when granted to a fugitive. This would mean another country is becoming a judge for a crime that was committed in another land. According to Grotius, no other nation could interfere with judgment of another state. However, regimes could expose barbaric actions. When those kinds of brutal actions are taken, then the government in

<sup>10</sup> Anzilotti, D. (1923) Corso di diritto internazionale (Introduzione – I soggetti – Gli organi). Lezioni tenute nell’Università di Roma nell’anno scolastico 1922–1923, Roma.

<sup>11</sup> Grotius, *De Jure Belli ac Pacis*, II.21.5.1.

<sup>12</sup> Grotius, *Rights of War and Peace*, Prologomena, paragraph 30 (“Nunc quod mihi indigne e patria ... ejecto ...”).

question does not have any law to interfere with. Therefore, a nation that violated the natural law would lose the authority of judging a citizen of their country. A country which used the power to govern wrongfully had to accept other nations aiding the oppressed by granting asylum.

Samuel van Pufendorf was also an international jurist, who opposed the ideas of Grotius. His main thesis against Grotius was that a nation would not have the authority to punish a country and take away their right to judge by deciding they have breached natural law. The benefits of accepting an asylum seeker should be considered according to Pufendorf. This beneficial way of approach was considered a dangerous way since it wouldn't provide the necessary security measures. States were free to turn down an asylum seeker in this concept, as there was no binding common law regulation regarding the issue of asylum.

These ideas put forward by these precious philosophers shaped the idea of asylum in the modern world, as well as the definition of "refugee." As with every case, early thoughts were what the advancements rooted on. The refugee definition (few changes were made after the original text was published) was established in the 1951 Geneva Convention that defines refugee as: "As a result of events occurring before 1 January 1951 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."<sup>13</sup> Different supra-national organizations defined the word in diversity but the first and fundamental definition was this very quote, made by the United Nations itself.

Another term that needs to be explained regarding this matter is Persecution. What would be considered as persecution according to the United Nations? Any state has the right to self-determine the way of governing; therefore, the way a judgment to take place in a country, or their regulations cannot interfere. However, a mistreatment is something that the international community would not accept. This mentioned abuse though must not be insignificant. Serious harm is a fundamental element in detecting a persecution. The decision to be made on seriousness though could be variable from judge to judge. Therefore, courts have to decide on ad hoc basis if the issue is beyond the requisite threshold of seriousness.<sup>14</sup>

Two other elements of the persecution are "illegitimate reasons" and "infliction or toleration by official agents." The legitimacy of reasons with harm is necessary when determining an act of persecution. A country may cause serious damage on a citizen;

<sup>13</sup> United Nations High Commissioner for Refugees. "Convention and Protocol Relating to the Status of Refugees." UNHCR. Accessed March 13, 2017. <http://www.unhcr.org/3b66c2aa10>.

<sup>14</sup> Aguilar-Solis, 168 F.3d at 570.

however, if done accordingly to the regulations, any interference would be a breach of self-determination right of that nation. The legitimacy issue again is a hard one to call; however, on an ad hoc basis, the reason behind the harm caused by the state is usually apparent and deciding on its legitimacy is quite easier than deciding if it is serious enough.

Infliction or toleration by official agents is rather an easier element to spot in this configuration of persecution compared to other two elements. If the serious harm is done for an illegitimate reason and if an official agent does it for the state, this will point out that the persecution is done by the state and the victim needs a shelter. Examining persecution element by element makes it easier for nations to decide if the person qualifies for the refugee status or not. Therefore, a person being seriously harmed by an official agent because of their ethnicity, religion, sex or social group would be an obvious example of persecution.

## **b. General Information**

Right of asylum is a granted right to people fleeing from mistreatment in their countries, as mentioned in the Universal Declaration of Human Rights Article 14. Granting this right has its procedure in different countries. These procedures commence following an application made by the person who requests asylum. The applicant, Asylum Seeker, must state his cause; which will then be investigated to evaluate the application.

Many reasons drag people into applying for asylums such as political causes, economic causes, and displacement. The term refugee is used to define a displaced person. However, to be recognized as a refugee, one's application must go through the Refugee Status Determination system of the relevant country. Until then, they are referred to as asylum seekers. The definition of the term on legal basis was first made in the 1951 Convention in Geneva, and then further expanded in 1967.

The refugee status is granted to asylum seekers to protect them. This aim of protection inevitably allocates some rights to the refugee. Non-refoulement is the most important right that is given to the refugee. Non-refoulement is the right not to be sent back to the country of origin. This measure was taken in order to ensure the safety of the refugee, in accordance with the intention of the refugee status.

Another critical refugee right is the right of return. The indicated right is the right to go back to the country of origin when the conditions are adequate. The granted refugee status cannot prohibit one's right to return to their hometown. Although not stated clearly in a document, almost every country implements this procedure.

## c. Asylum in The European Union

### i. Historical Background

The historical background of asylum in the European Union leans on the European Court of Human Rights decisions. Treaty of Rome surprisingly does not contain any reliable or detailed regulation regarding this issue. The European Court of Human Rights has extracted the Article 3 of the European Convention on Human Rights as a safeguard to who flee from persecution. However, this interpretation does not lead to granting asylum. The Court refers to this article to prevent their removal. The interpretation of this article aimed to reach the Article 33 of the Refugee Convention that prohibits a forced return to the persecutory country. The European nations were distant to the idea of granting asylum up until this point. Few asylum examples were seen through the verdicts of the Court. The Soering Case can be an exemplary judgment of protection from the death penalty.<sup>15</sup>

The fall of the Iron Curtain though has changed the procedure in the European Union. The asylum applications to the area skyrocketed after the fall of the Soviet Union. For this particular case, the taken precautions (mostly by the Schengen initiative members) were ad hoc based. Overall, these precautions proved that the abolishment of internal border controls is in close ties with the asylum procedure. Therefore, the Single European Act can be considered as a first step in establishing a common immigration system. It was the Amsterdam Treaty that integrated an asylum procedure into the European Union, as well as the Schengen Agreement. These implementations though brought up a new problem called asylum shopping<sup>16</sup>, when an applicant travels around the free-movement area rather than staying at the nation that has granted the asylum.

Regulations were being made, although there still was no concrete system regarding asylum. The Dublin Convention further enhanced the procedure, but it was not included in the legislation of the European Union. Maastricht Treaty, by setting the third pillar was a huge expectation though it could not fulfil these expectations and was considered as a failure in the creation of the single market alongside abolition of internal borders. The Amsterdam Treaty has been the turning point for all these conventions since they were all integrated to European Union legislation. The Dublin Convention, containing the regulation for asylum, was also an independent document from the European Union, so the procedure stated in it was not the European Union's system until Amsterdam Treaty. Therefore, its ratification provided the Union with a solid asylum technique.

<sup>15</sup> For a detailed review on the case: Richard B. Lillich, *The Soering Case*, *The American Journal of International Law* Vol. 85, January 1991

<sup>16</sup> Documento Relativo All'indagine Conosci- Tiva Sullo Stato di Attuazione della Convenzione di Applicazione Dell'accordo di Schengen, *Stato di Attuazione della Convenzione di Applicazione di Schengen*, Rome, 1997

The mentioned Dublin Convention regulated the state responsible for the asylum-seeker application, as well as the minimum standards required in reception centres. The Dublin Convention aimed to promote a balance in the efforts of member states at asylum process. The non-refoulement rule was once again emphasized, and the necessity of providing protection was standardized. Also, another question on hand regarding asylum, the qualification issue was coordinated with the convention. The goal was to establish same treatment as well as the same process between member states of the Schengen initiative. After the integration of these regulations, Lisbon Treaty further developed the procedure, and the Common European Asylum System reached its recent status.

## **ii. Recent Status**

### *Eurodac*

The EURODAC is a database where the fingerprints of asylum seekers are collected. For being present in the EURODAC database, the displaced person must apply for asylum and have the asylum seeker status. This data is for identification of the responsible country for the specific asylum seeker, under the Dublin Regulation. Also, the fingerprints of irregular border-crossers are stored in the same database. This enables the authorities not only detect a previous application by the same person, but also detect any irregular border crossing made by the applicant if there are any. This database was put into operation in 2003. All member states participate and rely on the system as well as Iceland, Norway, and Switzerland.

### *Common European Asylum System*

Common European Asylum System was constituted after the Amsterdam Treaty in 1999 following the Schengen Agreement. The goal of this system was to form a joint approach to asylum seekers in the European Union. The necessity of this common approach was intensified after the free movement zone was established. A common system that would ensure the same approach towards applicants would provide the high standards of protection in the whole European Union. The CEAS is applied phase by phase. The first step of the system was brought to life in 1999 and was operating until 2005. After this had mentioned phase completion, the second phase studies were done, and the Commission proposed a policy plan in 2008, in order to improve the current system.

The Union has been developing the system since the completion of the first phase via directives. These guidelines adjust the application process, the examination of the application, the supplies/rights that will be provided to an asylum seeker and the appeal process. The European Union states the previous directives were vague, but now they became more precise with the recent modifications.

With the improvement on the procedure, regarding the contemporary directives, the application process will be faster and easier for the seekers. The acceleration on the proceedings will be economical in the long run, considering the time seekers spend in the reception centre. Adding to that, the decision-makers will go through a better training in order to quicken the decision-making process and cut back on the wrong decisions.

The recent updates on the directive also consider the seekers with a special need of help. These applicants will be provided the support they require throughout the course. The update further clarifies the rules about the appeal. With this, the candidates who received an adverse decision regarding their asylum application can appeal easily, and the cases will not end up in European Court of Human Rights. This will reduce the cost of appeal and lessen the number of cases the ECHR deals with.

Another important subject revised by directives was the reception centre conditions. The reception centres are where the asylum seekers stay until they receive a decision on their application. These reception centres were not made according to common rules before since there were no clear rules set. The last directives took these reception centres into account and set clear rules about these conditions.

Qualification is another matter taken into account by the mentioned directives. The first phase of the system contained imprecise regulations about the minimum standards at the qualification leg. The integration of the refugees used to differ from country to country regarding the national rules that were applied rather than the unclear regulations set by the European Union. With the new directives, the international protection the asylum process provides is more particular, as well as the access to healthcare and employment, is extended. Likewise, the benefit of the child is considered during the assessment phase, if the case requires so.

Overall, the new directives made the regulation far more precise and protection-focused compared to the first system that was applied. These updates also ensure that the treatment by any member country will be the same towards the asylum seeker and the ones who are recognized as refugees and granted the international protection by a member state. With the Schengen agreement, followed by the Amsterdam treaty, a joint system in this subject matter was essential. The first phase that lasted six years (1999-2005) was a step taken well, although it was not enough. The revised common system is still not satisfactory, as the problems will be stated, although it surely is an improvement. The directives that reviewed the system did not bring a new, revolutionary system, though it tried to heal the main problems that the first phase has faced.

### *Dublin Regulation*

The main purport of the Dublin regulation is that “each EU Member State must be able to determine if and when it is responsible for handling an asylum claim.”

According to the Dublin Regulation, the responsibility of examining the application belongs to the Member State that is in charge of the entry of the asylum-seeker. The allocation of the responsible state follows a hierarchical order. This way, making multiple application in different countries is prevented, as well as reducing the number of asylum-seekers that are sent to numerous different states during the application process. The reception progress is eased both for the asylum seeker and the member states with this new regulation that has been updated twice. First known as Dublin regulation, it became Dublin Regulation II and the one in effect at the moment is referred to as Dublin Regulation III.

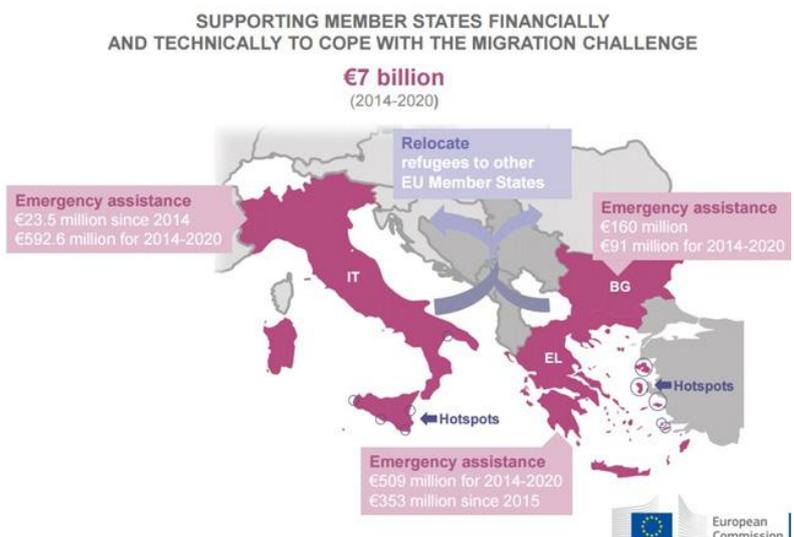
Allocating a member state as responsible for an asylum seeker is surely beneficial for both parties. It accelerates the evaluation process along with the certainty of responsibility. However, the regulation has been criticized greatly since the 2015 refugee crisis.

#### *Asylum, Migration and Integration Fund*

All those previously stated measures are costly to implement. Member states are obliged to achieve the common asylum standards. Forcing every member state to cover their costs would be harsh, and in some cases unfair. The European Union, therefore, established a funding program to efficiently manage the asylum flow. The first fund was formed in 2007 concerning this very situation. This was called the “Integration Fund.” The establishment of the “Return Fund” and the “Refugee Fund” followed it a year later. These were in use until the merger in 2014. All those funds were merged and formed the Asylum, Migration and Integration Fund (AMIF).

The Union is planning to achieve the goal of implementing the common system until 2020, and that is when the fund regulation will expire. The goal has four different specific aspects stated by the European Union: “Asylum,” “Integration,” “Return” and “Solidarity.”

- ★ The asylum goal of this fund explicates the full implementation of the current common asylum system. This fund will help the member states to carry out the asylum process within the desired procedure. Any additional financial need of a member state while achieving the system standards will be



covered by this fund. This aspect of the fund will ensure the European Union legislation is applied by every member state.

- ★ The integration subject is more complicated than the application process and could lead to tremendous financial support. This second aspect of the fund will support the migration bearing in mind the labour market needs and benefit the integration of the refugee, as well as keeping the labour market of the member state unblemished.
- ★ An appropriate return strategy will cost the state a considerable amount of banknote. Therefore, this aspect ensures a humane and an effective return policy. Any extra financial need of a member state will be covered by this fund, so a standard procedure is applied in every member country, overlooking the economic issues.
- ★ The solidarity aspect refers to a full co-operation in the process. If a member state is affected severely by an asylum flow, they can rely on other members. This aspect ensures an equal contribution on the refugee subject matter.

### iii. Migrant Crisis

#### Abstract

*“When it comes to managing the refugee crisis, we have started to see solidarity. I am convinced much more solidarity is needed. But I also know that solidarity must be given voluntarily. It must come from the heart. It cannot be forced.”*

*- Jean-Claude Juncker*

*State of the Union Address European Parliament, 14 September 2016*

European Commission identifies the Refugee Crisis as the “Test of our generation.” The displacement crisis the world is facing today has left more than 65 million people to be displaced as a result of violent conflicts and natural disaster.

In the last 2 years, more than 1 million refugees have arrived to the European Union with the large majority of them fleeing from the war in Syria. The EU has taken a responsibility in dealing with the refugee crisis both in terms of an immediate humanitarian aid and with a long-term migrant policy to help integrate refugees into their society. Steps are being taken to relocate asylum seekers already in the EU, resettle people in need from neighbouring countries and return people who don't qualify for asylum. The EU is improving security at borders with a new border and coast guard, tackling people smuggling and offering safe ways for people to legally enter the EU.<sup>17</sup>

At the moment, The EU and its Member States is the largest donor of the world with

<sup>17</sup> “The EU and the Refugee Crisis”, *European Parliament*, 2017, <http://publications.europa.eu/webpub/com/factsheets/refugee-crisis/en/#what-is-the-eu-doing>.

€68 billion. In 2015 and 2016, 10 billion Euros were dedicated from the EU budget in responding the Refugee crisis of the continent. In order to support refugees in Turkey, the EU and its Member States are providing €6 billion through a dedicated facility between 2016 and 2018.<sup>18</sup>

EU's efforts in that sense, are not only limited to the refugees residing in Europe. Simultaneously, the EU is not only helping assist the Member State with the highest number of refugees but also providing assistance to the refugees in Syria and in host communities such as Syria, Turkey, Lebanon, Jordan and Iraq.

To comprehend the crisis that began in 2013, the instability of the European migration policy has to be debated. As far as the external borders are concerned, the peripheral countries had the bigger portion of the effort to show to secure their borders, as well as dealing with migration. This led to an uneven shouldering of burden, the opposite of what the Dublin Convention desired. The equal effort idea was not as easy to implement in practice as the members thought it would be. Another issue, which damages the equality in the procedure, would be Dublin principle's determination of the country responsible for the asylum application. According to this principle, the country that the asylum-seeker entered Schengen zone is the country that is responsible for assessing the application. This again puts the burden on the countries that are at the external borders. Although the aim was to prevent asylum shopping, a crisis could easily turn this procedure upside down. The inequality in the system was not visible then, as the terms did seem fair enough and in ordinary cases, the burden wouldn't be as high as it has been recently.

The first unexpectedly massive wave of migrants was seen in 2011 as a result of the Arab Spring. The number of North African asylum-seekers skyrocketed. This unexpected situation revealed the weak side of the European migration policy. Member states were frustrated about the number of asylum-seekers. Soon, the crisis began on three fronts.

- ★ The first front to be named would, of course, be the “second movement” issue. This matter was brought up when the refugees arriving in Italy stated that they wanted to go to France. This would be understandable considering the language and number of North African migrants in France although these refugees moving over to France would be a breach of Dublin Convention. The particular issue was with the Tunisian refugees arriving at Lampedusa, Italy. Italian authorities assessed their applications, and they were granted a six-month residence permit, which would allow them to travel freely throughout the Schengen area. Authorities at their destination, the French were hesitated. They have blocked trains coming in from some Italian towns and prevented the entry of refugees. This raised the tension between the French and the Italian,

<sup>18</sup> Ibid.

as this was a reintroduction of internal border control. The European Commission acted soon enough stating that the reintroduction of internal borders can only be done if there is an undeniable threat to national security and should be used as a last resort.<sup>19</sup>

- ★ Another issue at stake was about the mobility rights of the citizens. Following the Eastern Expansion of the European Union, internal mobility rates increased in great amounts. This kind of movement within the area was referred to as “welfare shopping.” Although with this situation there was no breach or any kind, many of the member states were concerned about their workforce. Although there was no systematic statistic about the issue, political campaigns, as well as media campaigns, were started against the mobility of the citizens themselves. The debate over it is far from over, although the European Commission and Germany have stated that this is a right of the people.<sup>20</sup> The discussion was already tense, and the refugee crisis worsened the situation.
- ★ The third and the last front of this heated debate were about the common asylum system, and its functioning. The states were acting accordingly to the Dublin Convention, a convention that did not take a crisis into consideration. As the number of arrivals rises, the number of deaths at sea also increased. It was clear that the European Union could not show an effective way of dealing with the situation. The member states wanted to end this crisis with an effective, yet legitimate way.

As the tension rose between members regarding these issues, the 2013 crisis worsened the situation. The system was already being questioned, but the worst case was still on the way.

### *The Outset*

The on-going violence in countries was always the root of mass migration. With the situation in Syria heading for worse, people decided to flee their country. Syrian originated applications were leading the statistics since 2013. The number of applications was floating around 200.000-280.000 before the Syrian civil war. The Common European Asylum System was formed to compensate these figures. The application count rose up to 660.000 in 2014, challenging the European Union. The following year's count skyrocketed to almost 1.400.000. This was a lot more than the system could handle.

There were three main reasons of the European Union becoming the most popular destination for migration. First and the most significant one is the situation in Syria. The civil war in Syria got extremely violent in the last years. People lost their hope in pursuit of stability and decided to leave their country because their lives were in danger. Their first options, the bordering countries, and their policies are the second

<sup>19</sup> European Commission, Third Biannual Report, and “New Schengen Rules to Better Protect”.

<sup>20</sup> Mason and Oltermann, “EU Freedom of Movement Non-negotiable”.

reason

The refugees were not accepted in many Middle Eastern countries, so they decided to head to the west. There were countries in the region providing support, like Turkey, Lebanon, and Jordan. The main problem with these countries was that they did not grant the asylum seekers any official refugee status and there was almost no intention to integrate them into the society. The third element plays a role here, which is the refugee situation in the European Union.

The asylum system in the European Union is much more appealing than bordering countries, considering the integration goal and the welfare. Asylum seekers wanted to live in an environment where they can be a part of a harmonious society. The bordering countries did not provide the chance of being a part of the community, and nor the harmony that people were seeking. The tempting conditions in Europe encouraged the migrants to head there.

#### *Partial Suspension of The Dublin Regulation*

The crisis ended up putting most of the burden in particular countries according to the Dublin Regulation. This forced Hungary to suspend the European Union system on asylum. The refugees, who made it to the Balkans, travelled all the way to Hungary and entered the European Union there. This would mean that Hungary has to take care of every refugee who moved along the Balkans. Greece and Italy were also under much pressure for being the first stop of many refugees alongside Hungary.

The ban of Hungary also led some other member states to stop accepting applications as well like Austria. These countries rightfully said the Dublin Regulation would damage their country excessively, and the solidarity within the European Union in asylum receiving was not achieved. Germany was the first country to respond to this crisis alongside the Czech Republic by stating that it would accept refugees even if it did not have to, according to the Dublin Regulation.

The sacrifice made by some countries was enough to save the day, although it is now clear that the Dublin Regulation may not be fair in unexpected cases. Germany relied on the sovereignty clause of the Dublin Regulation, although this blemished almost everyone's belief in the system. Everything was planned right and accordingly to the expected. However, a crisis could easily break down the whole system.

#### *Aftermath*

This crisis urged member states to take an effective action against the situation. Member states decided to arrange a meeting to discuss recent events. The asylum seekers attracted the attention of human traffickers. German officials said that this was a human tragedy and it should be solved. Many temporary precautions were taken as the border control enhancements, and relocating refugees. However, one thing is clear that the European Union's original system failed to survive a crisis. It is now

accepted that the European Union must have regulations, which are revised and effective enough to sustain such crisis situations.

Member states now do agree that the Common European Asylum System has to be improved. The implementation of the current system aimed to equalize the effort and sacrifice between member countries. But it is obvious that the on-going procedure can put states into positions that are not equal at all. The problem is yet to be solved.

## 3. Integration

### a. Introduction

In 2015 more than a million migrants and refugees crossed into the borders of Europe, kindling a complex variety of political, social and humanitarian crisis in the continent. The displacement crisis the world is facing has resulted in a division between Member States on how to respond to the increasing influx of the people as well as on how to resettle them.

More than 130.000 people have already reached the borders of Europe as of 2016<sup>21</sup> with a daily average of arrivals amounting to nearly 2,000, tenfold the figure of 2015.<sup>22</sup> If the rate of arrivals continues at 2015's level, it is estimated that 3 million migrants will have reached Europe by 2017 in only two years.<sup>23</sup>

Due to the nature of their escape from persecution or war, refugees naturally need to feel safe and accepted to better engage with a new society. However, at the same time, they are especially resilient, eager to work and restart their lives in a foreign environment. Integrating these refugees is, therefore, one of the biggest challenges Europe faces today.<sup>24</sup>

Although these numbers, the scale and the effort of their integration are worrying in many aspects, it has been discussed that along with a strategic policy plan to current Europe and its needs; refugees and migrants can be turned into not only a social but also to a demographical and economic opportunity. Demographic shifts within Europe show a declining and ageing population and require that the EU working population must be increased in order to support the welfare system and pension requirements of future years. Effective integration of immigrants, including refugees, is at the heart of responding to this need.<sup>25</sup>

A welcoming policy of integration combined with a protection status and labour

<sup>21</sup> "UNHCR warns of imminent humanitarian crisis in Greece amid disarray in Europe over asylum", UNHCR, <http://www.unhcr.org/56d564ed6.html>.

<sup>22</sup> "Mediterranean Migrant arrivals in 2016 Pass 76,000; Deaths Top 400", International Organization for Migration, <https://www.iom.int/news/mediterranean-migrant-arrivals-2016-pass-76000-deaths-top-400>.

<sup>23</sup> "European Economic Forecast Autumn 2015", European Commission, [http://ec.europa.eu/economy\\_finance/publications/eeip/ip011\\_en\\_pdf](http://ec.europa.eu/economy_finance/publications/eeip/ip011_en_pdf).

<sup>24</sup> Yılmaz, Ekin Su. "Academic Preparation Kit of Scodra 2016.", *9th National Selection Conference of EYP Albania*, 2016.

<sup>25</sup> "A NEW BEGINNING, Refugee Integration in Europe.", UNHCR, 2013, <http://www.unhcr.org/protection/operations/52403d389/new-beginning-refugee-integration-europe.html>.

market openness, embraced by the all Member States of the EU can lead to economic productiveness of refugees and hinder segregation. A society with large under-productive segments will not only be economically divided, but also socially and often geographically segregated. Getting integration right is therefore the key to both a successful Europe and to an effective protection system for refugees in Europe.<sup>26</sup>

## b. Integration in The Literature

United Nations High Commissioner for Refugees (UNHCR) refers to integration as “the end product of a dynamic and multifaceted two-way process with three interrelated dimensions: a legal, an economic and a social-cultural dimension” while also accepting the complexity of the term caused by its developing nature. Integration as a process is not finished unless refugees become fully included members of society. Hence for integration to be successful, a collective effort by all parties including host countries and to public institutions working to welcome the refugees is needed.

When shaping their immigration policies, European Union and its Member States have placed integration high on the policy and political agenda particularly since mid-1990s.<sup>27</sup> In order to facilitate an effective and practical integration model, many Member States have been investing in several programmes and research targeting to highlight the trajectories of migrant integration.

When examined in detail, aforementioned three interrelated dimensions are all considered as irrevocable in the process of a successful integration. While legal dimension of integration requires all regulations in practise to grant refugees a wide range of entitlements and rights; the economic dimension aims to have refugees integrate into labour market and contribute to economy of host country while being “able to pursue sustainable livelihoods”<sup>28</sup> Lastly, social/cultural dimension highlights refugees’ eventual achievement of residing as member of local communities and actively participating, without being discriminated and having to forego their own cultural identity.

The 1951 Convention and Protocol Relating to the Status of Refugees<sup>29</sup> also emphasises the importance of integration when combined with the 1967 Protocol Relating to the Status of Refugees.<sup>30</sup> Article 34 of the Convention under the title of “naturalization”, expects contracting states to facilitate assimilation and naturalization of refugees while reducing costs and charges of such proceedings.

For refugees in Europe, the Qualification Directive (2011)<sup>31</sup> and the rights included within are taken as a vital document. Coincidentally, also the Article 34 of the Directive

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> The 1951 Convention and Protocol Relating to the Status of Refugees: <http://www.unhcr.org/3b66c2aa10>

<sup>30</sup> The 1967 Protocol Relating to the Status of Refugees: <http://www.unhcr-centraleurope.org/pdf/resources/legal-documents/international-refugee-law/1967-protocol-relating-to-the-status-of-refugees.html>

<sup>31</sup> Qualification Directive (2011): <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:en:PDF>

upon Access to integration facilities states that “Member States shall ensure access to integration programmes which they consider to be appropriate so as to take into account the specific needs of beneficiaries of refugee status or of subsidiary protection status, or create pre-conditions which guarantee access to such programmes”.<sup>32</sup> The directive also positions integration as one of the principles of development and considers its challenges both socially and economically.

Prior to the Directive, UNHCR had published recommendations on how members of the European Union could better do so after an informal meeting in May 2007 of EU Ministers responsible for integration. As an outcome of this meeting, a **Note on the Integration of Refugees**<sup>33</sup> in the EU was published. Highlighting the existing lacking points in European Integration Policies against refugees, the note also acts as an innovative piece of work as it consists of many policy recommendations to policies and practises in hand. Therefore, the key findings of the Note are to be explored further to understand how UNHCR perceives European efforts towards integration.

As explored in the document and within UNHCR’s direct contacts with refugee men, women and children; the key obstacles to integration as identified by refugees consist of:

- ★ Difficulties due to lack of knowledge of local languages and differing cultures;
- ★ Discrimination and unreceptive attitudes towards foreigners;
- ★ Lack of understanding within host societies of the specific situation of refugees;
- ★ Psychological impact of protracted inactivity during asylum procedures;
- ★ Limited access to rights for persons with subsidiary protection.<sup>34</sup>

Another interesting finding of the Note on the integration is the similarity between the challenges refugees face in Europe and the challenges faced by third country nationals staying legally in the European Union. Among outstanding similarities are discrimination and xenophobic attitudes along with gender-specific, cultural and language barriers.

Isolation and separation as outcomes of a lengthy asylum procedure is also another problem area as identified by the Note and followed by lack of language and vocational training, accommodation and employment. By itself, an extended asylum procedure can be one of the main obstacles to the successful social, economic and cultural integration of spontaneously arriving refugees. The status determination procedure is often characterized by insecurity and inactivity.<sup>35</sup> Insecurity and inactivity may lead to mental health damages and provoke conditions such as depression, dependency syndrome, apathy and lack of self-confidence, hindering employment and

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<sup>32</sup> Ibid.

<sup>33</sup> Note on the Integration of Refugees in the EU: [www.unhcr.org/protect/PROTECTION/463b462c4.pdf](http://www.unhcr.org/protect/PROTECTION/463b462c4.pdf)

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

social skills after recognition with particular impacts on children, for whom stability is especially important.

Following these challenges, the Note also identifies specific challenges to refugees who are unlike migrants when moving to another country as they, by their reason of movement; do not necessarily and most likely share a cultural, economic or linguistic link. Specifically, these challenges are identified as challenges deriving from Refugee Status, Consequences of Trauma, Lack of Administrative Assistance and Recognition of Qualifications, Non-fulfilled Right to Work, Family Separation and Failing Naturalisation.

Last but not least, it is concluded by UNHCR in the Note that EU has to develop further its policies and practices on integration, to the benefit of persons in need of international protection and their host communities in Member States alike.<sup>36</sup>

In this guide, refugee integration will be explored under to titles Social and Labour Market Integration, all explored in detail with their trajectories, barriers and possible recommended solutions.

### **c. Social Integration**

Building up on this Note, along with European Refugee Fund of the European Commission, in 2013; UNHCR publishes an integration report based on an EU funded project on Refugee Integration Capacity and Evaluation (RICE). The report provides nine aspects perceived by authorities as problematic when trying to integrate refugees in European societies. Hence, 9 barriers to social integration of refugees are:

1. Education
2. Employment
3. Language
4. Social Inclusion
5. Active Citizenship
6. Housing
7. Family reunification
8. Asylum process
9. Personal Experiences Associated with persecution

As understood from the interrelatedness of the scope of the barriers, these categories can be explored in main 3 points.

#### **i. Education and Language**

Although Education and Language are separate policy areas at the national and EU level, the two are considered to be closely related and not mutually exclusive when considering their parts in refugee integration. For refugees, learning the language is

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<sup>36</sup> Ibid.

central to integration because it facilitates employment and allows the refugee to feel part of the wider society, creates a sense of belonging, enables friendships and generally facilitates day to day living.<sup>37</sup> Hence, education in this context does not refer to school education, yet contains what is agreed to be “further and higher education.”<sup>38</sup>

Typically, a refugee would arrive to the receiving country with little to no language ability. Exceptions are refugees from francophone countries arriving in France or Belgium, and those from Anglophone countries arriving in the UK or Ireland. Nonetheless, the majority of refugees in EU Member States must learn a new language. During asylum, there is often no, or limited, structured language training made available and asylum-seekers rely on informal methods of learning resulting in a long period of time during which language is acquired piecemeal.<sup>39</sup>

So, what happens during the asylum process is that while waiting to be granted a refugee status along with rights to achieve this language, vocational and skill-based trainings, “refugees’ existing skills, experience, knowledge, qualifications and careers are put on hold”.<sup>40</sup> Training, networking and job searching during this time are also stopped due to the lack of language and therefore the refugees’ ability to be independent financially and socially are hindered. Whatever their former status may be, the refugee becomes “grounded, made dependent, and isolated by their lack of language.”<sup>41</sup> Such problem also indicates the difficulty of finding accommodation.

Data does show that refugees struggle to access further and higher education, primarily due to lost documentation to prove existing education, to non-comparability of educational standards in many refugee-producing countries, to having to learn a new language, and to the classroom context not being conducive to practicing the new language.<sup>42</sup> Although learning a new language is vital for the refugee’s future in residing Member State, it should be also noted that having to learn a language under such pressure and expectation is surely a challenge; especially one that cannot be overcome if left alone and without help.

Although many Member States, EU-related programmes and independent and individual efforts offer language training to refugees, their help and scope are open to question. Some of the problematic areas raised by stakeholders and refugees are that course levels are not high enough to facilitate, for example, labour market entry, and that courses are sometimes difficult to access due to location or timing.<sup>43</sup> Moreover, neither the providers of these courses nor the facilitators of the integration programmes have put in enough effort to explore the enablers or preventers of language

<sup>37</sup> “A NEW BEGINNING, Refugee Integration in Europe.”, *UNHCR*, 2013, <http://www.unhcr.org/protection/operations/52403d389/new-beginning-refugee-integration-europe.html>.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

acquisition. So, the refugees are left to improve their language in both a slower and informal way.

Along with language training, skill-based education; although again offered in many Member States, are limited to basic or general level IT courses. These courses are only adequate to provide refugees with lower level jobs in which it is only possible for them to barely provide a future for their children.

Specifically, it is explored by the UNHCR report once again that the factors which influence refugee language and education are:

- a. Employment:** There is considerable anecdotal evidence to show that while language facilitates employment, employment facilitates language acquisition.<sup>44</sup> Sweden's efforts are given as a successful example in this context while United Kingdom's are reviewed to be not working well.
- b. Agency support and provision of information:** It is noted that agency support and the information they provide serve as an important factor for refugees in their language acquisition. Agencies in France and Austria were rated as unhelpful for their unwelcoming treatment.
- c. Validation of certificates and skills:** Documents and certificates lost or left behind in the country of origin and the task of validating comparability of certificates and skills are considerable challenges.<sup>45</sup> Validation is normally a long-lasting procedure or not considered at all by authorities. Sweden, once again in this context is seen as a successful example.
- d. Appropriate language training:** As explored above, language along with an appropriate training is vital for refugees to shelter in the Member States. In Germany, for instance language training courses are being provided in a national level.
- e. Age:** Age becomes a problem in language acquisition especially when the mentioned refugee is above 50.
- f. Family reunification:** Stakeholders in Sweden and France noted that refugees find it hard to focus on education or language training when they have family whereabouts and safety on their minds.<sup>46</sup>
- g. Economic situation:** Training and education remain only as aspiration as long as the refugee is not financially dependent. Austria and Sweden are given as Practise examples with their services.
- h. Health:** Many refugees suffer from Post-Traumatic Stress Disorder (PTSD) symptoms that make it difficult to concentrate on learning.<sup>47</sup>
- i. Asylum Process:** As the nature of the transition period from being an asylum

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<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

seeker to a refugee is distressful, education during this term is noted to unhelpful.

## ii. Social Integration, Social Inclusion and Active Citizenship

It is identified by UNHCR that the subjective character of this category makes it difficult to arrive at general conclusions as; by their nature social integration and inclusion are rather emotional states of the refugees. Nonetheless, this emotional state is proved to be influential as one step of the integration process is inevitably social.

Research suggests that refugees face challenges breaking down barriers and forming friendships or associations with members of the receiving population. This is related to language ability, cultural differences such as preferring not to socialize in pubs and bars, uncertainty of cultural norms, fear of rejection or experiences of racism, time and psychological limitations connected to concerns about finances, employment, housing and family separation, segregation in larger cities, and age.<sup>48</sup>

Active citizenship, on the other hand is both a national and EU-level policy area just like Education and Language. An active citizen is defined as “A person who actively takes responsibility and initiative in areas of public concern such as crime prevention and the local community.”<sup>49</sup> It is desirable not only by Member States but by the EU that at the end of a successful migrant integration, each refugee becomes active citizens. Active citizenship is less about naturalization and closer to social integration since it is about participation. However, indicators of active citizenship focus on uptake of citizenship and voting behaviour.<sup>50</sup>

Factors which influence refugee social integration, social inclusion and active citizenship are identified as:

- a. Reception centres:** Reception centres are temporal accommodations for people in distress such as refugees. Many refugees have stated that they felt inclusive when residing in reception centres, especially the ones residing in France. Nonetheless, it should also be noted that reception centres are temporary and should not be considered as a final solution for social inclusion.
- b. Employment and Volunteering:** Stakeholders noted employment makes people feel part of the community and respondents said they did not feel part of society without employment and that employment was seen a path to acceptance by others. However, employment did not emerge as being key to social integration.<sup>51</sup> Volunteering, on the other hand, provides contact and participation, helping refugees as parts of the local and national communities.
- c. Support from community, NGOs, and receiving country nationals:** In Ireland, religious communities are formed to help refugees gain support and become

<sup>48</sup> Ibid.

<sup>49</sup> Oxford Dictionary.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

more and more included in the society.

- d. Cultural knowledge and spaces:** Socialization in cultural spaces is also essential in adapting the refugees to a less traumatic and stressful day-to-day life.
- e. Activities and schools:** Especially after-school activities for refugee children are found helpful in maintaining a healthy psychology and battling PTSD.
- f. Location:** The benefits of living in a refugee-dense area are explored as the commonality of a refugee experience, of being a newcomer, of struggling with the language can produce supportive networks and greater understanding of challenges.<sup>52</sup>
- g. Financial concerns:** Parallel to its impact on education and language, the more financial concerns an individual has, the more she will be hesitant to engage in social activities.
- h. Age:** A clear correlation between age of arrival and integration is explored by Swedish authorities in a way that the younger the refugee is, the easier it will be for her to integrate.
- i. Prior experiences and family separation:** The psychological impact of prior traumatic experiences and lack of reunification with families make it harder for refugees to actively participate in another Member State.
- j. Racism, discrimination and representation:** With a focus on discrimination and racism in stakeholder meetings, both stakeholders and respondents in Ireland felt racism and discrimination were common.<sup>53</sup>

### iii. Housing

Accommodation and possible challenges refugees face during housing search are distressful and hindering in terms of their integration to social lives. Refugees seem to struggle accessing suitable, affordable, secure, independent housing. This struggle derives from many factors such as but not limited to the landlord's reception and prejudice against refugees, lack of employment or the fear of not meeting the contracts. If the refugees fail to find housing, an increased level of stress and anxiety along with many health problems risking one's physique and psychology may occur.

For those newly acquiring refugee statuses, the combinations of needing to move and being permitted to work have mutual impact and the ability to achieve one affects the ability to achieve the other in this transition phase.<sup>54</sup>

Factors which effect refugee housing can be explored more in depth as:

- a. Landlords and landlord requirements:** In Ireland, refugees have stated that the attitude of the landlords when renting accommodation are characterised as being racist and unwelcoming. In Austria, it was stated that documentary was

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<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

seen as an excuse for landlords not to rent their houses to refugees.

- b. Urgency upon recognition:** When acquired the refugee status, refugees are then forced in a very short amount of time to leave their reception centres. Yet, the refugees at that period do not yet have a job to provide housing and they have the most difficult time during this transition period.
- c. Employment, secure income and personal finances:** Although employment and personal wealth are also aforementioned in their parts in social integration, a secure income also plays an important role in assuring that the refugee family is sustained to keep on affording the rent and expenses.
- d. Housing shortage and standards:** This problem is mainly particular to larger cities as more positive experiences towards housing are seen outside larger cities. Depending on location, housing becomes more or less challenging and incidences of sub-letting and precarious housing increase or decrease.<sup>55</sup>
- e. Support to find housing:** A policy recommendation in this area is to have service providers' act as mediators between landlords and refugees in order to prevent misunderstandings.
- f. Urban preference:** As mentioned above, when preferences are accumulated in urban areas, it becomes difficult for refugees to find the suitable housing. Nonetheless, urban areas still remain as number one choice of residence.

At this point, the report is concluded with many policy recommendations, all highlighting the importance of these interconnected categories and their role in adapting the refugees to social, economic and political life. Lastly, the report is suggesting that. Understandings of what integration is underpin government direction on integration policy and integration support and vary considerably between governments, policy-makers and stakeholders. There are also differences between these understandings and refugees' understanding of what integration means to them which may lead to different perceptions of "successful" integration.<sup>56</sup>

## d. Labour Market Integration

### i. Importance

Along with the social aspect, for the current refugee crisis to be tackled with a possible successful integration, integrating refugees into the labour market and consequently to the economy of the Member States remains to be the most relevant durable solution. There is a widely shared consensus among experts that labour market participation is the single most important step to a successful integration into host societies as presumably high numbers of asylum-seekers and refugees will stay in the

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<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

EU for years.<sup>57</sup> Adopted by the Justice and Home Affairs Council in November 2004, the 3rd CBP for Immigrant Integration Policy in the EU identifies employment as a key part of the integration process and central to the participation of immigrants, to the contributions immigrants make to the host society and to making such contributions visible.<sup>58</sup>

It is a wide known fact that welcoming a large number of refugees comes with its costs to national budgets. Nonetheless, experts highlight that additional public spending on refugees has to be seen as an investment in the future.<sup>59</sup> To denote whether this investment will pay off in the long run with benefits solely depends on national and EU-level efforts made in terms of how well these refugees are welcomed, trained and integrated. Hence, positive economic impact through the participation of the refugees is only possible through refugees being integrated fully into the host country's economies.

#### **Recommendations on how to improve reception conditions of female refugees**

- Women and children need more protection as they are a minority in comparison to the number of male asylum seekers which makes them as such a vulnerable group.
- Asylum application procedures must become more gender-sensitive.
- There must be extra attention for girls and women in order to prevent these women from becoming victims of human trafficking or sexual or gender-based violence. In reception centres, women should be housed separately from men and women should have safe access to private sanitary facilities.
- Female interviewers and interpreters should be provided. Individual interviews organized separately from family members, would allow women to speak more freely and to make the applications of women more successful.
- Special measures to protect women should be taken, especially where large numbers of asylum seekers have caused overcrowded reception centres and lengthy asylum application procedures.

Source: European Parliament (2016a).

#### **ii. The Literature on Labour Market Integration of Refugees**

A study by Employment and Social Affairs Committee of the European Parliament **“Labour Market Integration of Refugees: Strategies and good practices”**<sup>60</sup> provides a review of literature to identify key elements of a strategy for labour market integration of refugees.

The study reveals that in the past On EU average, it took between five and six years

<sup>57</sup> “Labour Market Integration of Refugees”, EMPL Committee of the European Parliament, 2016, [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578956/IPOL\\_STU\(2016\)578956\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578956/IPOL_STU(2016)578956_EN.pdf).

<sup>58</sup> “Common Basic Principles for Immigrant Integration Policy in the EU”, Justice and Home Affairs Council, 2004, [http://www.eesc.europa.eu/resources/docs/common-basic-principles\\_en.pdf](http://www.eesc.europa.eu/resources/docs/common-basic-principles_en.pdf).

<sup>59</sup> “Labour Market Integration of Refugees”, EMPL Committee of the European Parliament, 2016, [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578956/IPOL\\_STU\(2016\)578956\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578956/IPOL_STU(2016)578956_EN.pdf).

<sup>60</sup> Ibid.

to integrate more than 50 % of humanitarian migrants into the workplace and as much as 15 years to reach a 70 % employment rate converging towards the outcomes for labour migrants.<sup>61</sup> Although the study also suggests that the time of entry into labour market is also an indicator in terms of integration as the national economic crisis might affect the refugees' career and employment. Yet, 15 years to integrate is not only a worrying period for refugees but also not helpful for the national economies unless certain steps are taken to accelerate the process.

Along with the period of integration, the study reveals that by OECD/EU statistics,

Commission (DG Home) Modules for Integration	<ul style="list-style-type: none"> <li>• Language tuition should be started within 3 months of arrival for asylum seekers with high prospects of being allowed to stay</li> <li>• Refugees with skills beneficial to the host country should be prioritized in language courses</li> <li>• Language courses should be sorted by competency level and adapted to migrants' identified needs</li> <li>• Set minimum requirements for language proficiency using the Common European Framework of Reference (CEFR)</li> <li>• Establish a specialised centre for the acknowledgement of skills</li> <li>• Evaluate already existing credentials and skills through interviews and practical tests</li> <li>• Access key personnel knowledgeable of most common occupations among third-country nationals</li> <li>• Mentoring is generally recommendable, in co-operation with NGOs and public services</li> <li>• Refugees should be informed about education opportunities</li> </ul>
Study European Parliament (ECRE)	<ul style="list-style-type: none"> <li>• Link language training to employment</li> <li>• Pre-arrival language training should be a component of pre-departure orientation in the case of resettled refugees</li> <li>• Services must be tailored to take into account cultural diversity, gender, age and specific needs</li> <li>• Skills and credentials must be fairly assessed and accredited</li> <li>• Flexibility to accommodate individual skills and aspirations is essential</li> </ul>
UNHCR	<ul style="list-style-type: none"> <li>• Language tuition should be started as soon as possible after arrival</li> <li>• Foster combined work and language activities (i.e. volunteering, internships, work experience and apprenticeships)</li> <li>• Humanitarian migrants should be assigned to language courses based on prior assessment of their competency level</li> <li>• Support employment agencies in recognizing skills of refugees and in directing them to appropriate employment</li> <li>• Introduce early post-arrival practical skills assessments</li> <li>• Make loan, grant and scholarship schemes for higher education available for refugees</li> <li>• Promote access to specialized funds or schemes</li> </ul>

gender is a determining factor in integrating into the market. It is explored in the study that women refugees integrate less successfully and slowly into the market,

<sup>61</sup> Ibid.

OECD	<ul style="list-style-type: none"> <li>• Differentiate length and level of offered language courses to take into account refugees' varying educational levels</li> <li>• Increase availability of on-the-job training for high-skilled refugees to improve content and delivery of skills-based language learning</li> <li>• Assess skills at the outset of the integration process through interviews and practical tests</li> <li>• Recognize already existing qualifications and experiences</li> <li>• Mainstream alternative assessment methods (e.g. recognition of prior learning) for refugees without documentary proof of qualifications</li> <li>• Provide job search assistance and well-targeted support to refugees' with diverse educational backgrounds</li> <li>• Increase availability of on-the-job training for high-skilled refugees to improve content and delivery of skills-based language learning</li> <li>• Create tailored-made programs; long-term upskill programs for illiterate and very poorly educated and comprehensive vocational skills programs for the higher-skilled</li> <li>• Develop language, education, skills and other support programs for unaccompanied minors who arrive past the age of compulsory schooling</li> </ul>
IMF	<ul style="list-style-type: none"> <li>• Provide language and job search training early</li> <li>• Tailor introductory programs so as to link personalized training and employment assistance to financial and housing support</li> <li>• Allow for temporary exemptions to the minimum wage regime where high entry wages are a concern</li> <li>• Provide wage subsidies to employers</li> <li>• Tackle "inactivity traps" by reducing marginal taxes on low wage workers and/or tapering social benefits more gradually upon entering employment</li> </ul>
Research	<ul style="list-style-type: none"> <li>• Language skills and credential recognition ensure a better match</li> <li>• Participation in language courses at the earliest opportunity pays off</li> <li>• Selective evidence on what ALMP work for migrants and refugees</li> </ul>

causing not only an economical but a social dispute.

When national policies are reviewed on their level of success in terms of refugee integration, many policy flaws and gaps are found by the European Parliament's report. These gaps are listed as:

- ★ Investments to humanitarian aid which often is seen as costly
- ★ Technical and specialised support to refugees
- ★ Specialised efforts to help refugee women integrate into labour market
- ★ Attention devoted to unaccompanied minors
- ★ Motivating employers to hire refugees
- ★ The initiatives of labour market institutions

These flaws are reflected in the Study so that they are also being recommended in many ways to be solved by the same source.

A study by the FEMM Committee of the European Parliament should be mentioned here, as the committee has recently published recommendations to overcome this gender barrier.

Surprisingly, another policy recommendation from the FEMM Committee suggests “the integration highlights that policies aimed at guaranteeing refugees’ rights and wellbeing cannot be gender-neutral, otherwise they are destined to fail.”<sup>62</sup>

In company with gender-based suggestions, the study also explores labour market support policies. One integral and common finding is the **early access to labour market**.

Article 15 (1) of EU Directive 2013/33 state by the Commission (DG Home) Modules for Integration states that Member States have to ensure that asylum seekers access the labour market **no later than nine months** after they apply for international protection. On the other hand, IMF and OECD offer to shorten this waiting time. In addition, OECD suggests “Lifting restriction to facilitate rapid labour market access for asylum seekers with high prospects of being allowed to stay.”<sup>63</sup> While, IMF also recommends to ease the restrictions and barriers to attain employment.

Restrictions like a work ban on self-employment (in Sweden or the UK) or labour market tests (in Germany, Luxembourg, Hungary, Greece and the UK) make labour market access conditional on the proof of employers or the public employment service that no domestic worker or EU-migrant could have filled the position in question.<sup>64</sup>

The tables below, as taken from the Study itself can serve as a set of policy recommendations which will surely be helpful to any authorities wishing to actualise labour market integration of the refugees.

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<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

## e. A Final Remark on Integration

Although different trajectories, problems and policy recommendations are represented throughout the previous pages, it should be noted that integration still remains as a national competence. The implementation of integration policies falls under the responsibility of the Member States.<sup>65</sup>

Hence, the main role of any EU body - let it be either European Parliament or the European Commission- is to provide a strong coordination, well-prepared analysis, policy recommendations and unifying ideas to Member States and aid them in actualising their integration policies. In return, Member States, by the nature of their commitment to the union should always respect and protect humanitarian values the union upholds and refrain from any policies clashing with the European principles.

# 4. Conclusion

## a. Exploring the Issue from The European Commission's Perspective

Before proposing any policy, recommendations responding the European Refugee Crisis, one must recognise and grasp the role of the European Commission, its related Commissioners, competences and actions on Migration and Refugees.

To start with, for Juncker Commission, Migration is one of the political priorities in which the Commission is working to achieve a common European agenda on. The Commission's agenda on migration defines immediate measures needed to prevent human tragedies and to strengthen emergency responses.<sup>66</sup> The Agenda consist of a 4-pillar aim and action project in which the following steps are aimed to be taken:

1. Reducing the incentives for irregular migration,
2. Saving lives and securing external border,
3. A strong common asylum policy,
4. A new policy on legal migration.<sup>67</sup>

Along with an EU-level based plan, Commission is also working together with Member States in a detailed *17-point plan of action*<sup>68</sup> and with the African Union while also trying to tackle the root causes of migration.

Within the Commission's organisational structure, Directorate General (department) for Migration and Home Affairs is responsible for managing the studies and policies on the policy area. Specifically, the DG is responsible for policies dealing with asylum and migration, EU Agencies in supporting Member States, facilitating Networking activities and giving input to European Commission.

<sup>65</sup> Ibid.

<sup>66</sup> "Migration", European Commission, [https://ec.europa.eu/commission/priorities/migration\\_en](https://ec.europa.eu/commission/priorities/migration_en).

<sup>67</sup> Ibid.

<sup>68</sup> **17-point plan of action:** [http://europa.eu/rapid/press-release\\_IP-15-5904\\_en.htm](http://europa.eu/rapid/press-release_IP-15-5904_en.htm)

Among the Commissioners, Migration is among the priorities and responsibilities namely of the First Vice-President Frans Timmermans, of the High Representative Federica Mogherini and of the Commissioner Dimitris Avramopoulos. The Commissioners and their team are working both with and under the Department for Migration in tackling the Refugee Crisis, directing and supervising the Commission's policies.

Last but not least, on the topic of Migration the next steps of the Commission as explored by the Commission are:

1. Swift operationalization of the European Border and Coast Guard<sup>69</sup>,
2. Implementation of the **EU-Turkey Statement**<sup>70</sup>,
3. Swift adoption by the co-legislators of the Commission's proposals to reform the **Common European Asylum System**<sup>71</sup>,
4. Implementation of the new Migration partnership framework with Third Countries Swift adoption by the co-legislators of a **new resettlement framework**.

## b. Exploring the Issue from The European Parliament's Perspective

An explanation of the role of the European Parliament is necessary before stating its view on the subject. As a result of the Lisbon Treaty, The European Parliament has been the co-legislator in the Union since 2005. This puts the institution in a vital place in the adoption of legislative acts. Alongside being a legislator, the Parliament has given its necessary support to the creation of the European Asylum Support Office. The MEPs organize visits to the reception centres and detention centres to examine if the minimum requirements are met. Lastly, the European Parliament has used its power to obtain the annulment, as seen with the adoption of "Safe Third Countries List."<sup>72</sup>

The European Parliament has long been working on an improvement of the Common European Asylum System since the first crisis took place. The aim is to reform both the asylum system as well as the Dublin Regulation regarding the asylum policy of the Union. The Dublin system was proven to be a source of trouble in a crisis. The studies among the European institutions are shaped around the search for a lawful, beneficial and yet efficient system for replacement. The European Community desires to reach an agreement on a text that respects the fundamental human rights and ensures the protection of those who flee to their country. A study published by the European Parliament<sup>73</sup> addresses the issue in three different areas.

The first area of discussion is the regulation of reception and detention centres in the area, alongside the issuance of humanitarian visas, and the implementation of

<sup>69</sup> **European Border and Coast Guard:** [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/securing-eu-borders/fact-sheets/docs/a\\_european\\_border\\_and\\_coast\\_guard\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/securing-eu-borders/fact-sheets/docs/a_european_border_and_coast_guard_en.pdf)

<sup>70</sup> **EU-Turkey Statement:** <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>

<sup>71</sup> **Common European Asylum System:** [https://ec.europa.eu/home-affairs/what-we-do/policies/asylum\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en)

<sup>72</sup> ECJ, judgment of 6 May 2008, Case C-133/06.

<sup>73</sup> Enhancing The Common European Asylum System And Alternatives To Dublin, Study for the LIBE Committee, 2015. [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/519234/IPOL\\_STU\(2015\)519234\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/519234/IPOL_STU(2015)519234_EN.pdf).

the Temporary Protection Directive. The European Parliament expects to see a distinctive decline in the number of deaths at sea. For this goal, help, and support from the private sector is considered a necessity. Some of the rescuing operations should be sponsored by the private sector. The institution also expects member states to meet minimum requirements set by agreements of the European Union. Access to procedures at first reception centres should be possible.

Adverse decisions about applications are mutually recognized by the member states regarding a request for asylum. However, in the case of a positive decision, a mutual recognition of this decision is not being implemented. A mutual appreciation of the positive decisions is an obligation under the Article 78 of the Treaty on Functioning of the European Union. This recognition is necessary to create a common and harmonized asylum system in the area. This is the second aspect the studies mention.

The third issue has been a controversy ever since the Dublin Regulation was adopted; the question at hand is the regulation itself and the imbalance of financial effort expected by the member states. The asylum-seekers are considered to be under pressure with the Dublin Regulation requirements as there is no free choice in immigration according to the convention. The need for possible post-recognition relocation has long been emphasized in the studies published by the European Union. The role of Asylum Migration and Integration Fund should be clearer, and the fund must be raised as a preventive measure for possible crises.

## Further Readings

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Agenda Item II:

# **TURKEY ON THE PATH OF EU ENLARGEMENT**

# 1. Enlargement and EU Policy

Enlargement is a process in which countries join the EU and is one of the topics of the European Union. Since its foundation in 1957, the EU has enlarged from 6 to 28 countries. The 6 founding members of the EU in 1957 were Belgium, France, Germany, Italy, Luxembourg and the Netherlands. Several other West European countries joined after 1973. Following the collapse of their regimes in 1989, many former communist countries from central and Eastern Europe became EU members in 2 waves, between 2004 and 2007. In 2013, Croatia became the 28th country to join.<sup>74</sup>

As stated in the Article 49 of the Treaty of the European Union, **any European country may apply** for membership if it **respects the EU's democratic values** and is committed to promoting them.<sup>75</sup> Yet, when it comes to acceptance, the country has to fulfil the criteria and conditions for accession, as defined by the EU leaders at their summit in Copenhagen in 1993. These criteria are what we know as **Copenhagen Criteria** today. Generally and specifically, the criteria are:

1. **political:** having stable institutions guaranteeing democracy, rule of law, human rights, respect and protection for minorities;
2. **economic:** a functioning market economy and the ability to cope with competitive pressure and market forces within the EU;
3. **legislative:** administrative and institutional capacity to effectively implement the *acquis* and ability to take on the obligations of membership.<sup>76</sup>

Although the criteria are clear, the EU has the ultimate and rightful say in deciding which country to accept to membership and when to do so. This reserved right comes from the fact that EU is responsible for integrating new members, hence the Union holds the initiative to decide when and how the Member State to be integrated should be accepted.

**The criteria are not limited to these 3 concerns. Specifically, under Stabilisation and association process conditionality<sup>77</sup>, candidates from western Balkans are enti-**

## Article 2, Treaty on European Union

*The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States ...*

## Article 49, Treaty on European Union

*Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.*

<sup>74</sup> "Enlargement", *European Union Website*, [https://europa.eu/european-union/topics/enlargement\\_en](https://europa.eu/european-union/topics/enlargement_en).

<sup>75</sup> Ibid

<sup>76</sup> "Accession Criteria", *European Commission*, [https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/ac-cession-criteria\\_en](https://ec.europa.eu/neighbourhood-enlargement/policy/glossary/terms/ac-cession-criteria_en).

<sup>77</sup> "Stabilisation And Association Process", *European Commission*, <https://ec.europa.eu/neighbourhood-enlargement/policy/>

***led to engage regional cooperation and good relation with neighbour countries. In order to understand the logic behind European Enlargement, one must firstly know the related policy of the European Union which is also known as the European Neighbourhood Policy and Enlargement Negotiations along with the Copenhagen Criteria in the exact historical context the decisions was drafted.***

## **a. Historical Background**

After 2 World Wars which left Europe dispersed and devastated than ever, European countries certainly needed and sought a common ground in which they could reconstruct and re-establish themselves. In order not to do it individually, 6 countries (the Federal Republic of Germany, Italy, France, Belgium, the Netherlands and Luxembourg) came together in deciding that *integration* was the successful way to a promising European future and signed what is today known as The Treaty of Rome<sup>78</sup> in 1957. Thanks to the dedication of Robert Schuman, Jean Monnet, Konrad Adenauer and Alcide De Gasperi, **the first European Community - the European Coal and Steel Community (EEC)** - was founded.<sup>79</sup>

In the aftermath of Cold War, several Central and Eastern European countries were left to reorient themselves by either going back to their former yet failed communist systems or by becoming a part of a multi-national European community whose existence showed success during the last 4 decades. The former communist countries chose the second path and within months, EEC received numerous letters of application. The final say regarding these applications were left to a meeting in Copenhagen in where in the end, one political decision stands out: The decision at the European Council meeting in Copenhagen in June 1993 to invite the associated countries of Central and Eastern Europe to become members of the European Union. The decision of the European Council was motivated less by short term economic gain than by the desire to support the on-going reforms, transmit the European values of democracy and human rights, and to ensure a peaceful and stable development throughout a larger Europe. Thus, the decision was in true keeping with the original objectives of the founders of the European Community.<sup>80</sup>

The Criteria drafted on the basis of these decisions, provided a structural approach to membership as these countries to come to join had different political and economic backgrounds. It was certain that the criteria were providing a clear sense of direction, but at the same time, were giving out a challenging list of homework to do.

In May 2004 ten new members (Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic, Hungary as well as Cyprus and Malta) were ready to join,

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[glossary/terms/sap\\_en](#).

<sup>78</sup> **The Treaty of Rome:** is the treaty establishing the European Economic Community. <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3Axy0023>

<sup>79</sup> Marktler, Tanja. "THE POWER OF THE COPENHAGEN CRITERIA".

<sup>80</sup> Wammen, Nicolai. 2013. *Enlargement Remains A Driver Of Change*.

followed by Bulgaria and Romania in 2007.<sup>81</sup>

In the EU enlargement process, The Criteria still serve as the fundamental source in guiding applicant countries when shaping their steps through membership. Today, the criteria are enhanced by measures deriving from lessons learned from the enlargements of 2004 and 2007. The criteria remain the same, but there is a strengthened focus on their implementation.<sup>82</sup>

## b. Who Decides?

New members are admitted with the unanimous consent of the EU Member States.<sup>83</sup>

When a country applies to European Union Membership, first of all, the government of these countries which represent themselves through meetings in the European Council discuss upon and decide whether or not to accept the application. Membership comes later as a matter of decision.

During this process, **European Commission submits opinions** on granting this applicant (candidate) status and to open the accession negotiations. Once these opinions are submitted, then Member States draft a decision based on them.

Once this decision is being made, **the European Commission submits recommendations** on when and on what terms to open and to close negotiations with the candidate on each policy area and Member States decide in light of these recommendations.

When all the accession negotiations are complete, the candidate country and Member States sign a previously drafted Accession Treaty. The treaty then has to be ratified by all the Member States and the acceding country, in accordance with their constitutionally established procedures.<sup>84</sup>

Throughout this whole accession procedure, the European Parliament whose members are direct representatives of European citizens has to give its consent, too.

It should also be noted that this decision process is not and should not be one-sided. Candidates have to demonstrate that they will be able to fully play their part as members – something that **requires support from their citizens**.<sup>85</sup> Clear and convincing communication with the citizens and support from civil society are essential during this process, as the candidate will eventually have to go into both minor and major reforms in terms of its political and economic structure. Hence, the public consent and legitimacy during this transformation period are necessary and formally required.

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<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> European Commission., 2015. *Enlargement*.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

### c. Accession Negotiations

The opening of accession negotiations is decided on by the European Council **upon a recommendation of the Commission**, once the candidate country sufficiently meets the Copenhagen political criteria and possible other conditions.<sup>86</sup>

When we talk about Accession negotiations, we directly refer to the membership obligations and how the candidate country is responding to them. Existing EU laws and rules and the candidate's ability in terms of adopting, implementing and applying them as well the time during which the candidate country manages to do so are influential indicators in deciding how well the negotiations are pursued. There is no possibility for a candidate country to negotiate on the rules. The term negotiation refers to the common agreement between EU and the candidate country on hows and whens of the effective implementation and adoption of EU rules which are also known as the *acquis*. (French for "that which has been adopted").

There isn't a set, one single time or deadline for all the candidate countries that they are all equally obliged to meet. The negotiation pace depends on the ability of the candidate country in meeting the requirements. As mentioned above, the requirements mostly come with structural reforms. Hence, usually the Accession Negotiations take a considerable amount of time.

### d. Screening, Reporting and Monitoring

Another time-consuming aspect of Accession is what is called the Screening process. It is the first step in the negotiation process in which *acquis* is explained to the candidate country and areas in need of adjustment to its legislation, institutions and practises are explored.

For this process, EU law is divided into chapters in a way that each chapter corresponds to a policy area. **The European Commission prepares a Screening Report for each chapter and submits them** to the Council. Along with the screening report, **Commission also makes a recommendation** on whether to open negotiations on a chapter or to first require candidate country to meet certain conditions which are formally called *benchmarks* during this process. After Commission's assessment, Member States decide whether or not the opening benchmarks are met. If they do so, a negotiating position is submitted by the candidate country.

The Council then adopts an EU common position based again on a **Commission proposal allowing the opening of the negotiations on the chapter**. The EU common position also includes the conditions for closing the chapter. When the closing benchmarks have been met, the Member States adopt a new common position (always on the basis of Commission drafts) that concludes that the chapter can be closed – but

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<sup>86</sup> Ibid.

only provisionally.<sup>87</sup>

Provisional closure is essential during this whole enlargement process as the enlargement is operated on the principle ‘nothing is agreed until everything is agreed’. Hence, the definite closure of chapters is when the entire negotiation process comes to an end.

By preparing Annual Strategy Papers and Individual Country Progress Reports, The European Commission informs the Parliament and the Council on the progress of candidate and aspiring countries’. The respect and the commitment candidate shows is also monitored by the Commission until accession.

The monitoring process helps in provide additional assistance to future European members and guarantees that the candidate country is in a continuous effort of adapting to Union standards.

### e. Accession Treaty

When all chapters of negotiation are successfully completed, a draft Accession Treaty is prepared. The European Commission’s consultations and the Parliament’s consent are sought. Once they are given, Member States and the candidate country sign the treaty.

After the treaty is signed, the acceding state is entitled to certain provisional privileges. It acquires ‘active observer status’ in most EU bodies and agencies, where it is entitled to speak, but not to vote; it can comment on draft EU proposals, communications, recommendations or initiatives. Once the ratification process is complete, the accession treaty enters into force on its scheduled date, and the acceding state becomes an EU Member State.<sup>88</sup>

## 2. Current Status on European Enlargement

At the moment, there are 7 countries in candidate status, waiting to be accepted to membership by the European Union. 2 of these countries; Bosnia and Herzegovina and Kosovo are regarded as *potential candidates*, meaning that they were promised to join once they are ready. On the other hand, the other 5 countries, Albania, The Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey are candidate countries who are either still negotiating or whose negotiation has not started yet.

To start with, Bosnia and Herzegovina has been granted the potential candidate status during the Thessaloniki European Council summit in June 2003. Since then, a number of agreements between the EU and Bosnia and Herzegovina have entered

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<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

into force - visa facilitation and readmission agreements (2008), Interim Agreement on Trade and Trade-related issues (2008). The Stabilisation and Association Agreement (SAA) has been ratified and entered into force on 1 June 2015.<sup>89</sup>

Secondly, Kosovo is also a potential candidate of the European Union. In 2008 the EU repeated its willingness to assist the economic and political development of Kosovo through a clear European perspective. The EU helps contribute to stability in Kosovo through the [EULEX rule of law mission in Kosovo](#) and [Special representative in Kosovo](#).<sup>90</sup> On April 2016, The Stabilisation and Association Agreement between the EU and Kosovo entered into force and on May 2016, The European Commission proposed a visa-free travel for people in Kosovo to European Union.

As in the example of Bosnia and Herzegovina, Albania was granted potential candidate status during the Thessaloniki European Council summit in June 2003. Nonetheless, on its opinion on Albania, European Commission in 2010 concluded that the country still had to perform a necessary effort in meeting its 12 priorities. In October 2012, Albania was suggested to be given the candidate status and did so in 2014.

The Former Yugoslav Republic of Macedonia was identified as a potential candidate for EU membership during the Thessaloniki European Summit in 2003. Its Stabilisation and Association Agreement is in force since 2004, the first in the region. It applied for EU membership in March 2004 and the Council decided in December 2005 to grant the country candidate status, based on the Commission's favourable opinion. Since October 2009, the Commission has recommended to open accession negotiations with the country.<sup>91</sup>

Montenegro, on the other hand, applied to be a member in 2008 and, European Commission drafted an opinion with 7 key priorities. The Council also granted the country's candidate status. In December 2011, the Council launched the accession process with a view to opening negotiations in June 2012. The accession negotiations with Montenegro started on 29 June 2012.<sup>92</sup>

Serbia, too, was identified as a candidate country during the Thessaloniki European Council summit in 2003. In March 2012 Serbia was granted EU candidate status. In September 2013 a [Stabilisation and Association Agreement](#) between the EU and Serbia entered into force. In line with the decision of the European Council in June 2013 to open accession negotiations with Serbia, the Council adopted in December 2013 [the negotiating framework](#) and agreed to hold the 1st Intergovernmental Conference with Serbia in January 2014 and signalled the formal start of Serbia's accession negotia-

<sup>89</sup> "Bosnia And Herzegovina", *European Commission*, [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/bosnia-herzegovina\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/bosnia-herzegovina_en).

<sup>90</sup> "Kosovo", *European Commission*, [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/kosovo\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/kosovo_en).

<sup>91</sup> "The Former Yugoslav Republic Of Macedonia", *European Commission*, [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/former-yugoslav-republic-of-macedonia\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/former-yugoslav-republic-of-macedonia_en).

<sup>92</sup> "Montenegro", *European Commission*, [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/montenegro\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/montenegro_en).

tions.<sup>93</sup>

Last but not least, Turkey remains to be the oldest and the most controversial candidate country to the European Union. Having applied to what was back then European Economic Community in 1987, Turkey was declared eligible to join EU in 1999. In 2005, the Accession Negotiations began. 16 of 35 Negotiation chapters got opened for discussion, yet until now; only one chapter on Science and Research was provisionally closed.

In the meantime, Turkey has gone under significant numbers of structural and administrative changes in order to support reform in priority areas for EU membership. Nonetheless; Turkey's candidacy to EU remains to be a hot topic of debate not only in Europe but also in Turkey, kindling arguments whether the candidacy status should remain or not. In line with the country's national and international affairs which seem to go through a distressing period now and membership to EU in the foreseeable future is open to question.

The upcoming chapters will discuss the relation between two conflicted allies, their problems, their past and hopefully their future. The discussion will also put a special focus on European Commission's role during this debate to help place the Commission in this multinational content.

## 3. Turkey

### a. Introduction

Although Turkey is not a member state of the European Union, its economic, social, cultural and political connections to Europe are beyond question. Since 1999, Turkey holds the position as one of the candidate countries to the membership of the EU. Turkey's Accession Negotiations started in 2005 and since then, Turkey is trying to get closer to EU standards<sup>94</sup>. In addition, The European Union launched Visa Liberalisation Dialogue (VLD) with Turkey on 16 December 2013, in parallel with the signature of the EU-Turkey Readmission Agreement. Since then, Turkey is expected to meet 72 requirements: ranging from migration management to fundamental rights - all listed in *Roadmap towards a visa free regime with Turkey*<sup>95</sup>.

As the protection of all human rights is a fundamental commitment of all Member States, principles of the Universal Declaration of Human Rights and European Convention on Human Rights are adopted, internalised and promoted within the Eu-

<sup>93</sup> "Serbia", *European Commission*, [https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/serbia\\_en](https://ec.europa.eu/neighbourhood-enlargement/countries/detailed-country-information/serbia_en).

<sup>94</sup> "Turkey", *European Commission*, [http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index_en.htm).

<sup>95</sup> "Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap", *European Commission*.

ropean Union<sup>96</sup>. On the path towards the EU, Turkey is expected to strengthen its fundamental-rights, the rule of law, the judiciary and its democracy. Hence, Turkey ought to follow the same principles as all Member States and put freedom of expression, opinion, assembly and association first<sup>97</sup>.

The EU and Turkey continue to enhance dialogue and cooperation in the areas of joint interest, which support and complement the accession negotiations, including with a number of mutual visits at the highest level. Political dialogue on foreign and security policy is continuing, including counter-terrorism action.<sup>98</sup> Apart from its legal obligations to the EU, its partnership of trade and participation in “Visa Liberalisation dialogue”, Turkey is also the temporary protector and manager of the increasing influx of people seeking refuge from Syria.<sup>99</sup> With a Joint EU-Turkey Action Plan agreed in October 2015 and the EU-Turkey Summit of November 2015, Turkey and Europe are acting together towards bringing order in the migratory flows and stemming the influx of irregular migration<sup>100</sup>. Europe is trusting on Turkey to be the safe resident of Syrian refugees.

## b. EU and Turkey: Timeline of Events

Turkey was one of the first countries, in 1959, to seek close cooperation with the young European Economic Community (EEC).<sup>101</sup> The relation between two allies is formally dated back to Ankara Agreement which was signed with the EEC on 12 September 1963 and took effect on 1 December 1964. One motive behind this association agreement was to establish “Customs Union” for the mutual and free trade for agricultural goods. The main aim of the Ankara agreement was to achieve “continuous improvement in living conditions in Turkey and in the European Economic Community through accelerated economic progress and the harmonious expansion of trade, and to reduce the disparity between the Turkish economy and ... the Community”.<sup>102</sup> The Agreement consisted of 3 stages; a preparatory stage, a transitional stage and a final stage. Customs Union was placed at the end of transitional stage and on 1970, Additional Protocol was signed and put into effect 3 years later. The Customs Union provided a high level of integration between the parties and Turkey set EU membership as its next goal, as indicated in the Ankara Agreement (Article 28). The Customs Union continues to be a fundamental dimension of Turkish relations with the EU.<sup>103</sup>

On December 1999, at the Helsinki Summit, Turkey was given the status of candi-

<sup>96</sup> “European Convention on Human Rights”, [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).

<sup>97</sup> “Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap”, *European Commission*.

<sup>98</sup> “TURKEY 2015 REPORT”, *European Commission*.

<sup>99</sup> “Turkey”, *European Commission* [http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index_en.htm).

<sup>100</sup> “EU-Turkey Joint Action Plan”, *European Commission*, [http://europa.eu/rapid/press-release\\_MEMO-15-5860\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm).

<sup>101</sup> “EU And Turkey’s History”. 2017. *Avrupa.Info.Tr*.

<sup>102</sup> *Ibid*.

<sup>103</sup> Republic Of Turkey, *Ministry Of Foreign Affairs*.

date country for EU Membership in light with the Commission's 2nd Regular Report on Turkey. On 2001, European Council adopted the EU-Turkey Accession Partnership on 8 March, providing a road map for Turkey's EU accession process. On 19 March, the Turkish Government adopts the NPAA, the National Programme for the Adoption of the Acquis (acquis means EU law), reflecting the Accession Partnership.<sup>104</sup>

Membership talks began on December 2004 with a decision from European Council and Accession Negotiations got opened on October, 2005 and Screening began with 35 titles. Within a year from 2005, the Chapter 25 on Science and Research got opened and closed on June 2006. On December 2006, on the other hand, because Turkey refused to apply to Cyprus the Additional Protocol to the Ankara Agreement, Council decided that eight chapters will not be opened.<sup>105</sup> Hence, the situation left Council to adopt a new Accession Partnership for Turkey on 2008.

During this time and up today 15 more chapters got opened for Negotiation with none yet provisionally closed. These chapters are Free Movement of Capital, Company Law, Intellectual Property Law, Information Society and Media, Food Safety, Veterinary & Phytosanitary Policy, Taxation, Statistics, Enterprise & Industrial Policy, Trans-European Networks, Environment, Consumer & Health Protection, Financial Control, Regional policy & coordination of structural instruments, Economic and Monetary Policy and Financial and budgetary provisions.

Between 2012 and 2015, Turkey and EU took several steps in bringing back their fresh dynamics, specifically with a Visa liberalisation dialogue launched and EU-Turkey Readmission Agreement signed on 2013. The progress after this agreement is essential in not only understanding the relation between EU and Turkey but also vital to comprehend the global tensions which eventually led to turmoil between two parties.

On 15th of October 2015, candidate country Turkey and the EU have decided to activate their Joint Action Plan<sup>106</sup>. The Action Plan aimed to address the Syrian migration crisis by addressing the root causes leading to the massive influx of Syrians, by supporting Syrians under temporary protection and their host communities in Turkey and by strengthening cooperation to prevent irregular migration flows to the EU<sup>107</sup>.

On 18 March, following on from the EU-Turkey Joint Action Plan activated on 29 November 2015 and the 7 March EU-Turkey statement<sup>108</sup>, the European Union and Turkey decided to end the irregular migration from Turkey to the EU<sup>109</sup>. With this plan and as of 20th of March 2016, the Turkish government and the EU have agreed to send

<sup>104</sup> "EU And Turkey's History". 2017. *Avrupa.Info.Tr*.

<sup>105</sup> "Turkey", *European Commission*, [http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index_en.htm).

<sup>106</sup> "PRESS RELEASE/ EU-Turkey Joint Action Plan", *European Union*, [http://europa.eu/rapid/press-release\\_MEMO-15-5860\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm).

<sup>107</sup> Ibid.

<sup>108</sup> "Statement Of The EU Heads Of State Or Government", *Consillium*, <http://www.consillium.europa.eu/en/press/press-releases/2016/03/07-eu-turkey-meeting-statement/>

<sup>109</sup> "Press Release - EU-Turkey Statement: Questions And Answers", *European Union*, [http://europa.eu/rapid/press-release\\_MEMO-16-963\\_en.htm](http://europa.eu/rapid/press-release_MEMO-16-963_en.htm)

migrants irregularly travelling from Turkey to Greece back to Turkey and to resettle a Syrian refugee into the EU for every Syrian sent back in such way. Furthermore, the agreement granted additional funding to Turkey by EU up to €3 billion by the end of 2018<sup>110</sup>.

On 10<sup>th</sup> of November 2015, The Commission published the *Turkey 2015 Report*<sup>111</sup>. The report covers a one year timeframe and analyses the candidate country in terms political and economic criteria along with the ability to assume the obligations of membership. As put by the report, the current situation in Turkey was identified as divided in terms of its political landscape, worsening in security, legally limited, restricted in terms of expression & assembly and under strong political pressure.

On 14<sup>th</sup> of April 2016, the European Parliament drafted a Resolution<sup>112</sup> on the 2015 report. The resolution in line with the report stated how the current situation in Turkey made the country away from meeting the Copenhagen criteria<sup>113</sup> to which candidate countries must adhere.

As put by both the report and the resolution,

1. According to the ranking made by Freedom House for freedom of the press and media, Turkey was ranked as not having a free press and its internet freedom as being only partly free,
2. Security situation in Turkey is rapidly deteriorating, both internally and externally; whereas Turkey has faced multiple terrorist attacks,
3. Overall pace of reforms in Turkey has slowed down considerably in recent years, and that in certain key areas, such as the independence of the judiciary, freedom of assembly, freedom of expression, and respect for human rights and the rule of law,
4. Turkey still has one of the highest number of imprisoned journalists in the world,
5. There was an illegal takeover of several Turkish newspapers by the government.

On May 2016, European Commission established a fact sheet breaking down Turkey's progress on the visa liberalisation roadmap. The fact sheet indicated that under the thematic group of 'Fundamental Rights', Turkey needed to revise its legislation and practices on terrorism in line with European standards, especially by narrowing down the scope of the term's definition<sup>114</sup>. Yet, on the 6th of May, Recep Tayyip Erdogan, Turkish president insisted he would not change his country's anti-terrorism laws<sup>115</sup>.

<sup>110</sup> Ibid.

<sup>111</sup> **The Report:** [http://ec.europa.eu/enlargement/pdf/key\\_documents/2015/20151110\\_report\\_turkey.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2015/20151110_report_turkey.pdf)

**Shorter version highlighting the key findings:** [http://europa.eu/rapid/press-release\\_MEMO-15-6039\\_en.htm](http://europa.eu/rapid/press-release_MEMO-15-6039_en.htm)

<sup>112</sup> **The EP Resolution on 2015 Turkey Report:** [http://avrupa.info.tr/fileadmin/Content/2016\\_\\_April/2016.04\\_EP\\_Resolution\\_on\\_Turkey.pdf](http://avrupa.info.tr/fileadmin/Content/2016__April/2016.04_EP_Resolution_on_Turkey.pdf)

<sup>113</sup> Copenhagen criteria: [http://eur-lex.europa.eu/summary/glossary/accession\\_criteria\\_copenhagen.html](http://eur-lex.europa.eu/summary/glossary/accession_criteria_copenhagen.html)

<sup>114</sup> "Turkey's Progress On The Visa Liberalisation Roadmap", *European Commission*.

<sup>115</sup> *The Guardian*, <https://www.theguardian.com/world/2016/may/06/erdogan-turkey-not-alter-anti-terror-laws-visa-free-travel-eu>.

While the Turkish authorities and the European Union were arguing on the key conditions of their agreement, Turkish government faced a historical coup attempt and is still under a 'State of Emergency'. As a result of the unfolding of the events, Turkey has suspended the European Convention on Human Rights (ECHR). On the 21st of July, Deputy Prime Minister Numan Kurtulmus has stated that the suspension will end once the stability is restored and that Turkey would follow the example set by France when it did so following last November's attacks by Isis militants in Paris<sup>116</sup>. Until then, Turkey is not obliged to ratify the principles of ECHR.

Although the Turkish measures such as the detainment of thousands or suspension of several media outlets alarmed the European Union; the dialogue was still far away from being put aside. In fact; on September 2016, The President of the European Parliament, Martin Schulz paid a visit to Turkey and met with President Erdogan. He also made a statement highlighting that despite the challenges the country is facing "The European Parliament remains a committed supporter in advancing and deepening the EU-Turkey relations"<sup>117</sup>.

In the aftermath of the coup attempt, the Turkish President signalled a possible return of the death penalty. As a response, European Commission stated that it would be impossible for Turkey to remain as a candidate country, if it was to bring death penalty back while still affirming that unless they did so; ending the membership talks would be a "serious foreign policy mistake". On the other hand, MEP and Turkey rapporteur, Kati Piri, called on the EU to "immediately freeze accession talks until the Turkish government returned to a normal path". European Union remained critical against its candidate until November when the visit of the MEPs to Turkey was postponed signalling the possible sanctions to Turkey along the way on a direct request from the President of the European Parliament.

On 24<sup>th</sup> of November 2016, the EU-Turkey relations were shook by an ultimatum from the legislative body of the Union. By 37 votes against and 479 votes in favour, the European Parliament voted on a resolution urging to freeze EU accession talks with Turkey until it halts repression. It was a non-legislative resolution yet, the resolution proposed EU authorities to halt the Negotiation Process and MEPs strongly condemned the "disproportionate repressive measures" taken by the Turkish government since the failed coup attempt in July 2016. A temporary halt of the negotiations would entail that no new negotiating chapters be opened and no new initiatives be taken in relation to Turkey's EU Negotiation Framework.<sup>118</sup>

Turkish response to this parliamentary decision was rather negative and country reacted angrily to EU vote. The Turkish Prime Minister, Binali Yildirim, dismissed the

<sup>116</sup> *The Independent*, <http://www.independent.co.uk/news/world/europe/turkey-coup-attempt-human-rights-president-erdogan-purge-turkish-military-a7148166.html>

<sup>117</sup> "EU-Turkey: Time For More Dialogue And Cooperation", *European Parliament*.

<sup>118</sup> *European Parliament News Centre*

vote as being of no importance, but warned that ties with the EU were already strained. “We expect EU leaders to stand up against this lack of vision,” he said. “The EU should decide whether it wants to continue its future vision with or without Turkey.”<sup>119</sup>

### c. Challenges to Membership

From a European perspective, especially from the perspective of the European Commission, Turkey still needs to meet all of the many requirements which at the moment are clearly not priorities of Turkish administration. Specifically the events and measures unfolding the failed coup attempt had left the Union and European citizens with a sceptical approach to Turkey’s possible inclusion. These events are also given the majority of context in the European Commission’s 2016 Report on Turkey and are presented as an example to the challenges the membership process may face before ending with success.

First of all, the state of emergency and the legislative amendments introduced by decrees left European Union with concerns on whether Turkey was acting as if a candidate country should considering that the measures are not over sighted during this time, weakening the Check and Balance system. Given the subsequent scale and collective nature of measures taken since the coup attempt, the EU called on the authorities to observe the highest standards in respecting the rule of law and fundamental rights, in line with Turkey’s international commitments and status as a candidate country. Following the coup attempt, very extensive suspensions, dismissals, arrests and detentions took place over alleged links to the Gülen movement and involvement in the attempted coup. The measures affected the whole spectrum of society with particular impact on the judiciary, police, gendarmerie, military, civil service, local authorities, academia, teachers, lawyers, the media and the business community. Multiple institutions and private companies were shut down, their assets seized or transferred to public institutions.<sup>120</sup>

In line with the aftermath of the coup attempt and Turkish response to it, the European Commission also evaluated Turkey in terms of the Accession Criteria and took notes on the possible challenges the candidate country faces politically, economically and legislatively.

#### i. Political Criteria

The political criteria and Turkish commitment to it are viewed under the following titles in the report. According to European Commission:

**Legislative agenda: Legislation such as the law on date protection** and the adoption of a law allowing the immunity of a large number of deputies to be lifted and the ensuing detentions and arrests of several HDP members of Parliament,

<sup>119</sup> *The Guardian*, <https://www.theguardian.com/world/2016/nov/24/eu-parliament-votes-freeze-membership-talks-turkey>.

<sup>120</sup> “Key Findings Of The 2016 Report On Turkey”, *European Commission*.

**Situation in the south-east:** Serious allegations of human rights violations and disproportionate use of force by the security forces and the suspension of many elected representatives and municipal executives in the south-east,

**Civil society: Rare involvement of civil society organizations to law and policy making processes and closure of a large number of organisations,**

**Public Administration Reform:** backsliding in the area of public service and human resources management,

**Judicial System:** lack of a judicial environment allowing it to perform its duties in an independent and impartial manner,

**Fight against corruption: Rising corruption and the perception of corruption,**

**Fight against organised crime: The anti-terror law which is not in line with the *acquis* and unobservable proportionality principle in practice,**

**Human and fundamental rights:** Gender-based violence, discrimination, hate speech against minorities, hate crime and violations of human rights of LGBTI persons,

**Freedom of expression:** Restricted freedom of assembly, on-going and new criminal cases against journalists, writers or social media users, withdrawal of accreditations, high numbers of arrests of journalists as well as closure of numerous media outlets,

**Cyprus settlement:** Obstacles to the free movement of goods, including restrictions on direct transport links with Cyprus and no progress on normalising bilateral relations with the Republic of Cyprus along with its obligation to ensure full and non-discriminatory implementation of the Additional Protocol to the Association Agreement<sup>121</sup> remain as political obstacles to Turkey's membership to EU.

## ii. Economic Criteria

Large external deficit, deteriorating business environment due to targeted actions against critical media and business people and political opponents through the active use of the tax authority, the financial crimes unit and courts, quality of education with a focus on girls, reduced price competitiveness and lira's real appreciation<sup>122</sup> are significant problems remaining in well advanced and functioning Turkish market economy. In the long run, the collection of these problems may cause Turkey to lose its economic strength and meet the economic aspect of the criteria.

## iii. Legislative Criteria

Limited pace in assuming the obligations of membership, moderate preparation on public procurement, statistics and transport policy<sup>123</sup>, and the need for more attention to meet the *acquis* is legislative obstacles as put down by the European Commission.

Along with the political, economic and legislative criteria, it is expected from Turkey

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

<sup>123</sup> Ibid.

to commit itself unequivocally to good neighbourly relations, international agreements, and to the peaceful settlement of disputes in accordance with the United Nations Charter, having recourse, if necessary, to the International Court of Justice. In this context, with recent tensions between the Netherlands and the Germany, the EU has expressed once again serious concern and urged Turkey to avoid any kind of threat or action directed against a Member State, or source of friction or actions that damages good neighbourly relations and the peaceful settlement of disputes.<sup>124</sup>

#### **d. Looking to The Future**

2017 will be a significant year in Turkey as the developments and decisions will bring transformations that could change the ever-existing traditions. On April 2017, the Turkish citizens will firstly go under a constitutional referendum that may introduce a unique Presidential system. The referendum will also be essential in finalising the speculations on EU-Turkey relations as an immediate response to European criticisms have been reserved for after the referendum. 2017 also marks the 30<sup>th</sup> anniversary of the Turkish application to the European Union. It may very well be the last year for Turkey as a candidate country since the President Erdogan had signalled another referendum in repealing the application.

The year 2017 will also be essential for European citizens to have their final say in Turkish application through their votes in the upcoming elections where the majority are left to choose between a more conservative Europe and an enlarging one. If the tensions between individual European states and Turkey continue, it is possible that the decisions of the European Council will also be political and negative for the Accession talks.

It is very early to answer whether Turkey will be on The Union picture any time soon, but it should be noted that; although Turkey is not and may not be a Member State, it still remains to be one of the biggest allies of the Union and the European States. The call is on the authorities whether to cut these ties or withstand to the national and international political tensions in order to continue this friendship.

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<sup>124</sup> Ibid.

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