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# A Need for Deconstruction of the Safe Third Country Concept Applied within the EU-Turkey Statement from March 18th, 2016

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**A Need for Deconstruction of the Safe Third Country Concept Applied within  
the EU-Turkey Statement from March 18<sup>th</sup>, 2016**

By

**Aleksandrina Radeva**

A Thesis

Submitted to the Faculty of Graduate Studies

through the Department of **Sociology, Anthropology and Criminology**

in Partial Fulfilment of the Requirements for

the Degree of **Master of Arts**

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Windsor, Ontario, Canada

2016

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November 30, 2016

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## **ABSTRACT**

At its peak in 2015, the European refugee crisis brought international attention to the problems found in the European Asylum System. The so called “safe third country” concept has been primarily used in the context of the Dublin system for the purposes of allocation of asylum seekers and refugees within the European Union (EU). In 2016, this concept was applied in the EU-Turkey Statement, where its usage gained a different meaning and value due to the forced returns of asylum seekers and refugees from the EU to Turkey. The purpose of this thesis is to find the meanings beyond the humanitarian face of the safe third country concept as applied within the EU-Turkey Statement from March 18<sup>th</sup>, 2016. It becomes necessary to reveal the discursive changes—from asylum seekers’ and refugees’ security in the EU to their security in Turkey. A Foucauldian discourse analysis is used to investigate how the (in)security framework has been applied within the safe third country concept by the EU, and how the (in)security logic influences the wellbeing of those asylum seekers and refugees who are sent to Turkey.

**Key Words:** Discourse, (In)security, Migration, Power, Safe Third Country Concept.

## TABLE OF CONTENTS

<b>DECLARATION OF ORIGINALITY .....</b>	<b>iii</b>
<b>ABSTRACT .....</b>	<b>iv</b>
<b>INTRODUCTION.....</b>	<b>1</b>
<b>Research Question and Its Significance .....</b>	<b>15</b>
<b>LITERATURE REVIEW .....</b>	<b>20</b>
<b>Positioning the Paris School within the Critical Security Studies .....</b>	<b>22</b>
<b>METHODOLOGY .....</b>	<b>32</b>
<b>Discourses of (In)security: Borders, Identities, Orders .....</b>	<b>37</b>
<b>Borders.....</b>	<b>37</b>
<b>Identities.....</b>	<b>38</b>
<b>Orders .....</b>	<b>39</b>
<b>Illegal Migration Discourse versus Irregular Migration Discourse .....</b>	<b>40</b>
<b>CHAPTER I: Borders, Identities and Orders within the Safe Third Country Concept and Its Implementation in the Third Phase of the EU Asylum Policy Programs and the EU Global Strategy for the EU's Foreign and Security Policy ...</b>	<b>43</b>
<b>CHAPTER II: Asylum Seekers' and Refugees' Unsafety in Turkey .....</b>	<b>66</b>
<b>Border Practices.....</b>	<b>66</b>
<b>Minorities.....</b>	<b>71</b>
<b>CHAPTER III: The Safe Third Country Concept Applied by the EU after the End of the Stockholm Programme: The Discursive “Safety” for Asylum Seekers and Refugees in the Case of the EU-Turkey Statement from March 18<sup>th</sup>, 2016 .....</b>	<b>77</b>
<b>CONCLUSIONS .....</b>	<b>86</b>
<b>REFERENCES.....</b>	<b>90</b>
<b>FIGURES.....</b>	<b>97</b>
<b>TABLES.....</b>	<b>100</b>
<b>VITA AUCTORIS .....</b>	<b>101</b>

## INTRODUCTION

The safe third country concept was used by the European Union as a tool for answering the 2015 refugee crisis in Europe. Analysis of this concept, recognized in different political discourses, would allow the reader to understand better Union's asylum policies, relate them to other states' practices that address similar issues, and evaluate them as positive or negative for asylum seekers.

Since 1999, European states have a long commitment to create a Common European Asylum System that protects the fundamental rights of asylum seekers. Through number of legislative measures, the EU has faced its biggest challenge to adopt a system that works well for each Member State. The necessity for approving a regulation that will clearly outline the rules for determination of the Member State responsible for an asylum seeker's application has propelled the EU to adopt the Dublin Regulation.

The safe third country notion that has been the main mechanism through which the Dublin Regulation functions, as set out in Article 27 of the Asylum Procedures Directive (ADP) (Council Directive 2005/85/EC), permits Member States to send applicants to third countries with which applicants have certain connections, and where they have the right to acquire a refugee status only if they are found to be refugees. The justification for application of this procedure has been made on the basis of the argument that asylum seekers who are genuinely fleeing persecution will apply for asylum in the first safe country without any further movement within the EU. If asylum seekers decide to search for asylum in a specific country, it is considered to be an intentional migration for economic purposes (Goodwin-Gill and McAdam 2010:392).

It is vital to note that the safe third country notion, as set out in the APD, allows but does not obligate Member States to send applicants to third countries. According to the APD, a third country will be considered safe only if it fulfils four conditions that are related to safety and asylum practices: a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group, or political opinion; b) the principle of non-refoulement<sup>1</sup> in accordance with the Geneva Convention is respected; c) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and d) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention (Council Directive 2005/85/EC, Article 27 (1)).

In addition to these points, the APD takes under consideration national legislation and outlines three rules that have to be applied in it: the applicant has a connection with a particular country; there is a “case-by-case consideration of the safety of the country for a particular applicant and/or national designation of countries considered to be generally safe”; and “the applicant, as a minimum, must have had the opportunity to challenge the application of the safe third country concept on the grounds that s/he would be subjected to torture, cruel, inhuman or degrading treatment or punishment” (Council Directive 2005/85/EC, Article 27 (2)). In addition, the Revised Directive (2013/32/EU) on common procedures for granting and withdrawing international protection outlines that in the third country there should be no risk of serious harm as

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<sup>1</sup>The principle of non-refoulement forbids expulsions of refugees to their country of origin and to any country where they may be subject to inhumane treatment.



defined in Directive 2011/95/EU<sup>2</sup> (Article 38 (1) (b)).

The safe third country concept appeared for the first time within the Dublin Convention in 1990. It aims to ensure that an asylum applicant has only one opportunity to apply for asylum. Moreover, the Dublin Convention, together with the Schengen Convention, led to the removal of the internal borders for most states within the European Community (Fratzke 2015:3)<sup>3</sup>.

In 2003, the Dublin Convention was substituted with the Dublin Regulation. The Regulation covers the same subject matter as the Convention from 1990 and generally follows the same rules and principles (Boeles et al. 2009:323). The Regulation establishes “the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third country national” (Boeles et al. 2009:323). The first Member State in which an asylum seeker entered the EU was considered responsible for examining the application. This mechanism creates an uneven distribution of asylum applicants between participating states. In many cases, this happens because of the geographical

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<sup>2</sup> “Serious harm consists of: (a) the death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or (c) serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict” (Directive 2011/95/EU).

<sup>3</sup> Fratzke, Susan. 2015. “Not Adding Up: The Fading Promise of Europe’s Dublin System.” *Migration Policy Institute Europe*. Retrieved September 11, 2016 (<http://www.migrationpolicy.org/research/not-adding-fading-promise-europes-dublin-system>).

location of the Member State.

The role of the Dublin Regulation that has replaced the Dublin Convention in 2003 (known as Dublin II) was to clarify the criteria for determining responsibility under the Dublin Convention, which has fully been maintained under EU governance (Fratzke 2015:3). Its revision in 2013 (Dublin III) stemmed from the necessity of “addressing the current ambiguity of the provision on unaccompanied minors who have no family, siblings or relatives on the territory of the Member States, by providing legal certainty in respect of responsibility for examining the application for international protection in such cases” (European Commission 2014:2-3). Furthermore, Dublin III seeks to clarify the application of Dublin’s hierarchy of criteria for the responsibility of the European States to answer the incoming claims (Fratzke 2015:3). This intends to achieve two things: tighten the deadlines of Dublin procedures and improve the asylum applicant’s access to information (Fratzke 2015:7). However, Dublin III was unable to answer both the Union’s and asylum seekers’ needs due to the Member States’ different asylum practices. Said in other words, moving people from one safe place to another safe place within Europe/between the states, on the basis of the safe third country concept mechanism, has a negative impact on asylum seekers’ and refugees’ rights. This means that if an asylum seeker has entered the EU from Greece, for example, s/he should stay in Greece; otherwise, s/he will potentially be returned to Greece later, when certain Member State has found the point of entrance to the EU of the asylum seeker. Therefore, s/he may be transferred to a safe third country – in this case to Greece. Moreover, the EU border countries, such as Spain, Italy, Greece, and Bulgaria, are expected to accept the highest number of newcomers.

The hostility that the asylum seekers have faced entering the EU today

replicates, to a certain degree, the attitudes that many European countries had during 1970s and 1990s. The oil crisis in 1970s impacted immigration policies in Europe in a way that resulted in a decline in demands for labor force, and therefore, curtailed asylum seekers' rights to receive asylum in Europe (Levy 1999:13). From this period until now, asylum seekers and refugees have been portrayed as "bogus" by politicians and media throughout Europe (Canoy et al. 2006)<sup>4</sup>. Moreover, the implementation of the Schengen Accords in 1990 required certain synchronization of European policies in relation to the subsequent free movement of the asylum seekers within the region, which resulted in the introduction of more restrictive policies towards asylum seekers by the European Community (Levy 1999:19). This practice linked the security concept and migration through the interconnected discourses of the Union's external borders and irregular migration. The idea of European citizenship, implemented in the Treaty of the European Union (1993), along with Union's shift in policy making from intergovernmentalism, which is related to the EU Member States' sovereignty and security in interstate relations, led to "increased supranationalism", which focuses on the supranational level of governance<sup>5</sup> (Ucarer 1997:301, as cited in Levy 1999).

The increase of asylum seekers' flows across Europe from 2010 onwards is

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<sup>4</sup> Canoy, Marcel, Ricklef Beutin, Anna Horvath, Agnes Hubert, Frederic Lerais, Peter Smith, and Myriam Sochacki. 2006. "Migration and Public Perception." *European Union: Bureau of European Policy Advisers (BEPA)*. Retrieved July 7, 2016 ([http://ec.europa.eu/dgs/policy\\_advisers/publications/docs/bepa\\_migration\\_final\\_09\\_10\\_006\\_en.pdf](http://ec.europa.eu/dgs/policy_advisers/publications/docs/bepa_migration_final_09_10_006_en.pdf)).

<sup>5</sup> The supranational level of governance was introduced in 1997 in the Treaty of Amsterdam.

considered the largest movement of people after the East-West movement of the 1950s, the late 1980s and the 1990s, and the intra-South movement of the late 1970s (Coles 1990:373). In comparison to the 1990s refugee movement in Europe, this movement is extremely heterogeneous. It includes people from different races, religions, and cultural backgrounds, and refugees are coming from distinct conflicts and disasters. For example, Syrian and Iraqi refugees are mainly, but not exclusively, Muslims, who are internally segregated into Sunni, Shiites, Kurds, Orthodox Christians, and Syrian Jews among others. Moreover, some of them come from states, for example Syria and Iraq, where the nature of the conflict is political, in comparison to Somalia, where political and environmental insecurities are combined.

According to the United Nations High Commissioner for Refugees (UNHCR) (2015), Syria is the country that has produced the highest number of both internally displaced people (7.6 million) and refugees (3.88 million at the end of 2014). Other big refugee source countries are Afghanistan (2.59 million) and Somalia (1.1 million) (UNHCR 2015)<sup>6</sup>. The conflict in Afghanistan has existed since 1978<sup>7</sup>. Today the

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<sup>6</sup>UNHCR. 2015. "Global Trends: Forced Displacement in 2015." *UNHCR*. Retrieved June 22, 2016 (<http://www.unhcr.org/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html>).

<sup>7</sup>There have been waves of refugee flows and returns from and back to Afghanistan since the Communist coup in April 1978, broadly paralleling the phases of conflict in that country and resulting in (the mid-to late-1990s) over six million Afghan refugees, mainly in neighbouring Iran and Pakistan (See Koser, Khalid. 2014. "Transition, Crises and Mobility in Afghanistan: Rhetoric and Reality." *International Organization for Migration*. Retrieved September 11, 2016

withdrawal of Western forces together with the increased Taliban attacks forced people to seek asylum in Europe (Rashid 2015)<sup>8</sup>.

Unlike Afghani refugees, Somali refugees experience further insecurities, including drought and famine (Westerby et al. 2013:50)<sup>9</sup>. The Somali refugees predominantly move to neighbor states, such as Kenya and Ethiopia, where their security still cannot be guaranteed. In 2013, they experienced arbitrary arrests and attacks in Kenya (Westerby et al. 2013:52). However, this situation has not been taken under consideration by all EU Member States for the resettlement of Somali refugees in Europe. Instead of recognizing the needs of Somali, Iraqi and Afghani refugees, the Finnish government, in the spirit of the restrictive European asylum policies, has not found a need to grant residency to these groups on the grounds of humanitarian protection (Lewis 2016)<sup>10</sup>.

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(<https://www.iom.int/files/live/sites/iom/files/Country/docs/Transition-Crisis-and-Mobility-in-Afghanistan-2014.pdf>)).

<sup>8</sup> Rashid, Ahmed. 2015. "Can Afghanistan Hold On?" *NYR Daily*, October 19. Retrieved September 10, 2016 (<http://www.nybooks.com/daily/2015/10/19/can-afghanistan-hold-on-taliban/>).

<sup>9</sup> Westerby, Rachel, Sophie Ngo-Diep, Petra Hueck, and Salome Phillmann. 2013. "Welcome to Europe! A Comprehensive Guide to Resettlement", edited by Rachel Westerby. *The International Catholic Migration Commission*. Retrieved June 8, 2016 (<http://www.resettlement.eu/sites/icmc.ttp.eu/files/ICMC%20Europe>Welcome%20to%20Europe.pdf>).

<sup>10</sup> Lewis, Kayleigh. 2016. "Finland Says Afghanistan, Somalia and Iraq are 'Safe' for Refugees to Return to." *Independent*, May 18. Retrieved October 4, 2016

The lack of common political attitudes within the Union towards newcomers has recently led to a situation that creates difficulties for following a common approach by the EU Member States towards the new emergent reality. Applied in these circumstances, the safe third country concept not only suggests the “best” way to cope with the situation, but it also modifies it. Taking under consideration both the Council Directive (2005/85/EC) and Dublin III, it becomes evident that the designation of a country as safe can be considered a tool of the EU foreign policy, but also a tool for restricting access to procedures for internal control on the entry of asylum seekers (Selm 2001:12)<sup>11</sup>.

The European restrictive policies today have led to thousands of refugees being stuck in the Idomeni (Greece) refugee camp, where crisis points have been reached in the first part of 2016 (Amnesty International 2016)<sup>12</sup>. Greece’s inability to cope with the high number of refugees coupled with the unwillingness of many European countries to open their borders to them, and the failure to come up with a coherent, humane, and rights-respecting response to the new challenge, has created a crisis situation within the Union that reveals the failure of the Dublin system on the one

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(<http://www.independent.co.uk/news/world/europe/refugee-crisis-finland-refugees-asylum-seekers-afghanistan-somalia-iraq-safe-to-return-a7036501.html>).

<sup>11</sup> Selm, Joanne van. 2001. “Access to Procedures ‘Safe Third Countries’, ‘Safe Countries of Origin’ and ‘Time Limits.’” *UNHCR and the Carnegie Endowment for International Peace*. Retrieved June 13, 2016 (<http://www.unhcr.org/3b39a2403.pdf>).

<sup>12</sup> Amnesty International. 2016. “Trapped in Greece: An Avoidable Refugee Crises.” *Amnesty International*. Retrieved September 20, 2016 (<https://www.amnesty.org/en/documents/eur25/3778/2016/en/>).

side, and the numerous human rights' violations on the other.

In November 2015, Macedonia<sup>13</sup>, Serbia<sup>14</sup>, and Croatia made changes in their border management practices that led to the unequal and inhumane treatment of refugees from different nationalities. The fact that Macedonia refused to admit anyone who is not Afghani, Iraqi or Syrian left hundreds of people from Iran, Sudan, Pakistan, and other origins in the village of Idomeni (Amnesty International 2015)<sup>15</sup>.

In 2014, five participating States dealt with 71% of all applications (Nicoletti 2014)<sup>16</sup>. The number of refugees trying to enter the EU through Greece increased from 10,379 in 2012 (Frontex 2013:19)<sup>17</sup> to over 800,000 in 2015, the overwhelming majority of whom were fleeing conflict or persecution in Syria, Afghanistan, Eritrea,

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<sup>13</sup> Macedonia is not EU Member State.

<sup>14</sup> Serbia is not EU Member State.

<sup>15</sup> Amnesty International. 2015. "Refugee Crises: Balkans Border Blocks Leave Thousands Stranded." *Amnesty International*, November 20. Retrieved June 26, 2016 (<https://www.amnesty.org/en/latest/news/2015/11/refugee-crisis-balkans-border-blocks-leave-thousands-segregated-and-stranded-in-greece/>).

<sup>16</sup> Nicoletti, Michele. 2014. "After Dublin – The Urgent Need for a Real European Asylum System." *Parliamentary Assembly*, October 3. Retrieved July 28, 2016 (<http://website-pace.net/documents/19863/1278654/20150909-AfterDublin-EN.pdf/755eb5b6-3bd1-4d99-af22-0b18fdb5a513>).

<sup>17</sup> Frontex. 2013. "Annual Risk Analysis." *Frontex*. Retrieved July 2, 2016 ([http://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annual\\_Risk\\_Analysis\\_2013.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2013.pdf)).

Somalia, and Iraq (Human Rights Watch 2015:1)<sup>18</sup>.

Responses from the EU Member States that do not prioritize asylum seekers' and refugees' security have led to increased deaths in the Aegean Sea, and caused appalling conditions in the Idomeni refugee camp and other places in Greece. The assistance included shelter, food, sanitation facilities, and medical care; however, the responsibility of this aid has been exclusively left to humanitarian organizations, NGOs and volunteer groups (Amnesty International 2016:11).

The idea for the creation of a common list of safe countries of origin<sup>19</sup> in 2013 to which asylum seekers and refugees could return after expedited proceedings has been seen as an acceptable alternative by many EU leaders that can diminish the number of deaths in the Aegean Sea. Turkey has been proposed as a safe country for the common EU list, which includes non-EU countries, as has Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Kosovo, Montenegro, and

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<sup>18</sup> Human Rights Watch. 2015. "Europe's Refugee Crises: An Agenda for Action."

*Human Rights Watch*, November 16. Retrieved June 7, 2016

(<https://www.hrw.org/report/2015/11/16/europes-refugee-crisis/agenda-action>).

<sup>19</sup> "A country where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Art. 9 of Directive 2011/95/EU (Recast Qualification Directive), no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict" (European Commission Glossary 2014:254).



Serbia (European Commission COM/2015/452).

The EU-Turkey Statement enables the strict enforcement of the EU-Turkey Readmission Agreement (2014) and facilitates “legal” returns of asylum seekers and refugees from Greece to Turkey on the basis of the safe third country concept. These Union’s steps indicate the implicit assumption that Turkey is considered safe for asylum seekers and refugees. The EU-Turkey Statement facilitates returns of different groups of people who want to settle in the EU through Turkey. These groups include irregular or “illegal” migrants, rejected asylum seekers, other asylum seekers who can safely stay and find protection in the country, and Syrians under temporary protection.

According to Amnesty International (2016), about 2.75 million Syrian refugees and 400,000 asylum seekers and refugees from other countries, mainly Afghanistan, Iraq, and Iran, have been sent by Greece to stay in Turkey. Even though, it is Greece’s obligation not to return anyone who is at risk of human rights violations in Turkey, or eventually at risk of return to one’s country of origin, Amnesty International (2016) has revealed that Greece has committed serious breaches of the obligations found under Article 33 of the Refugee Convention. Moreover, many suggest that Turkey is failing to provide a safe environment where asylum-seekers and refugees can be guaranteed the ability to live in dignity (Amnesty International 2016). This situation creates uncertainty for those returned to Turkey due to the unclear timeframe and number of refugees who will be divided between the Member States in the context of the 1:1 Scheme<sup>20</sup>.

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<sup>20</sup> The EU will resettle a Syrian from Turkey to the EU for every Syrian returned to Turkey from Greek islands (EU-Turkey Statement 2016).

Therefore, the European borders and the “borders” of asylum seekers’ and refugees’ security are extremely interdependent. The safe third country concept creates a space to consider the relationship between who is prioritized in a situation of crisis and how one is prioritized. This link is able to reveal the security framework that is used as a justificatory measure for the EU “new” restrictive policies towards asylum seekers and refugees coming to Europe.

It is important to note that European security policies towards asylum seekers and refugees are only one piece of the global security picture. Until 2016, there were 63 borders where walls or fences separated neighboring countries, and several more had been agreed upon or proposed. Many of these had been constructed in 2015, such as the construction of the Israeli fence along the Israeli-Jordanian border (in the fall of 2015); and the Tunisia desert barrier with Libya, as an answer to the uncertainties evoked by the Islamic State-led insurgency (in the summer of 2015). Moreover, the Thailand-Malaysia border was agreed upon by the governments of these countries (in the fall of 2016); a fence along the Myanmar-Bangladesh border was proposed in the fall of 2016 by Myanmar’s officials; and Donald Trump has proposed building an additional 1000 miles of the United States-Mexico border, on the top of the 650 miles that have been already covered. It has been reported that Thailand and Malaysia have returned boats with stateless Rohingya refugees who are coming from Bangladesh and Myanmar. The disputes between Bangladesh and Myanmar about the citizenship of Rohingya refugees can be considered as one of the main catalyzers for the construction of fence between these countries.

Moreover, the complete seal on the India-Bangladesh border is part of the plan proposed by the Indian home minister in 2015. Both India and Myanmar are trying to prevent the irregular immigration from Bangladesh. A significant role in these

countries' decisions for restrictions of movement from Bangladesh plays the cultural difference of the Rohingya refugees and other ethnic groups.

Australia is another country that restricts refugees' movements to its territory. The strict border practices include turning boats back to the countries of origin, or transferring refugees to regional processing centers. This strategy was implemented as a part of an operation that started in 2013 and which is known as the "Operation Sovereign Borders". It aligns with the "Pacific Solution", which was implemented in 2001 in a response to the increased number of asylum seekers who were coming to Australia. However, Australia does not accept asylum seekers in its territory straightforward, though it transfers the unauthorized immigrants to the offshore processing centers of Nauru and Manus Island in Papua New Guinea where they are granted Special Purpose Visas by these countries. These steps are made in order to facilitate asylum seekers' stay in these countries while a decision by the Australian government is being finalized. This situation resembles the practices laid down in the EU-Turkey Statement in a way that the Australian government externalizes asylum seekers and their needs. The main difference between the agreements of Australia and Nauru, and Australia and Papua New Guinea on one side, and the EU-Turkey Statement on the other side, is related to the financial dependency and future benefits for these countries, where asylum seekers have been sent. For example, Nauru's financial dependency on the Australian government lays a heavy cost on Nauru's independence and constitutional integrity (Fraser and Nguyen 2005:8)<sup>21</sup>. Unlike

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<sup>21</sup> Fraser, Helen, and Minh Nguyen. 2005. "View on Nauru: Between a Mined-Out Rock and a Hard Place." *Jesuit Social Justice Centre*. Retrieved October 13, 2016 ([http://www.uniya.org/research/view\\_nauru.pdf](http://www.uniya.org/research/view_nauru.pdf)).

Nauru, the Turkish economy does not exclusively depend on the EU, as the Turkish government, along with its increased domestic demand, has diversified its export structure with respect to both goods and partners (Szigetvari 2014:39). This means that Turkey's dependency on Europe is decreasing and shows that it is predominantly the Union that has to comply with Turkey's demands and preferences in regard to the acceptance of asylum seekers from the EU. As one can see, the dependency problematic plays a significant role in the formulation of asylum policies of different countries. That is why, if Turkey's demands on visa liberalization policies for Turkish citizens by the EU is not enforced in a certain period of time, Turkey will have the power to let all of the approximately 3 million asylum seekers and refugees, who reside on its territory, enter in the EU. Such a situation may evoke another refugee and insecurity crisis in Europe. Apart from the dependency problematic of the states, one should note that returns of asylum seekers to Turkey, Nauru, or Papua New Guinea leave these unwanted groups in insecurity and harsh conditions. Therefore, paradoxically, the differences in states' policies of returns to offshore facilities or transit countries, such as Turkey, have a similar impact on wellbeing of asylum seekers and refugees in the accepting countries.

Unfortunately, the current tendencies of closing borders for asylum seekers by countries that are defined as human rights-bearers emphasize the "need" for centralization, as opposed to the idea of supranational union/global state. However, instead of eradicating the irregular migration, states restrictive policies indirectly change the routes of irregular migration, leading asylum seekers to cross borders through dangerous terrains. The deaths of those asylum seekers who have chosen perilous routes are often neglected by authorities as a matter of the asylum seekers' irresponsibility and choice. Within the EU, Austria, Bulgaria, Croatia, Greece,

Hungary, and Slovenia consider the construction of barriers to be a solution to the refugee crisis. Moreover, the agreement between the EU and Morocco in 2013, which is based on financial assistance from the Union for preventing immigrants to enter Melilla<sup>22</sup>, led to the enhancement of Moroccan fence in 2015. The xenophobic sentiments, together with nationalist rhetoric, which are often intertwined with the terrorism discourse and illegality of asylum seekers, “justify” constructions of violent borders. Thus, it is more accurate to talk about a globalized trade and investment, and non-globalized movement for asylum seekers or economic migrants.

### **Research Question and Its Significance**

The purpose of this thesis is to show how the EU uses the safe third country concept as a technique for dealing with asylum seekers and refugees in a situation of crisis. This approach will elucidate whose security, those of the states, or those of the refugees<sup>22</sup>, has been prioritized by the EU Member States; how it has been discursively constructed in certain policy documents; and how the EU actions correspond in practice to the decisions that have been made.

The discursive construction of the safe third country concept is an integral part of European political projects. This suggests that by considering discourses that are inherently not related to the security realm and analyzing them through a security perspective, I will be able to elucidate the borders, identities and orders that are the core of the safe third country concept. For example, the EU citizenship discourse,

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<sup>22</sup> Melilla and Ceuta are outposts of Spain in North Africa, which share border with Morocco.

implemented in a security framework, can embrace different meaning. Similarly, the significance of the borders and the orders can be enhanced or constructed on basis of the security concept.

The differences in the usage of the safe third country concept within the Dublin system and within the EU-Turkey Statement underscore how Union's practices have changed their direction with the increase of the migrant flows in Europe. Extending the scope of countries that are considered safe outside the EU illustrates how the "old" security logic is applied in the context of new circumstances. The Global Strategy for the European Union's Foreign and Security Policy emphasizes the importance of the Union's cooperation with third countries in regard to the migration issues. If the "old" security logic was about the securitization of the EU Member States, from the Schengen Agreement until now the logic is shifted towards the external "management" of borders that is de facto "invisible" securitization move. In such a way, certain countries that the Union cooperates with are considered safe in the refugee discourse, thus moving the focus from the "inability" of the Union to cope with the crisis and its securitization towards measures for the "security" of the refugees.

What is important to note in the EU-Turkey Statement is that the EU decisions are made to look like they are prioritizing the asylum seekers' and refugees' security. However, this analysis will highlight the notion that the policies towards the newcomers do not "think" about the security of the refugees, but the security of the Union.

In order to understand the origin and development of the new EU policies in regard to the refugee/migrant crisis, it is necessary to "identify the discourses that

dominate them, how they come to do so, and which discourses are excluded and marginalized in the process” (Paul 2009:243). According to Taylor (2004), policy text can be understood as “an arena of struggle over meaning” (435), and the outcomes of these struggles “between contenders of competing objectives, where language—or more specifically discourse—is used tactically” (Fulcher 1989:7). Recognition of the importance of discourse, within the European policy texts, indicates a need for its detailed analysis throughout this thesis.

Chapters I and III will focus on those discourses that are brought to one’s attention in the Stockholm Programme (2010/C 115/01), the Final Report of the European Defence Agency (2013), the EU Global Strategy for the European Union’s Foreign and Security Policy (2010), and the EU-Turkey Statement (2016). Each of these documents contributes, through emphasis of different discourses, for the complete drawing of the EU asylum policies picture (See Figure 1., Page 97). Even though, each of the above mentioned Programme, Report, Strategy and Statement has been prepared for the fulfilment of distinct tasks within EU different areas of expertise, it is the conceptual framework of security that enables both consistency and synchronization between these areas.

In Chapter I, the Stockholm Programme will reveal the overall policy planning of the EU, from the year of 2010 until 2014, mainly through the discourses of migration, citizenship, border security and internal/external security. As it will become evident, these discourses do not exist in a vacuum from asylum seekers’ and refugees’ issues. In addition to the discourses brought to attention within the Stockholm Programme, the Final Report of the European Defence Agency pays attention to two additional discourses – order and power. Here, these discourses supplement the border security and internal/external security discourses through

emphasis on the scope of the European role in a global level. Such an approach brings into one's acceptance of urgent need for strong European control. Unsurprisingly, the discourses of order and power are more likely to have negative influence on those policies that are directly related to asylum seekers' and refugees' issues.

Finally, I will look at the Global Strategy for the European Union's Foreign and Security Policy from June 2016. Even though it was concluded three months after the EU-Turkey Statement has been enforced, the discourses within it perfectly correspond to the logic behind the actions that have been taken through the EU-Turkey Statement. Moreover, not only all of the above mentioned discourses have been discussed, but also a special awareness has been put on the identity discourse. The sensitiveness and fluidity of the identity discourse is probably the main reason for being less discussed in different policy documents. The identity discourse and the citizenship discourse are leading topics in the 2016 Global Strategy for the European Union's Foreign and Security Policy. Often, the identity discourse has been debated explicitly or implicitly by many European leaders and media, but it rarely has been mentioned in Member States' official documents. This discourse "resonates" with the introduction of more restrictive policies towards the newcomers, particularly, when asylum seekers and refugees have often been constructed as "others".

Consequently, the Strategy, the Final Report and the Stockholm Programme can reveal the (in)security logic within the discourses of the EU borders, the EU identity and the new EU orders, which constitute the safe third country concept. Thus, a clearer "picture" will be presented, in relation to the approaches the EU uses for dealing with different issues. Without this image of the EU preferred methods for answering on certain challenges, analysis on the EU-Turkey Statement will be incomplete, vague, and probably misleading.



In Chapter II, I will pay attention to Turkey's border practices and minorities. The necessity to discuss what is happening in Turkey stems from the returns of asylum seekers and refugees by the EU, which have been facilitated by the EU-Turkey Statement. Asylum seekers' and refugees' unsafety in Turkey will be discussed through the prism of the current political situation in the country. Focusing out of the discursive nature of unwelcoming European and Turkish policies towards asylum seekers and refugees will allow one to see the risks minorities and refugees experience in Turkey. In such a way, clear comparison can be made between the safety in the EU and the safety in Turkey for refugees. Said in other words, this Chapter will explore the dynamics in Turkey, how these dynamics threaten refugees' lives, and how safe the safe third country—Turkey—can be. Not acknowledging how Turkey “accommodates” asylum seekers and refugees can influence negatively on the analysis of the EU-Turkey Statement in next chapter.

On the basis of assessment of these dynamics in Turkey in Chapter II, together with the EU policy orientation “picture”, presented in Chapter I, in Chapter III, through the techniques of discursive analysis, I will explore the ways Turkey has been constructed by the EU as a safe place for asylum seekers and refugees. Moreover, this chapter will show whether there is synchronization, or rather a contradiction, between what has been presented in the EU-Turkey Statement and what is happening in practice. Said in other words, there are questions that are important for one's recognition and more realistic assessment of the changing tendencies of the European asylum policies, such as: What are the modifications of the safe third country concept, applied in the context of the EU-Turkey Statement, and how does the safe third country concept influence on asylum seekers' and refugees' wellbeing in Turkey?

## **LITERATURE REVIEW**

This work is situated within the broad spectrum of Critical Security Studies, which includes varied disciplines such as political sociology, criminology, law, and International Relations (C.A.S.E. Collective 2006:449). Discourses that are “a particular way of talking about and understanding the world (or an aspect of the world)” (Jorgensen and Phillips 2002:3) will be analyzed in order to recognize the relationship between language and practice.

My focus will be on the discourses of (in)security that encourage sets of practices and legitimize particular actors or constitute political communities and their limits (Browning and McDonald 2011:239). In such a way, I will be able to explore asylum seekers’ exclusion from the Union that is rationalized through the freedom of movement and border control discourses. By employing a post-constructivist approach, which lacks a clear definition, but evidently recognizes that there is a need for a reference to the concealments and contextualizations of texts’ meaning going on simultaneously to mark the texts’ significance (Agger 1991:112), I will be able to challenge the conventional (military, state-centric) approaches to security studies, through revealing texts’ covert meanings. Contrary, constructivist approaches to different issues accept claims on the basis of a priori existing material conditions, which are related to speech acts that are contextualized but differentiated from material circumstances (Zehfuss 2002:191, Onuf 1998:59, as cited in Pouliot 2004:322). The former approach will enable one to find out that the safe country rationale (in relation to the safe third country concept) is used within the EU-Turkey Statement as a camouflage for the justification of the EU migration policies of exclusion of asylum seekers and refugees.

The concept of security has the strength to coordinate the international, the political, and the sociological dimensions of different issues, which explains its importance in managing practices on distinct levels. The construction of security knowledge reveals that without the presence of discourse of danger, security practices cannot be facilitated at any level (Dillon 1996:120-121) – internal and external. This means that security can be thought of only in terms of insecurity that has to be internalized in order the EU Member States to “achieve” securitization. Understanding the (in)securitization process as a merging process between “internal” security with “external” security, rather than “international” security”<sup>23</sup>, explains how the “routine work of public bureaucracies expands beyond their national borders and works in networks” (Bigo 2008:127).

Questioning migration issues on two levels, whether it is legal and therefore beneficial, or illegal and therefore a security concern, creates room to think about migration as a discursively constructed issue, rather than a non-discursive threat. This approach to understanding EU policies towards asylum seekers and refugees coincides with a literature that has its roots in the French philosophy primarily connected with the work of Michel Foucault (1978a, 1978b, 1991). Authors, such as Didier Bigo, Anastassia Tsoukala, and Rob Walker have made significant contributions to the field of security studies by engaging with issues dealing with the contemporary form of governmentality of liberal regimes (Bigo and Tsoukala 2008), the principle of state sovereignty (Walker 1990), and the need to unpack the political dimension of the

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<sup>23</sup> The “international security” is related to the traditional military understanding of security where the security is about existential threat and survival (Buzan, Waever, and de Wilde 1998).

notion of security by stressing attention on the legitimating effects of the security label (Bigo and Tsoukala 2008:2).

The connection between a state and its borders/frontiers, explored primarily by Bigo (Bigo and Guild 2005), and the state's right to control the movement of people on the basis of differentiation between "insiders" and "outsiders" has often negative implications for asylum seekers and refugees. Furthermore, the social construction of asylum seekers and refugees as a threat, examined in the work of Tsoukala (Tsoukala 2008), by security and political professionals, justifies the maintenance of the state security logic at the expense of the humanitarian logic.

### **Positioning the Paris School within the Critical Security Studies**

The Critical Security Studies that has developed mainly in the 1990s challenged the traditional understanding of security, which is largely statist and military-oriented. This traditional definition relates to the goal of states to defend their national sovereignty in terms of territory, people, and the system of government (C.A.S.E. Collective 2006). Critical Security Studies emphasized rather, a broader range of issues, such as: the environment, health, poverty, and non-state actors (for example terrorist groups).

Security professionals are those who "create" what has to be perceived as a security issue and what should not (Huysmans 2006:154-155). This means that one needs to understand the security concept as unfixed, and that the objects that are considered to be threatening in one place might not be perceived as a security issue in other places.

One of the main schools within Europe that concentrates on the process of securitization is the Copenhagen School of Critical Security Studies, which draws heavily on Ole Waever (1993) who understands the political dynamics of threat construction through speech acts. The accent within this school is put on extraordinary actions that states take in order to preserve their national security. They, therefore, legitimize the use of force that breaks certain rules and that in “normal” circumstances would be perceived as unacceptable by domestic and international audiences. Securitization is explained as “a move that takes politics beyond the established rules of the game and frames the issue either as a special kind of politics or as above politics” (Buzan et al. 1998:23). However, the audiences have to accept that someone/something is a threat for them, in order securitization move to be taken by the state (Buzan et al. 1998:25).

The security-migration nexus can be explored through the Copenhagen School perspective, where societal security is related to national society instead of an individual security. Theorists within this school describe societal security similarly, stating that security equates to “the sustainability, within acceptable conditions for evolution, of traditional patterns of language, culture, and religious and national identity and custom” (Buzan 1991:19), and “the ability of a society to exist in its essential character under changing conditions and possible or actual threats” (Waever 1993:23). This way of understanding societal security can lead to forced homogenization of society inside a state on one side, and homogenization and simplification of asylum seekers’ and refugees’ issues on the other side. Such an approach can solidify the state’s power and reaffirm its significance instead of challenging it.

Another approach within Critical Security Studies has been initiated by Ken

Booth (1991) and the Aberystwyth School. The leading analytical tool of the school is the concept of emancipation, which aims to challenge the dominant security discourse through a combination of security studies and human rights in order to “open a room” for achievement of social transformation. For Booth (1991), emancipation means “freeing individuals from war and the threat of war ... poverty, poor education, and political oppression” and other human rights issues, while “true (stable) security can only be achieved by people and groups if they do not deprive others of it” (319). This notion presents the shift from a state towards its society as a referent object of security (McDonald 2002:279). Still, it is important to note that the security concept is often identified with the national interest rather than with society as a whole. More specifically, security issues are connected to the political community/ states’ citizens, rather than people in general (Walker 1990:13). Furthermore, the idea of a new security framework embraces the individual on two levels: as the subject and aim of security, and a means by which security can be achieved (Edwards and Ferstman 2010:33). Therefore, the concept of emancipation, basically, represents the human security concept<sup>24</sup>. This people-centered approach to security follows the same trend in relation to human development, human rights, and the policies of the United Nations High Commissioner for Refugees (UNHCR) that are related to refugees’

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<sup>24</sup> Human security means the protection of vital freedoms. It includes freedom from want, freedom from fear, and freedom to take action on one’s own behalf.

(Commission on Human Security. 2003. “Human Security Now.” *Relief Web*.

Retrieved July 20, 2016

(<http://reliefweb.int/sites/reliefweb.int/files/resources/91BAEEDBA50C6907C1256D19006A9353-chs-security-may03.pdf>).

issues, which, in comparison to the traditional security discourse, human security better resonates with policies that promote human rights (Edwards and Ferstman 2010:39). However, this way of understanding security can be hardly operationalized, as it has already been “achieved” to a certain degree through the possibility that refugees have to seek asylum in Europe. Moreover, even though, the obligations of a state to afford human rights in accordance with international law obligations extend to individuals beyond the territory of that state, non-citizens are excluded from enjoyment of rights in law and in practice (Edwards and Ferstman 2010:35). According to McDonald (2002), the human security concept may contradict citizens’ expectations, and the state’s utility as a security provider can be easily questioned (290). That is why the human security framework is less likely to be accepted for Member States policy orientation.

In comparison to Copenhagen and Aberystwyth Schools, the Paris School is involved in the deconstruction of security discourses produced by security professionals by using analytical tools related to the opposition inside/outside. This approach is able to uncover the mechanisms of threat production and the exercise of power that reproduces itself through different security practices. In other words, the Paris School practices discourse deconstruction, taking a discourse as a starting point of analysis. This way of understanding different security practices will better explain the relationships between the constructed discourses and the political and security environment they are stemming from. The latter notion explains why the EU-Turkey Statement needs to be explored from the perspective of political scientists who are mainly related to the Paris School, and who are interested in power relations and (in)security discourses. However, looking at security discourses, and especially at how the safe third country concept has been created, requires political and sociological

engagement. The security discourses are not isolated from society; rather, they represent, to a certain degree, what a society wants/expects from its security provider (state) and how a society reproduces the imposed (in)securities.

In the modern world of sovereign states, there are two political spaces: within states and between states (Hansen 1997:342). By positioning security issues within these two distinct political spaces, it becomes possible to discover whether security has different meanings and implications. Moreover, because the within/between distinction creates many binary oppositions, such as self/other, inclusion/exclusion, unity/diversity, and universality/particularity, it facilitates a perception of “outside” that relates to “difference” and “other”, and is ultimately viewed as a threat (Hansen 1997:343-344). According to Campbell (1998), sovereign states are asserted through discourses of danger that materialize others as a threat. He explains the rationale for the formulation of discourses of danger within foreign policies of different states as the condition of possibility for identifying states as political subjects, rather than a real threat to their identity or existence. Buzan et al. (1998) agree that “real existential threat is not necessary” for security measures to be applied, and that audiences’ acceptance is essential (24-25). The selected threats have to conform to people’s expectations about the way their states defend them. Douglas (1990) connotes these expectations to the emergent significance of individuals’ protection based on the risk logic, rather than the wish for the stabilization of a certain society, which is enhanced through the logic of danger.

The securitization process requires involvement of different techniques, and political, security and other categories of members. This means that securitization is a multidimensional process, rather than a technique that is limited to state politics alone. In *Controlling Frontiers*, Bigo (2005) suggests that the notion of borders is often



materialized as a line between two spaces that we need to question. He asserts that the border is more of a “line” that serves as a symbolic differentiation between people (52). The understanding of borders as frontiers explains why immigrants are still considered “outsiders” even after they are inside the EU. Once asylum seekers and refugees are given certain rights in Europe, they still cannot enjoy the rights that the citizens of the EU possess. Moreover, the status of asylum seekers, refugees, or other categories under temporary protection can be easily questioned and removed, leaving these people in uncertainty. This situation indicates that the inside/outside division is extremely blurred.

In order to understand the relationships between a frontier, political authority, and collective identities, Bigo (2005) examines the Yosef Lapid’s model of triangulation (See Figure 2., Page 98). This model includes the concepts of identities, borders and orders that are mutually determined, and presents a new perspective for understanding borders (53). However, in order to be able to apply his model to the European situation, it is necessary to extend it in a way that will include many identities and at the same time a common identity, which would mean having numerous borders as well as common EU borders (See Figure 3., Page 98). I will call this new model – the EU thinking model.

Within the latter model, European borders and orders<sup>25</sup> are not independent of the Member States’ borders and orders; while the EU identity includes many identities, the EU often tries to diminish their significance. However, unlike the identity problematic, the EU does not try to diminish the significance of its internal

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<sup>25</sup> The EU “orders” will be understood as power configurations between European and non-European states.

borders<sup>26</sup>. This is done to guarantee the EU Member States that the threats will be prevented from entering the Union if they have been externalized<sup>27</sup>.

Within the European context, the diminishing of the internal border controls goes together with the strengthening of the EU external borders. The (in)security of the EU is both internal and external (in)security, while the States' security policies have to coordinate with and facilitate the security policies of the Union. This situation presupposes two separate but complementary internal security policies, which define the way the EU answers the migration crisis. Because of the identity crisis within the EU and its inability to answer questions of political identity, it becomes even more difficult to think outside of the principle of state sovereignty and the security practices of the states, which are able to "explain" what security can be and who it can be for (Walker 1990:6).

According to Bigo (2005), it is the uncertainty of the European identity that attempts to establish increasing "homogeneity, integration and unity" (51). This situation leads to an approach that is "able" to unite heterogeneous Europe. As a result, the internal migration "problems" start being considered as external ones. The necessity for externalizing the migration problems and limit the Member States' sovereignty requires trust between the States in order to act as a Union. Moreover, because of the different positions governments hold regarding migration issues and freedom of movement, unified measures are required to appease each State position.

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<sup>26</sup> There is a double standard. The EU diminishes the significance of its internal borders for the EU citizens; however in regard to asylum seekers these borders are "rebuilt".

<sup>27</sup> "Externalized" means the safe third country concept has been applied to Turkey instead of any European Member State.

This frames migration as a security issue, which becomes a comfortable solution for the disagreements within the Union, and strong rationale for people's approval<sup>28</sup>. The security framing of migration facilitates logic of necessity and accepts as legitimate the violation of someone else's freedom. Consequently, intensified surveillance and control for some are enforced while others "enjoy the freedom of movement" (Bigo 2005:79). The "freedom of movement" is first and foremost a freedom of one's rational choices, which correlate to what Foucault defines as the "apparatuses of security" (Wallenstein 2013:17). However, if the freedom of one's rational choices is understood as a product of processes of discipline (Wallenstein 2013:17), then the "freedom of movement" has to be understood for asylum seekers and EU Member States' citizens as explicit and implicit lack of freedom, respectively.

Even though security practices usually constitute a political identity against others, it is the spatial exclusion in moral terms that legitimizes the EU policies of exclusion with regard to asylum seekers and refugees. As Campbell (1998) states, "the social space of inside/outside is both made possible by and helps constitute a moral space of superior/inferior" (85). Using a similar logic, Shapiro (1988) details the difference between the moral space of the self and the other, which justifies states' different types of exclusion. Moreover, the fact that a moral action has to be done "for the sake of duty" (Kant 1970:18) explains why the policies of exclusion are rarely considered immoral, even though morality and security have nothing inherently in

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<sup>28</sup> This notion follows the Kantian logic of the necessity (1970) for man's submission to coercion in order to safeguard his freedom (26). In such a way, the negative connotation associated with the violation of the asylum seekers' freedom becomes irrelevant.

common.

The new political dynamics and demands created by refugees and migrants “question the spatial logic through which these boundaries have come to constitute and frame the conduct of international relations” (Bleiker 2000:2). As a result, because asylum seekers’ movements have a deterritorializing character, they do not “belong to the spatial codes and practices of sovereign states” and likewise challenge state-centric conceptualizations, while facilitating criticisms of “states’ rationale for exclusion” (Bleiker 2000:2). In this line of thoughts, the human security concept is often suggested as an alternate conception of the state security concept, which diminishes the distinction self/other while prioritizing the human instead of the state. However, the security of states is comprehensive because it is based on citizens’ protection, while world security is difficult to be operationalized, and it is therefore a utopia (Walker 1990:5).

Traditionally, it is the state and implicitly its nation that are the referent object of security (Buzan et al. 1998:36). Moreover, the highly particularistic approach of the EU in relation to what can be, and what cannot be a referent object of security, diminishes the possibility of individuals to be considered as the best means of understanding a particular situation of insecurity. This notion coincides with Walkers’ definition (1990) of the human security concept as rather a moral than a political category: the state is a political category and humanity is not (6).

In order to be able to understand how a certain situation is described in security terms, it is necessary to turn attention away from the referent objects of security towards the techniques of government. Addressing this problem through a Foucauldian lens, the significance of certain techniques of government that are

dependent on a multitude of practices will become evident, and the ways these techniques modulate practices (Huysmans 2006:31). This perspective reveals how the nexus between migration and security is constructed through certain techniques of government that include myriad practices, which are coordinated and governable. The security concept will be understood as a technique of government (Foucault 1991), and the EU practices that enable the implementation of certain forms of governmentality in relation to the European migrant crisis will be emphasized through discourses of differentiation.

## METHODOLOGY

In order to analyze the EU techniques for managing the European refugee crisis, I consider the Foucauldian discourse analysis as the most suitable method for exploring the safe third country mechanism.

Asylum seekers and refugees are often contextualized by different policy makers and the media in discourses related to borders, identities and orders. Because the safe third country concept is often implicitly related to discourses of borders, identities and orders, it is interesting to find out how its construction enforces practices that tend to increase/decrease asylum seekers' and refugees' security. That is why it is necessary to take under consideration mainly the policy documents mentioned in the introductory part of this research, using those quotations from them that best represent the (in)security logic for the period under examination. Even though, the safe third country concept is not directly mentioned within these documents, they are able to reveal borders, identities and orders that continue being at the core of the latter concept. That is why I will take under consideration discourses of borders that construct/deconstruct borders outside and inside of EU, discourses of identity and citizenship that are able to reveal a common/uncommon EU identity, being/not being constructed by the European policymakers in opposition to others' identities, and discourses of power that can elucidate the EU orders. The EU-Turkey Statement will be used as a case study that represents the implementation of the European (in)security logic in regard to asylum seekers who are coming to Europe.

Insights and techniques from Foucault's work, including his first volume of *History of Sexuality* (1978b) and his lecture on "Governmentality" (1991), will be used for the purposes of my analysis. These works call attention to the power

problematic that is essential to understanding the positioning of discourse and how it relates and represents power. Such an approach has the potential to reveal that the power is not given, but created. What this entails is a perspective that asks, for example, what is in between the discourse of “self” and the discourse of “other”. Moreover, Foucault (1991) indicates that the sovereignty-discipline-government triangle, whose target is the population and its essential mechanisms, is the apparatuses of security (102). These apparatuses are related to the realm of liberalism, where the control is not exerted through territory/discipline (as in the classical age). Instead, people are controlled through freedom of circulation. In such a way, Foucault (1991) understands security as a measure that is normalized, rather than exclusively exercised in a situation of crisis.

These Foucauldian insights are essential for the analysis in this thesis, as I will stress reader’s attention on the security concept applied within the safe third country concept. In such a way, Foucauldian discourse analysis will allow the reader to look beyond the specific texts and to make evaluations about the current asylum policies that are applied in the European realm. Moreover, one can understand the big picture—how the security both in discourses and in practice function – and the results of its application in relation to migration issues. By using Foucauldian discourse analysis, one can find out whether the security logic is implemented with the intention of openness or closure to asylum seekers who come to Europe. This would allow the reader to understand the creation of order and implementation of power through discourse. Moreover, one can analyze the governing mentality/governmentality as being predominantly securitizing, increasingly disciplinary, or both. In such a way, Foucault’s governmentality “width”, or how European policies are thought, created, and practiced at large, will be enhanced through the “depth” of discursive analysis, in

order to create a rich, multidirectional analysis.

The reality constructed in the EU policy documents that I am going to analyze in Chapter I and III will be understood as a process of formation through techniques of discursive struggles and discursive alignments. While the discursive alignments are able to present a consistent logic of thinking that is less likely to be questioned by the reader, the discursive struggles can often lead to confusion about contradictory arguments that have been made. It is important to note that once discursive struggles have been presented in a security framework, confusion can be diminished. This can potentially lead to neutralization of the discursive struggle, if not to its full transformation into discursive alignment, which can make certain discourses more powerful or overreaching.

Moreover, I find it necessary, when analyzing these documents, to pay attention to Foucault's *Discipline and Punish* (1978a), in order to better understand the very disciplinary practices that are exercised by different agencies on the real European and Turkish borders. This approach will unfold the power problematic, which is defined through discourses, as unstable and ever-changing. In *History of Sexuality*, Volume I, Foucault (1978b) understands discourse as both "an instrument and an effect of power" (101). This point will be related to strategies that the EU follows in dealing with asylum issues. More specifically, my research will engage with the possibility of existence of "contradictory discourses within the same strategy" (102). Such a tactic has been used in the EU-Turkey Statement. The Foucauldian discourse analysis will reveal how certain contradictory points are made to look reconcilable, and, therefore, serve as strategically restrictive practices when applied to asylum seekers and refugees.



Moreover, the deconstruction of discourses in the policy documents within the period under investigation will show that the hegemonic political discourses take place on the basis of “antagonistic” articulatory practices, which merge EU (in)security with asylum seekers’ (in)security and neutralize the “antagonistic” approach related to the asylum seekers’ rights. This neutralization has a great importance in shaping migration problems as non-problems or as a normalized practice. In such a way, the previous meanings within the “new” discourses still exist, but they are modified in order to answer “adequately” the new challenges.

Looking at the social practices, objects and institutions as “texts” enables their interpretation in terms of meaning production, their discursive function, and the power relations and structures that emanate from these “texts” (Edkins 2007:90). However, if social practices, objects and institutions are viewed only in their literal and practical sense, the power relations and structures associated with them still stem from actual texts (Edkins 2007:90). Unlike the constructivist perspective, which tends to understand the agents as a starting point of analysis, I will foreground how language and power construct meanings so that meanings appear natural.

The strong relationship between migration, borders and orders in the European context requires the questioning of traditional understandings of territorial integrity, sovereignty and security, and problematizing of the “new” discourses that “substitute” the traditional ones. By employing this logic, I will reject the possibility of a knowledge that is objective, and that can lead to universally applicable actions (Edkins 2007:94). Therefore, the “new” key developments in the Common EU Asylum and Immigration Policy towards migrants will not be understood as a simple reproduction of the “old” practices, employed in Tampere Programme, Hague Programme, and Stockholm Programme (See Table 1., Page 100), related to

restrictions of asylum seekers' entrance and social insurances within the EU Member States. In such a way, I will be able to focus on both the differences and the similarities between current and past policies. Instead of seeing the logic in the EU-Turkey Statement (2016) as a consequence of the failure of the Dublin system, I will examine it as being constituted of traditional understandings that are intertwined with current ones. My intention is to question the pictures of reality that are constructed within the EU-Turkey Statement and outside of it within the period under investigation. Thus, I will be able to reveal how the securitized discourses convey practices of exceptionalism, which are characterized through power and domination. As Bigo (2008) suggests, the exceptionalism of power is related to "special" laws that tend to have legitimizing effects in a particular time and place, as well as the power of those who have created these rules is often unquestioned by different audiences (33). Paradoxically, these securitized discourses of exception are leading to both measures of exception and normality. This notion helps one to explain why the discourses of security and the discourses of normality are not simply combined, but are often synonyms. By referring to securitized discourses of exception, I am considering the Foucauldian apparatuses of discipline and security (1991:37). The (in)security discourses within the EU policy documents between 2010 and 2016 presuppose inclusion of those two apparatuses. Even though there is a significant difference between the disciplinary practices today and those within Bentham's prison project (Panopticon), where the discipline was applied to the people's bodies through spatial segmentation, these practices in the European context today replicate to a certain level the ones related to Bentham's project. The new EU practices discipline and securitize the migratory movements on different levels, both national and international, and explain how the European society faces the emergent issues.

## **Discourses of (In)security: Borders, Identities, Orders**

### ***Borders***

The success of the (in)security discourses within Europe that enable the operationalizing of the EU restrictive policies towards asylum seekers is not only undetermined, but is a product of human understandings that often reproduce dominant discourses. This means that security practices of the Member States or security apparatuses are able to function through and in agreement with States' populations. Therefore, refugees' acceptance in the EU is less likely to occur as States' populations often indirectly exercise disciplinary measures that lead to physical, social and economic isolation of those refugees who have already been accepted in a certain country.

According to Bigo (2008), security is “more a name than a ‘dispositif’ [apparatus] ... [as] it articulates discourses and practices of certain kind”. Thus, because the security “dispositif” is temporal and uncertain within a given space, it destabilizes this space (97). In comparison, discipline tries to stabilize space by enforcing certain practices. In order to describe “appropriately” the European securitizing dynamics, Bigo (2006) introduces the term “Ban-opticon”, which according to him, allows certain country/unity to exercise heterogeneous practices of (in)security from a distance, such as the surveillance of certain minority groups who are profiled as unwelcome to that country/unity (34).

Looking through a Foucauldian perspective, discourses of (in)security always stem from and create borders. While some suggest it is the territorial-judicial technology that externalizes the asylum seekers through EU practices of border control, others argue that the biopolitical and statistical technology internalizes the

asylum seekers through practices of monitoring and profiling “problematic” categories of people (Huysmans 2006:86-87). By accepting borders, not as a simple result of decisions or what constructivists call “speech acts”, but created on the basis of particular time and circumstances, I will be able to emphasize the importance of looking through a discursive lens. Thus, I will not deny the existence of borders; I will instead pay attention to their indeterminate character where the safe/safe third country is neither the starting point, nor the ending point of analysis.

### *Identities*

Even though the discourses of (in)security have evidently much more power within European practices than other discourses—such as the asylum seekers’ rights—I will not analyze these discourses of (in)security as the only one constitutive element of European practices. Morality, for example, is an element of one’s understanding of the world that constitutes reality in a way that often contradicts discourses of (in)security. Because the discourses of (in)security, related to the (in)security of identity, are often mistakenly related in some contexts to the “security of morality”, concepts of morality frequently predisposes their success in a certain period of time. Said in other words, by constructing the “others” as immoral (directly/indirectly), policy makers may provoke a positive acceptance of “we” as being moral, which conclusions can predispose “our” intolerance towards different identities.

Paradoxically, the (in)security of identity is able to secure identity to some degree through discourse. For Foucault (1978b), an inner fixed identity does not exist – it is discursively constructed. By taking this Foucauldian perspective and understanding of the EU identity as undetermined by power in any straightforward way, I will be able to explain identity formation as dependent on the other two

elements within the EU thinking model—borders and orders.

Discourse analysis of the EU identity and the EU thinking will show the different logics within various unfixed discourses, which are made to look fixed. That is exactly what identity, borders and orders appear to be. However, while the discourses of the EU borders and the EU orders highly depend on the borders and the orders of the EU Member States, the EU identity discourse incorporates many identities, whose significance is often diminished. Analysis of identity in the European context, in Chapter I, will reveal if a common EU identity was/was not created by the European policymakers.

### *Orders*

Like the previous two elements of the EU thinking model, the EU orders are not isolated from the EU identity and the EU borders. When discussing how (in)security frames migration discourses, it is critical to consider borders and orders. For the purposes of this thesis, I will understand the order as mutually dependent, whether national or international, and both within the EU and between the EU and Turkey. In such a way, I can move the focus from the application of the safe third country concept in the Dublin system, where the attention is predominantly paid on the EU Member States, towards its utilization in the EU-Turkey Statement, where the Union as a whole plays a major role. The controversies within and between national/international multilayered orders often lead to new orders, which may copy to a certain degree previous orders, or they might predominantly differentiate from them.

According to Tierney (2006), language can “create bodies of knowledge that in effect exclude other, alternative, though equally valid [politically], bodies of knowledge” (321). To be “equally valid” does not mean that knowledge should be

uncontroversial, even though it often is. For example, within the safe third country concept a controversy exists between discourses of asylum seekers' rights to choose the country of asylum, and states security discourses. However, the safe third country concept, that is also incorporated and incorporates the asylum seekers security discourse, is able to mask this controversy. In such a way, the orders are undifferentiated, whether they are between then and now, or the safe third country concept (applied within the Dublin system) and the safe third country concept (applied within the EU-Turkey Statement). Therefore, they are able to diminish people's sense of "disorder" or new order. That is why this concept possesses power and (in)security, but it also creates power and (in)security (See Figure 4., Page 99).

### **Illegal Migration Discourse versus Irregular Migration Discourse**

Policy documents prepared from different European government organizations and agencies mainly use the term "illegal" instead of irregular migration. In comparison, non-government, non-profit organizations use the term "irregular" migration within their documents. The gap between these two terms often invokes confusion about the nature of migration issues. According to the International Organization for Migration (IOM) Glossary (2004)<sup>29</sup>, irregular migration is related to "movement that takes place outside the regulatory norms of the sending, transit and receiving countries" (34). This movement, from the perspective of host countries, is

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<sup>29</sup> International Organization for Migration (IOM). 2004. "Glossary on Migration", edited by Richard Perruchoud. Retrieved October 11, 2016 ([http://www.iomvienna.at/sites/default/files/IML\\_1\\_EN.pdf](http://www.iomvienna.at/sites/default/files/IML_1_EN.pdf)).

“illegal entry, stay or work in a country, meaning that the migrant does not have the necessary authorization or documents required under immigration regulations to enter, reside or work in a given country” (34). There are many types of irregular migrants, from migrants who illegally enter the country, smuggled migrants, or trafficking victims, to over stayers, irregular workers, and migrants violating the rules during their short visits in particular country.

In juxtaposition of irregular migration, “illegal migration” has not been defined by the IOM Glossary. It is the “illegal entry” that has been defined, in accordance with Article 3(b) of the United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, as an “act of crossing borders without complying with the necessary requirements for legal entry into the receiving State” (United Nations General Assembly 2000:3). The omission of definition of “illegal migration” makes sense, especially when considering that Article 2 of Protocol No.4 of the ECHR states that everyone has a right to be free to leave any country, including his or her own (Boeles et al. 2009:118).

Migration has not always been securitized within Europe; however, for a while “illegal migration” is a hegemonic political discourse in the EU. That is why, unsurprisingly, in the Final Report of the European Defence Agency, it is the term “illegal migration” that has been used, instead of “irregular”. Similarly, in the Stockholm Programme, “irregular” migration has been used just once, whereas “illegal” migration is used approximately ten times more frequently throughout the same paper.

The term “illegal immigration” tends to construct asylum seekers and refugees

as criminals who do not deserve be accepted by the host countries. Even though, once asylum seekers have been granted refugee status, the illegality stigma usually increases social divisions and gives rise to racial profiling, xenophobia and hate crimes. According to Ashley (1989), the construction of “illegal migration” can be understood as dependable upon institutionalized structures, or background understandings that are taken to be already in place (272). However, this construction should be always accepted as a process of imposition and change through subjects’ practices (273).

In Chapter, I will discuss the usage of “illegal migration” and how it has been intertwined with discourses such as border security, identities, and orders in the context of the formation of different European policies.



## **CHAPTER I: Borders, Identities and Orders within the Safe Third Country Concept and Its Implementation in the Third Phase of the EU Asylum Policy Programs and the EU Global Strategy for the EU's Foreign and Security Policy**

This chapter examines how the EU policies of exclusion regarding asylum seekers and refugees have been constructed. Particular attention will be put on the Stockholm Programme (2010), the Final Report of the European Defence Agency (2013), and the EU Global Strategy for the EU's Foreign and Security Policy (2016), as these documents have significant differences with respect to themes and chronology. In such a way, the overall EU (in)security policy orientation will be grasped, and tendencies in different security fields will be elucidated. This approach will establish similarities between thematically contrasting discourses that have been implemented in a single document. Revealing the overall policy orientation of the EU in different policy documents will clarify its future asylum policy decisions.

I will discuss how the insights of different authors relate to concepts such as “terrorism”, “risk”, “citizenship”, and “power”. In this way, readers can create their own vision of what the EU has meant/achieved when constructing particular discourses. My analysis will be based, in part, on the work of Huysmans (2006), who offers insights into how the EU uses security to frame asylum issues. His approach will allow me to argue that security is: 1) not static, 2) cannot be achieved, and 3) can be used as a frame for different discourses.

The visible meaning of the safe third country concept shows the mechanism of the Member States for examination of the asylum seekers' applications. This notion compels one to consider whether the concept has any positive meaning for the asylum seekers if the practice of this concept in its core is exclusion from one space and inclusion in other. Even though the Dublin Regulation offers the possibility for

transfers, for example, in the name of family reunification and other types of connections, the unequal “burden sharing”<sup>30</sup> between the states does not convince one of the good practices of the EU in relation to the asylum seekers.

Each country has its own rules under what circumstances the concept should/should not be applied, and the country it chooses as safe when it decides to return an asylum seeker. The non-harmonized decisions in relation to the asylum seekers within the EU become an indication of a need for their “harmonization”. In this situation, the securitization of migration becomes the answer for the “inability” of the Member States to tackle the crisis within the EU. The unwillingness of certain countries to accept asylum seekers is an indication for the inability of the safe third country concept to be applied within the territory of the EU. The discourses of (in)security brought into one’s attention, mainly in the EU Global Strategy (2016) and the Final Report of the European Defence Agency (2013), led to an externalization of the safe third country concept to Turkey. Therefore, it becomes necessary to see how these discourses pave the road towards the way this concept is applied today, or, in other words, the hidden meanings within the concept.

Within the period under investigation (2010-2016) the safe third country

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<sup>30</sup> “The grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international cooperation” (Para. 4 of the Preamble of the 1951 Convention relating to the Status of Refugees). Situations of uneven burden-sharing often lead to multilateral confrontations between the States. In this realm, the safe third country concept differentiates rather than unites the Member States.

concept is used in two different realms: it is still applied in the Dublin system and it is applied outside of it. The second phase of the Common European Asylum System (CEAS), which embraces the period of the Stockholm Programme (2009-2014), paved the way for the application of the safe third country concept in the latter realm. In the field of asylum, this program aims to provide a secure Europe and conveys the externalization of the safe third country concept.

Addressing threats, even far away from our continent, is essential to protecting Europe and its citizens.... **Migration and asylum**, with a view to increasing Union dialogue and cooperation with countries of origin and of transit in order to improve their capacity to carry out border control, to fight against illegal immigration, to better manage migration flows and to ensure protection as well as to benefit from the positive effects of migration on development; return and readmission is a priority in the Union's external relation (EC Stockholm Program 2010:33-34; bold in original).

Within the Stockholm Programme (2010), the migration flows are presented as manageable and even beneficial for the Member States if only they are being regulated. This logic leads to one's negative reaction towards "illegal immigration", rather than directly towards the asylum seekers. In such a way, the migrants are connected to crime discursively, without being presented as performers of criminal acts. According to this line of reasoning, the "fight against illegal immigration" does not contradict the desirability of legal immigration. Put in such a way, "illegal migration" is a threat, and the threat within the EU does not presuppose migrants' inclusion. Therefore, firstly, the origin of threat is mainly external for the Union, and secondly, the migrants who have once been labelled illegal by the EU Member States, diminish their future benefits and positive attitudes in the host EU countries. Being presented in this manner, the discourses of legality and illegality presuppose the normalization of return and readmission as a step towards "ensuring protection" and "benefit from the positive effects of migration" (EC Stockholm Program 2010:33-34).

Such practices lead to less regulation of the “asylum shopping” as the asylum seekers will be reaching the European borders with more difficulty, and the need for internal regulation will diminish. This reveals that the threats should not be left entering the Union, but rather they should be managed outside of it. Such an approach shows that the borders within the safe third country concept are not fixed, but flexible in order to answer in a new manner on the “old” challenges.

As one can see, it is the EU Member States internal security, and therefore the EU internal security, which indirectly conveys prioritization to the EU external security. Still, this distinction becomes less and less visible within current EU conclusions and practices. The EU external and internal insecurities become indivisible, and unsurprisingly, the safe third country concept applied in the EU-Turkey Statement incorporates a “new” logic, created on the basis of new borders, new identities and new orders. This approach of merging the EU internal and external insecurities is not isolated within the wide EU policies; it was also part of the EU renewed Global Approach to Migration and Mobility (GAMM) (2011). It likewise provides a framework for the new EU external migration policy, which stresses the promotion of well-managed mobility, the benefits of migration, and the strengthening international protection (European Commission MEMO/2013/862:3).

As internal and external security aspects are increasingly interlinked, we continue to strengthen ties between CSDP and the area of Freedom/Security/Justice, so as to foster a greater understanding of respective objectives and ensure mutual benefits...It is important to communicate to the public at large that **security and defense ‘matters’** now, and that it will matter to their future prosperity, even if our citizens do not necessarily see an immediate external security threat. The combination of expanding security challenges and contracting financial resources points toward growing interdependence within the Union to effectively provide security for its citizens, now and in the long term (EDA’s Final Report 2013:20,13,4; emphasis in original).

...internal security is interlinked with the external dimension of the threats. In a global world, crime knows no borders. As reiterated by the 2008

European Security Strategy report, Internal and external security are inseparable (EC Stockholm Programme 2010:18,33).

...our security at home entails a parallel interest in peace in our neighboring and surrounding regions (EU Global Strategy 2016:14).

In the EU Council Conclusions (EUCO 217/2013), the threats are presented as a continuous phenomenon that needs persistent security measures inside and outside Europe. It is important in this stance to notice the security framing of the problems that facilitates an emergency logic that legitimizes states' extraordinary measures, rather than the risk logic that is related to calculation and prevention of undesired situations in the future. According to Huysmans (2006), the nature of security framing does not primarily rely on the specific threat relations, but on the precise ways of framing (24). The same is valid for the logic of risk. According to Sjoberg (1979), risk is defined as a system of beliefs and constructs. This perspective leads to the assumption that what is a risk for European security professionals may not be a risk for security professionals outside Europe. The highly subjective nature of what has to be accepted as a risk reveals the subjective nature of risk logic, rather than an objective one. The cultural theory proposed by Douglas (2003) relates the subjective or "perceived" risk to a specific cultural adherence, social learning and the value that is set on the outcome (31). Culture, thus, has been understood as "a system of persons holding one another mutually accountable" (31).

In this passage, people's future prosperity is linked to current (in)securities that might be unnoticed by them, which shows that invisible threats to people are predominantly noticed by the security experts. Furthermore, the knowledge of the security experts applied on the European level, as Neal (2009) points, is left less clear than the securitization moves on the national level. This is mainly because of the fragmentations within the EU polity and the nonexistence of common European

identity, which can be easily associated with the securitization policies of the Union. Therefore, the knowledge that these experts pretend they possess gives them the necessary power to recreate the old orders or to establish new ones. The power of the knowledge of security professionals appears as an answer to the new challenges that the Union faces, and “justifies” its imposition. However, this knowledge is created more on the basis of the question—In what way can migration be made look dangerous?—rather than being an answer to emergent threats. However, in order to be acceptable by the audiences, the new threats are more likely to appear on the basis of discursive alignment instead of discursive struggle. That is why connecting the migration to the human security concept becomes irrelevant, as it cannot resonate with the EU securitization policies implemented within the safe third country concept towards the asylum seekers. Moreover, it is important to note that the nature of the human security concept is rather preventive than reactive (Edwards and Ferstman 2010:43). In such a way, its application in the European realm will not resonate with the highly reactive policies of securitization of the EU.

Rather, the EU has decided to relate migration to threats like terrorism and human trafficking in order to “sustain the epistemological certainty” that the migration is identified as dangerous because it is “indeed dangerous” (Huysmans 2006:54). This is achieved by relating the politics of insecurity (migration) to the politics of knowledge (terrorism), respectively (Huysmans 2006:54). It is worth mentioning that this linkage is not new in the European context as it first appears in Article 16 of the Council Common Position on combating terrorism from 2001 where asylum seekers are considered potential terrorists (Huysmans 2006:71).

Therefore, one should understand security discourses, not as a simple reflection of the power constructs found in social practices, but rather as a creation of

power that relates to “hierarchy, authority, and physical force to the represented political reality” (Debrix 2002:210). These are the discursive formations that are embedded in certain political practices and that construct and reaffirm these social meanings that best fit for the desired outcomes (Foucault 1978b).

Let’s first look at the border security discourse, and how it has been constructed within the EDA’s Final Report (2013), the EC Stockholm Programme (2010), and the EU Global Strategy (2016).

**Border security** is an integral part of the EU’s security. Terrorism, weapons dissemination, illicit trafficking (drugs and human in particular), illegal immigration and organized crime affect the direct interests of the EU’s Member States. It is therefore in the EU’s interest to **help build the capacities of third States** to control their own territory, manage flows of people and goods, and address their respective security challenges, while also fostering economic prosperity (EDA’s Final Report 2013:9; bold in original).

Ongoing cooperation in the fight against terrorism and transnational crime, border security, visa policy, migration and judicial cooperation should be pursued (EC Stockholm Programme 2010:36).

We will back practical cooperation, including through the Union for the Mediterranean, on issues such as border security, trafficking, counter-terrorism (EU Global Strategy 2016:34).

The importance of border security is an integral part of the internal and external security. In this sense, the differentiation between internal EU Member States borders and the common EU border is diminished. The orientation of the security policies towards third States correlates to the safe third country concept in such a manner that makes it “useless” when applied in the territory of the Union. This way of presenting the “EU’s security” and the “EU’s interest” simplifies and diminishes EU Member States policies and interests. The linkage between “illegal migration” and terrorism, for example, is a step towards “equalization” of the threat dimension, which both of

them represent. This “equalization” I will call “continuum of insecurities”<sup>31</sup>. Such an approach can only achieve one objecting: increasing people’s sense of threat from “illegal migration”. It is the strategic use of terrorism that justifies any measures from exceptionalism to everyday security practices (Aradau and van Munster 2007:98), and which takes under consideration all kind of irregular/and illegal activities, including “illegal migration”.

Addressing “illegal migration” in such a way, the Head of the EDA highlights the importance of border security. The EU is understood as a “safe” territory that has to be secured from external threats. Furthermore, the prevention of threats, such as organized crime and illicit trafficking, from appearing within the Union, justifies these border security measures.

The European Commission refers to smuggling and other cross-border illegal activities that can have a negative effect on free movement within the Union. This link is made on the basis of differentiation between desirability and undesirability of the borders. The security logic in this case is placed on the external borders of the EU, while its internal borders’ significance is diminished. This logic shifts from the securitization of migration inside the Union toward the outside of the EU. In other words, there is an externalization of the migration issues. In this case, the border should not be understood as an imaginary frontier, but a real physical border that “ensures” security within the Union through its securitization from the outside.

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<sup>31</sup> “Continuum of insecurities” has been used in Roger Tebib’s book (2008) *Le renseignement dans la lutte contre le terrorisme: Des violences urbaines à la guerre masquée*. It is related to a new type of a hidden war that is managed through military and police intelligence in counter-terrorism in Europe and North America.



The differentiation between the right of free movement of the Europeans and the right of free movement of nationals from third countries is not a new phenomenon. They were distinguished in the 1980s and 1990s, and from that time forward, they led to the “construction” of different borders for Europeans and third country nationals (Ugur 1995, as cited in Huysmans 2006:66). This approach to “creating” borders in the EU in regard to tackling the migration flows coincides with Beck’s statement (2006) that risks are not “real” but “becoming real” (332). Furthermore, the EU logic shows how the safe third country concept becomes less attractive for application within the Dublin system. Applied in relation to Turkey, the latter concept does not lose its previous meaning of removing asylum seekers from one place to another. However, it receives a new one as it reflects on the Union’s “unmanageable” approach for the migration crisis, rather than managing the migration movements within it. Still, this situation is framed in discourses of capacity of the Union to control the emergencies, instead of “eliminating” them, as it actually does.

Huysmans (2006) stresses the attention on the new approaches of the Union for tackling the refugee crisis, such as using sophisticated technologies, including the harmonization of visa policy, intensive border controls, and the readmission agreements, which are developed in order to ensure more effective external protection for the EU (96).

The establishment of a European Border Surveillance System (‘EUROSUR’) is necessary in order to strengthen the exchange of information and the operational cooperation between national authorities of Member States as well as with the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU...it will improve their situational awareness and reaction capability at the external borders of the Member States of the Union (‘external borders’) for the purpose of detecting, preventing and combating illegal immigration and cross-border crime and contributing to ensuring the protection and saving the lives of migrants (EU Regulation No 1052/2013).

Preventing and combating “illegal migration” and cross-border crime are brought together under the umbrella of border surveillance. Thus, crime and “illegal migration” are connected within the humanitarian face of EUROSUR, which operates together with the Schengen Information System (SIS)<sup>32</sup> and the Visa Information System (VIS)<sup>33</sup>. The EU Regulation 1052/2013 makes it clear that the discursive struggle between undesired “illegal migration” and “protection of migrants” has been neutralized. The prevention of “illegal migration” is prioritized while migrants are presented as being in danger as a consequence of their own decisions. Put in this way, the discourses of (in)security for the EU are equalized to the discourses of (in)security for the asylum seekers, which leads to their discursive alignment. In such a way, the EU Member States appear to use technology as means for humane treatment of the asylum seekers on one side, and means for achieving their securitization aims, on the other side.

Here, it is important to reveal how power is shared and reproduced in new ways. The cooperation between national and European actors and the shared databases shows that power is not concentrated in one actor. In a Foucauldian sense (1991), it is “the ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercise of this very specific albeit complex form of power, which has as its target population” (102). This power is understood as a favorable power for people within the EU, but unfavorable for those outside the

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<sup>32</sup> SIS information system facilitates the EU external border control and law enforcement cooperation in the Schengen States.

<sup>33</sup> VIS information system allows Schengen States to exchange visa data.

Union. Even though the asylum seekers are not considered a direct threat for the EU citizens, but rather the smugglers and the nature of the illegal activities, these are the “techniques of government” in a Foucauldian sense that draw the invisible borders between Europeans and non-Europeans. Therefore, it is more accurate to understand the process of securitization, not as a measure for people’s/states’ survival, but rather as the everyday routines and technologies of security professionals that “govern what appears to be ungovernable” (Aradau and van Munster 2007:98,107).

The practices of surveillance are created on the basis of insecurity and projected into the future, which explains why surveillance technologies enable certain people’s exclusion through monitoring and categorization. According to Lyon (2003), the digital divide does not only raise questions relating to the access to information, as information can also create divisions (2). Moreover, because the divisions are means of exclusion, the protection of lives through surveillance is called into question. The differentiation between refugees and Europeans, through practices of surveillance, presupposes another differentiation that deepens the inequality division between “us” and “them” on the basis of the different nature of risk. These divisions become the necessary logic in order for the Union to construct the connection between its internal and external security. Such an approach enables the securitization of the European identity. However, in order to work for the purposes of exclusion of the asylum seekers, this logic needs to be implicit within the (in)security discourse instead of explicit. In this way, the asylum seekers are not explicitly framed as a threat. The (in)security discourses that relate migration issues with other issues, such as terrorism or human trafficking, indirectly define the threats in “material” terms. Migration discourse is placed within the “bounds of [a] physical threat, and the capacity for it [was] a pacifying move” (Williams 1998:215). This way, the conflicts within the

different States' or/and within a singular State's identities will be diminished, while Europeans start to recognize threats by adopting the perspective of the Union.

Therefore, the common EU identity is able to meet the common EU borders to facilitate its significance.

The Global Strategy for the European Union's Foreign and Security Policy (2016) clearly shows the need for recognition of a common European identity. It presents the threats as manageable only if people consider themselves as part of the Union.

Our foreign and security policy has to handle global pressures and global dynamics it has to cope with super-powers as well as with increasingly fractured identities. Forging unity as Europeans has never been so vital nor so urgent. There is no clash between national and European interests. Our shared interests can only be served by standing and acting together (EU Global Strategy 2016:4,16).

The European identity in these lines is implemented within the discourse of shared interests, recognized in situations of crisis. Here, it is the (in)security logic that blurs the lines between. The linkage between the EU identity and the EU interests is emphasized through the discourses of the "unity as Europeans", as opposed to the "fractured identities" (EU Global Strategy 2016:16), which are problematic for the EU. In such a way, the need for shared EU identity is implicitly imposed through the (in)security logic. However, the instability of the (in)security logic is also able to influence negatively on the common EU identity.

It is the societal security logic that has taken place in Union's political discourses, which is correlated with "a threat in identity terms" (Waeber 1993:23). Often, an identity threat is intertwined with discourses that oppose other identities' inferiority to the superiority of the European identity, in order to gain supporters and

to justify different EU security measures. However, even though a common EU identity can be created through the application of the security logic, the instability of the latter rationale does not “promise” long-lasting and/or stable identity formation.

These EU practices correlate with the impact of globalization and the changing nature of the world. According to Helen Stacy (2005)<sup>34</sup>, one needs to understand the role of the nation-state in international relations as a “relational sovereignty” (396). The “relational sovereignty” contrast to the states’ sovereignty (reason of state) in a way that does not prioritize the act of government itself, but the “population itself on which government will act directly or indirectly” (Foucault 1991:100).

The identity problematic embedded in the (in)security logic reinforces the EU practices that contradict the liberal system in which the role of the state is not to “proclaim an identity, but to disregard particular identities” in order to “resolve” the existing conflict between particularism and universalism by taking the latter perspective (Williams 1998:213). The fractured identities that are external to the Union and that it has to deal with reinforce the belief within the EU that it would be beneficial—in a political, social, and economic context—to the identities within Europe not to be fractured. However, the construction of a common EU identity is highly problematic. Triandafyllidou and Gropas (2015)<sup>35</sup> assert that “European

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<sup>34</sup> Stacy, Helen. 2005. “Relational Sovereignty.” (ASIL Proceedings) *University of Pennsylvania Law School*. Retrieved September 5, 2016

(<https://www.law.upenn.edu/live/files/1635-stacy-helen-relational-sovereigntypdf>).

<sup>35</sup> Triandafyllidou, Anna, and Ruby Gropas. 2015. “European Identity: What Kind of Diversity into What Form of Unity?” *Cultural Base*, September 30-October 2.

Retrieved October 5, 2016

identity is not only contested and fluid, linked to different national projects but it also risks symbolizing more a history of conflict and friction, rather than a history of unity or similarity” (6). By employing their perspective, the current situation in Europe is more likely to be related to a notion of a cultural European identity that is compatible with strong national identities, rather than the political identity that is represented, as the EU Global Strategy (2016) suggests, by uniting “all our cultures together to achieve our shared goals and serve our common interests”, which “is a daily challenge, but it is also our greatest strength”, as “diversity is what makes us strong” (4). Moreover, Triandafyllidou and Gropas (2015) conclude that the European idea of unity in diversity “point[s] neither to unity nor diversity but actually turn[s] diversity into unity” (9). It risks reifying regional, ethnic, or national identities by taking them as given and static. Consequently, the European identity has the potential to completely lose its cultural content and remains an “empty shell” that may become too culturally insensitive to matter for people. Thus, it remains unclear how much diversity is included in the European “diversity- as-identity” notion (8).

Furthermore, the link between common identity and common interests is unstable and unable to fulfil the rationale for the need of common EU answers on the new “threats” because the common culture does not require common identity in order to exist. This notion confirms that it is the security logic that is able to change the meaning of the problem as an identity problem or a problem derived from the lack of unity. In such way, unity is constructed in an existentially hostile environment where the focus is on freeing from and finding a threat, rather than on structuring the

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(<http://culturalbase.eu/documents/3.%20TRIANDAFYLLIDOU%20%20GROPAS.%20What%20kind%20of%20diversity%20into%20what%20form%20of%20unity.pdf>).

substance of the unity itself (Huysmans 2006:50). Consequently, as Heisler (2001) notes, “while the reconstituted notions of citizenship may exclude (non-citizen) migrants, citizenship as a bordering device does not determine, by itself, domestic order” (238). He suggests that there is a difference between the notions of identity and citizenship. The more important for European governance is “the formal marker of citizenship” that “bounds the population for which the polity acts and from which it derives its authority”, instead of European identity, which is “increasingly sub societal” (238), and therefore less influential and less preferable within the discursive formulations.

Our Union has enabled citizens to enjoy unprecedented security, democracy and prosperity...Our citizens deserve a true Union, which promotes our shared interests by engaging responsibility and in partnership with others...Remaining true to our values is a matter of law as well as of ethics and identity. The EU's credibility hinges on our unity, on our many achievements, our enduring power of attraction, the effectiveness and consistency of our policies, and adherence to our values (EU Global Strategy 2016:9-11, 15).

The concept of EU citizenship was officially introduced in 1992 by the Maastricht Treaty. The relationship between “our” security and “our” Union is made on the basis of a security concept that ties individuals to the state through the European citizenship rationale. In this way, identity and citizenship are conjoined into one thing, which is seen as a necessary step towards enforcing and deepening the European integration and enabling common security policies. The increased distinction between citizens of the Union and third country nationals is based on European intentions for different treatment of EU citizens and non-citizens (O’Leary and Tiilikainen, as cited in Yeong 2013:8)<sup>36</sup>. The introduction of the idea of a true

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<sup>36</sup> Yeong, Loke Hoe. 2013. “EU Citizenship, Citizenship and identity beyond National

Union creates a space to speculate that the power of the EU may be diminished because citizens of the Union do not facilitate its capabilities by creating common values and interests. Identity in this sense means European identity that all EU Member States share. Law and identity together create a strong correlation between norms and identity. It is important to note the growing importance of law where the object of the law is the individual, not the state (Jacobson 2001:165). In these circumstances, the strategic usage of identity rationale by the EU acquires an importance similar to the EU law.

This not only strengthens the sense of the need to maintain EU citizenship and values, but also legitimates enforcement of policies by the EU in the name of “security, democracy and prosperity” (EU Global Strategy 2016:9-11). The indirect threat identified by the EU Global Strategy (2016) is related to the possibility that the latter values can be lost if citizens are not acting like EU citizens. Moreover, the loss of values can lead to each citizen’s insecurity within the State of residence. Such connotation is less likely to create a true Union because it is based on a concept of threat that is transient, instead of on the citizens’ sense of political attachment.

A Report by Hoskins and Kerr (2012)<sup>37</sup> titled “Participatory Citizenship in the Borders.” EU Center in Singapore, Background Brief, 10; *University of Pittsburg*. Retrieved August 22, 2016 (<http://aei.pitt.edu/id/eprint/63479>).

<sup>37</sup> Hoskins, Bryony, and David Kerr. 2012. “Final Study Summary and Policy Recommendations: Participatory Citizenship in the European Institute of Education.” Report 4, Europe for Citizens Programme. Tender No. EACEA/2010/02; *European Commission*. Retrieved September 17, 2016 ([http://ec.europa.eu/citizenship/pdf/report\\_4\\_final\\_study\\_summary\\_and\\_policy\\_recommendations\\_.pdf](http://ec.europa.eu/citizenship/pdf/report_4_final_study_summary_and_policy_recommendations_.pdf)).



European Union” was meant to deal with EU citizenship issues. It was approved by the European Commission to highlight the need for participation in civil society, community, and political life in the Union that is beyond the legal realm of EU citizenship (Yeong 2013:11). This notion coincides with Koslowski’s assertion that the “constitutive nature of citizenship” and “the role of nationality law” are the main catalyzers of the states’ bounding” (as cited in Lapid 2001:158). The idea of European citizenship and the participation in community and political life in the Union is not stable over time. For instance, refugees who fulfill certain requirements can become citizens in a country after a signified period of time. Therefore, the demarcation between inside and outside cannot be sustained unchangeable (Shindo 2012:154).

Moreover, there are two ways of understanding EU citizenship: as a predecessor of a cosmopolitan citizenship, or as a new form of citizenship that unites people on the basis of differentiation/exclusion. According to Linklater (1998), in order to be realized as “cosmopolitan citizenship”, systems of exclusion have to be eradicated in order to be achieved human autonomy (37). This conception “can eliminate some of the tensions between duties of co-nationals and obligations to the rest of humanity” (37). However, the idea of EU citizenship does not follow the principles of “cosmopolitan citizenship”. The former rather diminishes the obligations the Union has to the “outsiders” for its own sake, and, therefore, EU citizenship is not likely to be a predecessor of “cosmopolitan citizenship”. Furthermore, the lines of division (borders) between the EU citizens and the citizens of the EU Member States are made to become more invisible than the borders between the EU and the rest of the world. The phrase “to remain true to our values” shows how the Union tries not to question the “nature of the good society, freedom, democracy, justice, and all the rest”, by inspiring EU citizens to think of their values as universal values (Walker

1990:11).

The order discourse is another example that is used to facilitate policies of exclusion in the European realm. It has been included in the EDA's Final Report (2013) and the EU Global Strategy (2016).

**The world as a whole faces increased volatility, complexity and uncertainty.** A multipolar and interconnected international system is changing the nature of power. The distinction between internal and external security is breaking down. Complex layers of governance and new patterns of interdependence empower new players and give rise to new challenges. As a result, state power is becoming more fragile. Among the drivers for this are: changing demographics and population growth, embedded inequalities, and new technologies. The EU's call for an international order based on rule of law and its support for effective multilateralism...For the EU to live up to its role as security provider means that European citizens and the international community need to be able to trust and rely on the EU to deliver when the situation demands (EDA's Final Report 2013:1-2, 4; bold in original).

The EU is committed to a global order based on international law, including the principles of the UN Charter. This commitment translates into an aspiration to transform rather than simply preserve the existing system. Through our combined weight, we can promote agreed rules to contain power politics and contribute to a peaceful, fair and prosperous world (EU Global Strategy 2014:39, 15).

The current global order, opposed to the "old" global order, is characterized by increased complexity due to globalization and the policies and the structures it requires (Walker 1994). Walker (1994) analyzes these two approaches in the current global order as universalism and particularism (240). Within the lines above, the "new players" and the "new challenges" are rather connoted to the legitimate European institutions with legitimate authority inside, contrary to the fragile balancing mechanisms outside.

The idea of world risk society has been promulgated to maintain the image of never ending threats having to be constantly fought by all, and the consequent inability of a single nation to cope with its problems alone (Beck 2006:342). These

new challenges are characterized by de-localization<sup>38</sup>, incalculableness<sup>39</sup>, and non-compensability<sup>40</sup> (Beck 2006:333-334). Paradoxically, these are the smugglers who put asylum seekers' lives at risk, while asylum seekers have been constructed as risky people through discourses of crime and public disorder within the European realm.

Moreover, Douglas (2003) recognizes that "risk now means danger" and "refers only to negative outcomes/bad risks" (24). This enables risks to embed forensic functions (27). Therefore, the risk rhetoric is used to maintain the vulnerability of certain individuals to the misbehavior of others, and explains why dangers cannot be perceived by the audience as fictive (28-29).

The European refugee crisis and the call of the EU for a need for application of a new approach towards migration issues maintains the particularistic approach through practices of marginalization and exclusion of asylum seekers and refugees while tolerating changes in the existing global order. It is highly misleading to think about the new orders enabled through the policies of (in)security by the Union as the first step towards Union's universalistic approach. Bigo (2001, 2008) suggests that coexistence can be achieved with the "others" inside an infinite and open topology like the Mobius ribbon. In this context, permanent security has to be normalized

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<sup>38</sup> Its causes and consequences are not limited to one geographical location or space (Beck 2006:333).

<sup>39</sup> Its consequences are in principle incalculable (Beck 2006:334).

<sup>40</sup> The security dream of first modernity was based on the scientific utopia of making the unsafe consequences and dangers of decisions ever more controllable; accidents could occur as long as and because they were considered compensatable (Beck 2006:334).

instead of fought, and border parameters depend on the look given by the observer and his position (115, 34).

Unlike the EDA's Final Report (2013), in which the internal and external securities are interlinked, in the EU Global Strategy (2016) they are almost totally undifferentiated. Diminishing state power is related to the new orders that appear within the international system. The national borders and identities also participate in the new system and undergo a transformation. Discourses of (in)security within the European context indicate a metamorphosis that has taken place on the basis of the idea of maintaining order in the EU through transformation. The role of these discourses of (in)security is to facilitate this transformation. In this way, new orders can emerge on the basis of identification of the inefficiency of the old ones. Formulated in this way, the perceived threats people face are constructed by the security professionals as external to the Union.

According to Beck (2006), "the key institutions of modernity such as science, business and politics...are supposed to guarantee rationality and security...are no longer seen only as instruments of risk management, but also as a source of risk" (336). Moreover, Troitskiy (2015)<sup>41</sup> concludes that "the main aim of the European security architecture is to avoid abrupt and uncontrolled change while remaining open to evolution under the influence of a changing internal and external environment"

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<sup>41</sup> Troitskiy, Mikhail. 2015. "The Procedural Foundations of the European Security Order: Russian and 'Western' Perspectives." *European Leadership Network*.

Retrieved August 11, 2016

(<http://www.europeanleadershipnetwork.org/medialibrary/2016/04/05/974ddb18/ELN%20Narratives%20Conference%20-%20Troitskiy.pdf>).

(para.3). The same discourses of (in)security that are present in the European security agenda have been recognized as “new players” and “new challenges”. Framing certain risk issues as new by the security professionals has been identified by Fischhoff et al. (1978) as a subjective reasoning. Such a tactic is used to persuade the public in a more convincing way of the need for an interdependent society. Putting the emphasis on the interrelatedness of the individual to others, the security professionals question what Beck (2006) calls individualization, where “an individual must cope with the uncertainty of the global world by him-or herself” (336).

The challenges that the EU Member States face within the Dublin system indicate that Europe does not act like a Union, as it claims. Therefore, by stating that the “interconnected international system is changing the nature of power” (EDA’s Final Report 2013:1), the EU shifts the focus from European shortcomings in dealing with the refugee crisis towards European strengths. In this way, the image of the EU as a strong and convincing player on the international scene, and security provider is less likely to be challenged by its citizens. Therefore, the discursive struggles are diminished as the security logic works to align new EU approaches with the asylum seekers discourse. The statement in the Final Report (2013) that the “state power is becoming more fragile” (1) questions the state as security provider. This conveys the notion that the Union is able to fulfil this role and to cope with the new challenges. Empowering itself through discourses of (in)security can only happen if the new power and the new (in)securities are left invisible to the audiences. Thus, hiding the Union’s shaping of its hegemonic practices around borders and asylum seekers is central to facilitating this political paradigm shift.

Some of these practices are more abrupt than others and are often justified on the basis of exceptional considerations. The barriers that are built on the national

borders within the Schengen zone in 2015, for example, are explained by European governments through the securitization logic in terms of the maintenance of political and social stability within the respective countries that can be challenged by the migrants.

The analysis of discourses on migration, border security, internal/external security, power, citizenship, identities, and orders presented in this chapter demonstrates that these themes have a significant overlap within the Stockholm Programme (2010), the Final Report of the European Defence Agency (2013), and the EU Global Strategy (2016). The logic of emergent new threats is used as a link for security and emergency logic enforcement within the aforementioned documents. By bringing up the need for transformation on the basis of the international law and the principles of the UN Charter, the Union “legitimizes” new moves towards the imposition of new orders, created on the basis of a “security community” (EU Global Strategy 2016:20). Therefore, because the security concept is unfixed, it indicates the flaws within the idea of maintaining a continuous community that will intermittently allow or forbid certain practices. Thus, the new orders, implemented by the Union, might not last for the duration of time that they have been planned to operate.

The implementation of emergency logic by the EU and the returns of asylum seekers and refugees to Turkey create new orders that reduce the access these groups have to Europe for a certain period of time, which has not been clarified in the EU-Turkey Statement. Moreover, the question about asylum seekers’ and refugees’ security in Turkey is not brought to audiences’ attention by the Union. The omission of discussions regarding Turkey’s asylum policies, practices, and the overall dynamics in the country can lead to misinformed impressions and conclusions about the safety in Turkey. This means that while it is necessary for a safe third country to actually be

safe, in reality, a county can be unsafe, even though it has been signified as safe by the EU. To dismiss potentially misleading impressions in some readers, and challenge the protection of asylum seekers and refugees in Turkey, I will discuss the safety in Turkey in my next chapter.

## **CHAPTER II: Asylum Seekers' and Refugees' Unsafety in Turkey**

The most recent turbulences in Turkey, related to the military coup in the summer of 2016, can question the safety for asylum seekers and refugees that have been sent by the EU to Turkey. However, the analysis in this chapter does not pay attention to the military coup as the coup took place after the EU-Turkey Statement was signed in March 2016. Instead, the overall political situation in Turkey will be analyzed in relation to its border practices and minority groups.

### **Border Practices**

Since the beginning of 2011, most of the asylum seekers in Turkey have been from Syria, but they have come from other countries as well, such as Afghanistan, Iraq, Iran and Somalia. The flow of asylum seekers created a situation that required Turkey to apply policies of acceptance and respect the principle of non-refoulement in accordance with international law.

Turkey maintains a “geographical limitation” to the 1951 Refugee Convention, and denies refugees from “non-European” countries of origin (Refugee Rights Turkey 2016)<sup>42</sup>. However, in April 2013, Turkey adopted a new Law on Foreigners and

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<sup>42</sup> Refugee Rights Turkey. 2016. “Introduction to the Asylum Context in Turkey.”

*Asylum Information Database*. Retrieved August 15, 2016

(<http://www.asylumineurope.org/reports/country/turkey/introduction-asylum-context-turkey>).



International Protection<sup>43</sup> (LFIP) that incorporates a legal framework for asylum in Turkey and includes all persons in need of international protection, regardless of country of origin (Refugee Rights Turkey 2016). Article 91 (1) of the LFIP defines the “temporary protection” as a protection status granted to foreigners who, having been forced to leave the country and cannot return to their country of origin, have arrived at, or crossed the borders of Turkey in masses seeking emergency and temporary protection (Koca 2015:210). Article 91 (2) further states that regulation from the Council of Ministers should be the main tool governing the implementation of the temporary protection (Koca 2015:210).

The standards in regard to temporary protection, however, are not the same with respect to Syrians and non-Syrians. For example, a “temporary protection” status “is acquired on a prima facie, group – basis, to Syrian nationals and Stateless Palestinians originating from Syria”, while asylum seekers whose country of origin is other than Syria “are expected to apply for an individual ‘international protection’ status under LFIP and are subject to a status determination procedure, conducted by the civilian Directorate General of Migration Management (DGMM)” (Refugee Rights Turkey 2016).<sup>44</sup>

The “temporary protection” regime “grants beneficiaries the right to legal stay, protection from refoulement, and access to a set of basic rights and services, including

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<sup>43</sup> The LFIP is Turkey’s first-ever national law governing matters of asylum, that is largely based on the EU migration and asylum acquis (Refugee Rights Turkey 2016).

<sup>44</sup> The DGMM is agency in charge of registering and granting status to refugees from Syria within the scope of the “temporary protection” regime (Refugee Rights Turkey 2016).

free healthcare” (Refugee Rights Turkey 2016). However, it also enables practices of exclusion as well as cancellation of the “temporary protection” status and prevents “any prospect of long term legal integration for ‘temporary protection’ beneficiaries” (Refugee Rights Turkey 2016). Those nationalities who do not qualify for protection under the “temporary protection” regime are subject to the new “international protection” procedure that includes “refugee” status, “conditional refugee” status, and “subsidiary protection” status (Refugee Rights Turkey 2016). These are administered by DGMM on the basis of the LFIP, which does not guarantee to provide shelter to those applicants (Refugee Rights Turkey 2016). The DGMM “Reception and Accommodation Centres” that have been envisioned to answer the needs of the most vulnerable do not seem a promising solution for those who are looking for protection, as asylum seekers and refugees are expected to secure their own accommodation with their own means (Refugee Rights Turkey 2016).

These types of refugees’ protection in Turkey show that neither the “temporary protection” regime, nor the “international protection” procedure promises a secure environment to the refugees in any prospective plan. In such a situation, Turkey’s border with Syria becomes the primal point of exercise of Turkey’s unwelcoming practices of exclusion, such as push-backs, contrary to the obligations under international refugee laws. According to Amnesty International Report (2014), “more than 40 individuals were shot or beaten by Turkey’s Border Police on the Syrian border” (Koca 2015:218). Moreover, Turkey has introduced electronic passports with biometric features, a project that initiates the deployment of high-tech devices on Turkey’s borders, and watchtowers that have been established on the border with Iran (Koca 2015:215). This underscores the fact that a process of state’s securitization has been introduced, rather than the humanitarian approach in regard to asylum seekers

and refugees. These practices of securitization have been enhanced through the presence of the European policing agency Frontex on the Turkey-Greek border in light of the implementation of the EU prioritized plan for collaboration of the Union with third countries in regard to the migration issues. Under the Union's pressure, the Turkish Interior Ministry has "completed a bill establishing a Border Control Agency" that plans to include "70,000 officers from the gendarmerie and coast guard commands and the National Police Department" (Yonetimi 2010)<sup>45</sup>. By changing the nature of the border control from Turkish Armed Forces to "civilian administration", Turkey does not practically change the nature of the existing border controls (Koca 2015:215). The logic behind the border practices' change, which is non-existent in Turkey, is related to the Union's unwillingness to accept refugees in the near future from Turkey. Moreover, Turkey has a limited capacity and can only accept a definite number of asylum seekers and refugees if it plans on integrating them in the future. Therefore, it would be naïve to think that the border agents are going to prioritize the humanitarian concept of acceptance in this context.

By the second half of 2012, asylum seekers' entry in Turkey has been restricted when their number increased due to the intensifying conflict in Aleppo and its environs (Dincer et al., as cited in Koca 2015:216). Moreover, Amnesty International (2014) reported that the Turkish border has been closed near Kobani/Suruc, Tell Abyad/Akcakale, Ras al-Ayn/Ceylanpinar, and Qamishly/Nusaybin. This has created a situation that may paradoxically lead to

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<sup>45</sup> Yonetimi, Basinda S. 2010. "Turkey to Establish Civilian Border Control, Immigration Agencies." *Turkish Ministry of Interior*, January 13. Retrieved October 6, 2016 ([http://syb.icisleri.gov.tr/default\\_b0.aspx?id=70](http://syb.icisleri.gov.tr/default_b0.aspx?id=70)).

increased smuggling (Koca 2015:216) while Turkey and the EU are trying “to offer migrants an alternative to putting their lives at risk” (EU-Turkey Statement 2016).

One of the most noticeable practices of Turkey’s exclusion of asylum seekers is the erection of the Nusaybin wall on the frontier with Syria in 2013. This move from Turkish authorities has been explained in security terms in regard to the illegal crossings and to curb smuggling; however, it has been accepted “as an attempt to divide the Kurdish majority populations on both sides of the border, prompting protests and hunger strikes, and jeopardizing peace talks” (Letsch 2013)<sup>46</sup>. Here, it is important to note that the Nusaybin wall is not the only barrier that has been initiated since 2013. A new wall has been built in 2015 along the border across Derbelut village of Efrin’s Cindires district and Idlib’s Atme village in Syrian territory (ANHA 2015)<sup>47</sup>. In addition, the latest Turkish barrier wall project (August 2016) is being implemented from the Mursitpinar crossing with a depth of 20 meters inside the Rojava territory in northern Syria near the city of Kobane (Omar 2016)<sup>48</sup>.

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<sup>46</sup> Letsch, Constanze. 2013. “Turkey’s New Border Wall Angers Kurds on Both Sides of Syrian Divide.” *The Guardian*, November 8. Retrieved October 4, 2016 (<https://www.theguardian.com/world/2013/nov/08/turkey-new-border-wall-kurds-syria>).

<sup>47</sup> ANHA. 2015. “Turkish Soldiers Building a Wall at Efrin border.” *Hawar News Agency*, December 15. Retrieved October 11, 2016 (<http://en.hawarnews.com/turkish-soldiers-building-a-wall-at-efrin-border/>).

<sup>48</sup> Omar, Enwer. 2016. “Turkey Building Barrier Wall on Border with Kobane, Syrian Kurds protest.” *Aranews*, August 28. Retrieved September 1, 2016 (<http://aranews.net/2016/08/turkey-building-barrier-wall-border-kobane-syrian-kurds->

The negative influence of the barriers on the Kurdish issues may lead to an insecure environment for refugees who have already gained status in Turkey. This indicates that the barriers are not only operating as a simple practice of exclusion of asylum seekers from Turkey or elsewhere, but also potentially increase of refugees' insecurities within the Turkish territory.

## **Minorities**

According to Cagaptay and Menekse (2014)<sup>49</sup>, approximately 83% of the registered refugees reside mainly in the southern Turkish provinces of Hatay, Gaziantep, Kilis, Sanliurfa, and Mardin. They note that these provinces are ethnically mixed and include Turkish, Kurdish, Arab, Sunni, and Alawite residents. Thus, the influx of refugees has changed the ethnic and sectarian balance of these provinces (3-7). For example, Sunni-Alawite conflagration in Hatay<sup>50</sup> can be easily provoked,

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protest/).

<sup>49</sup> Cagaptay, Soner, and Bilge Menekse. 2014. "The Impact of Syria's Refugees on Southern Turkey." *The Washington Institute for Near East Policy*. Retrieved July 5, 2016

([https://www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus130\\_Cagaptay\\_Revised3s.pdf](https://www.washingtoninstitute.org/uploads/Documents/pubs/PolicyFocus130_Cagaptay_Revised3s.pdf)).

<sup>50</sup> Hatay is Turkey's southernmost province. It is demographically unique, containing the country's largest proportion of Arabs (nearly a third of the province's population of 1.5 million). (Cagaptay, Soner. 2013. "Syria's War Could Inflamm Turkey's Hatay Province." *The Washington Institute for Near East Policy*. Retrieved July 5, 2016

especially after Ankara began providing safe haven to Syrian opposition groups and armed rebels in fall 2011 (Cagaptay 2013)<sup>51</sup>. Hatay Alawites are extremely critical of the policies of Recep Erdogan's party as they are ethnically and religiously related to Syrian Alawites and overwhelmingly support the Assad regime in Damascus. This explains why they often get involved in demonstrations within the region, culminating in eight thousand people participating in a 2012 protest (Cagaptay 2013, Cagaptay and Menekse 2014:17). It is important to note that the refugees within the region are not accepted as true refugees by some Hatay Alawites, but rather as jihadists who threaten Alawites on both sides of the border (Cagaptay 2013). Furthermore, Turkey has a large ethnic Turkish- and Kurdish-speaking Alevi community that is different from the Arabic speaking Alawites. Even though they are different from the Arabic speaking Alawites, the former community questions Sunni activism, and are opposed to the Turkish policies in relation to Syria (Cagaptay and Menekse 2014:19). The large ethnic Turkish- and Kurdish-speaking Alevi community, which is approximately 15% of Turkey's population, considers the governmental policies to be an attempt for the "Sunnification" of Turkey, which means political Islam imposition and an abandonment of the secular character of the country (Cagaptay and Menekse 2014:19,

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(<http://www.washingtoninstitute.org/policy-analysis/view/syrias-war-could-inflame-turkeys-hatay-province>)).

<sup>51</sup> Cagaptay, Soner. 2013. "Syria's War Could Inflamm Turkey's Hatay Province." *The Washington Institute for Near East Policy, POLICYWATCH 2063*, April 4. Retrieved September 23, 2016 (<http://www.washingtoninstitute.org/policy-analysis/view/syrias-war-could-inflame-turkeys-hatay-province>).

Zalewski 2013<sup>52</sup>).

Moreover, the unresolved Kurdish problem, which has existed in Turkey since WWI, creates tensions between the Kurdish minority<sup>53</sup> and the Turkish government. The movements for democratic self-determination within Turkey's neighboring countries have influenced the demands for self-determination of the Kurdish minority (Taspinar and Tol 2014:11)<sup>54</sup>.

According to the Copenhagen criteria and the Charter of Fundamental Rights, "everyone has the right to freedom of expression" and the right to education (Cheikosman 2013)<sup>55</sup>. Moreover, their cultural, religious, and linguistic diversity must

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<sup>52</sup> Zalewski, Piotr. 2013. "How the Syrian War is Stoking Sectarian Tensions in Turkey?" *The Atlantic*, September 27. Retrieved September 22, 2016

(<http://www.theatlantic.com/international/archive/2013/09/how-the-syrian-war-is-stoking-sectarian-tensions-in-turkey/280052/>).

<sup>53</sup> Since WWI, Kurds in Turkey have been the victims of persistent assaults on their ethnic, cultural, religious identity and economic and political status by successive Turkish governments (Callimanopulos, Dominique. 2010. "Kurdish Repression in Turkey." *Cultural Survival*. Retrieved July 10, 2016 (<https://www.culturalsurvival.org/publications/cultural-survival-quarterly/turkey/kurdish-repression-turkey>)).

<sup>54</sup> Taspinar, Omer, and Gonul Tol. 2014. "Turkey and the Kurds: From Predicament to Opportunity." *Center on the United States and Europe at Brookings*, US-Europe Analysis Series 54, January 22. Retrieved October 7, 2016

([https://www.brookings.edu/wp-content/uploads/2016/06/Turkey-and-the-Kurds\\_Predicament-to-Opportunity.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/Turkey-and-the-Kurds_Predicament-to-Opportunity.pdf)).

<sup>55</sup> Cheikosman, Evin. 2013. Turkey's Violations to Human Rights towards Kurds: A

be respected (Cheikosman 2013). However, neither one of these rights have been fulfilled thoroughly, though some efforts have been made to ease restrictions on the Kurds. These efforts include “permitting Kurdish language courses in some schools, allowing for twenty-four-hour television programs in Kurdish, allowing for Kurdish radio, newspaper, and music” (Cheikosman 2013:para.3). Moreover, “constitutional reforms in respects to the Kurds are in session, and the Turkish government is working to allow Kurdish to be used in court” (Cheikosman 2013:para.3).

This unfavorable situation has led to the formation of the Kurdistan workers party, which has been used for violent responses to the Turkish government discriminative policies. Clashes between the government and the Kurdistan workers party, together with many anti-government policies’ demonstrations from the other minority groups, have led to many civilian deaths within distinct regions. In 2014, the death of at least 21 people of Kurdish origin was reported after the street battles between Kurdish protesters and police across Turkey’s mainly Kurdish south-east, Istanbul and Ankara, as a result of government’s refusal to protect a besieged Syrian town from Islamic State (IS) militants (Reuters 2014)<sup>56</sup>. Moreover, six persons who were killed as a result of violence during the Gezi protests<sup>57</sup> in 2013 were of Alevis’

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hindrance on Admittance to the EU.” *E Kurd Daily*, January 3. Retrieved July 17, 2016 (<http://ekurd.net/mismas/articles/misc2013/1/turkey4388.htm>).

<sup>56</sup> Reuters. 2014. “At Least 21 Dead in Turkey in Kurdish Anti-Government Protests.” *ABC*, October 8. Retrieved November 1, 2016 (<http://www.abc.net.au/news/2014-10-09/riots-in-turkey-kill-21-over-failure-to-aid-besieged-syrian-kur/5800280>).

<sup>57</sup> On 30 May 2013, police cleared Gezi Park in central Istanbul of a small group of protestors opposed to its destruction. The denial of their right to protest and the



or Alawites' origin (Cagaptay and Menekse 2014:19). In addition to this complicated situation, a conflict exists between the Turkish government and the Islamic State of Iraq and the Levant (ISIL), which has resulted in many civil deaths due to the increased number of suicide bombings recently.

The above mentioned circumstances in relation to the Kurdish issues “explain” why the Nusaybin wall has been considered as the Turkish government's attempt of division between Kurdish people who live on the both sides of the border, rather than a state's security measure. Moreover, the conflict does not stay isolate from refugees who live within the Kurdish region. Mutual hatred may escalate as the refugees can gain more or less rights than the Kurdish population. Together with rights' issues, economic factors play an important role for host communities' attitudes towards the newcomers, as the former group standards can be easily diminished, especially in the poor/small districts, such as those cities in southeast Turkey.

The insecurities that arise, predominantly within the Turkish-Syrian border region for both the host communities and refugees, are complex and should not be left unnoticed by the international society and especially by the EU, which pretends that Turkey is safe but does not explain Turkey's safeness. In these circumstances, one can notice that refugees' safety can be questioned on both psychical and human rights' levels. Therefore, it would be misleading to consider the threats that vulnerable groups within Turkey experience as imaginary or non-existent. Turkey's acceptance of a large violence used by the police led to many anti-government demonstrations across Turkey. (Amnesty International. 2013. “Gezi Park Protests: Brutal Denial of the Right to Peaceful Assembly in Turkey.” *Amnesty International*. Retrieved June 10, 2016 (<https://www.amnesty.org/en/documents/EUR44/022/2013/en/>)).

number of asylum seekers, mainly from Syria, does not guarantee people's security per se. Rather, these are the subsequent policies and attitudes towards the newcomers that define refugees' successful integration and appropriate treatment by the government and the Turkish population. In such a situation, the Turkish government and EU policy discourses of safety do not reflect the unsafe reality for asylum seekers and refugees in Turkey or evaluate the future grievances of these groups. They instead emphasize the emergency logic that has nothing to do with the fair treatment of the current asylum seekers and refugees and those who are going to seek asylum in the near future.

Analysis of the EU-Turkey Statement is necessary in order to find out how the safe third country concept was used outside of the Dublin system. This examination will highlight the similarities and differences in the concept's application in Turkey while recognizing the role of the previous security logic of the EU in a new context. It will become evident that the security logic has been justified on the basis of exceptional measures. Moreover, it is important to notice that information about the potential (in)securities that Europeans might experience, due to the refugees' maltreatment in Turkey, and after the implementation of the EU-Turkey Statement, is not provided. For example, there might be potential health risks for the EU citizens after certain number of refugees are going to be relocated in Europe. This minimizes the chances of certain threats being recognized by Europeans while new orders have started emerging.

### **CHAPTER III: The Safe Third Country Concept Applied by the EU after the End of the Stockholm Programme: The Discursive “Safety” for Asylum Seekers and Refugees in the Case of the EU-Turkey Statement from March 18<sup>th</sup>, 2016**

The EU-Turkey Statement was introduced in order to facilitate asylum seekers’ and refugees’ returns to Turkey from Greece and Bulgaria. The analysis in this chapter will follow structurally, conceptually, and logically Chapter I. In this way, the reader can easily collate and correlate the findings in the present chapter to those in Chapter I while reflecting on the analysis that has been made in Chapter II.

The EU-Turkey Statement was signed outside the Second Phase of the EU Asylum Programs (the Stockholm Programme 2010-2014), in the realm of the Third Phase of the EU Asylum and Immigration Policies (See Table 1., Page 100). The key developments in the latter Phase include a fairer common asylum system; the prevention of a loss of lives at sea; the “hotspot” approach; cooperation with third countries (Turkey); and unilateral approaches to European challenges (AIDA Annual Report 2014/2015)<sup>58</sup>. A close analysis of the discourses within the Statement is necessary in order to determine how these developments are consistent with the state security logic, and thereby to problematize and question the ability of the Union to cope with the crisis in a humanitarian, liberal and even legal way, in congruity with the demands of today’s globalization.

On 7 March 2016, Turkey furthermore agreed to accept the rapid return of all migrants not in need of international protection crossing from Turkey into Greece and to take back all irregular migrants intercepted in Turkish

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<sup>58</sup> Asylum Information Database (AIDA). 2014/2015. “Common Asylum System at a Turning Point: Refugees Caught in Europe’s Solidarity Crises.” *Asylum in Europe*. Retrieved July 9, 2016 (<http://www.asylumineurope.org/annual-report-20142015>).

waters. Turkey and EU also agreed to continue stepping up measures against migrant smugglers and welcomed the establishment of NATO activity in Aegean Sea (EU-Turkey Statement 2016).

According to the Executive Committee's Conclusion 2003/96, the "persons who have sought international protection and who after due consideration of their claims in fair procedures, are found neither to qualify for refugee status on the basis of criteria laid down in the 1951 Convention, nor to be in need of international protection in accordance with other international obligations or national law" (Executive Committee Conclusions 2011:475)<sup>59</sup>, have been returned to their countries of origin. However, the procedure of examination of the applications of asylum seekers differentiates from country to country within the EU.

The omission of discourses that fuels attention on the refugees' need of protection minimizes the refugees' concerns in comparison to the undesirability of irregular migration. In this way, the refugees' discourse is neutralized by being framed in the security discourse of the EU. Based on the Executive Committee's Conclusion 2003/96, it is clear that NATO's activity in Aegean Sea fulfils "monitoring and surveillance of illegal crossings, in support of Turkish and Greek authorities and the EU's Frontex agency" (NATO 2016)<sup>60</sup>, and supports the Union's efforts to counter

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<sup>59</sup> Executive Committee Conclusions. 2011. "Return of Persons Found not to be in Need of International Protection." A Thematic Compilation of Executive Committee Conclusions 6th Edition. Retrieved June 6, 2016 (<http://www.refworld.org/pdfid/4f9d415d2.pdf>).

<sup>60</sup> NATO. 2016. "Assistance for the Refugee and Migrant Crisis in the Aegean Sea." NATO, June 27. Retrieved October 11, 2016

“illegal migration” issues through the promotion of controlling measures. Thus, the fact that the majority of those irregular migrants are actually asylum seekers, primarily from Syria, but also from other countries, is elided. Moreover, information about the potential harms refugees might experience in Turkey is omitted. This ignores the refugees’ need to relocate in a short period of time once they have been returned to Turkey and are classified as being under “temporary protection”.<sup>61</sup>

However, according to UNHCR’s statistics (2015), in 2014, approximately 63,975 registered refugees and 11,202 asylum seekers originated from Turkey and now reside across the world, which demonstrates that Turkey is a refugee-producing country (Roman, Baird, and Radcliffe 2016:15)<sup>62</sup>, rather than safe third country. The political conflict in Turkey between the state and Kurdish rebels located mainly in the southeast part of the country may pose threats to the lives of asylum seekers and refugees and may lead to a future repression and persecution (Roman et al. 2016:17). This situation might replicate the current dangers experienced by Kurdish rebels, but this time by asylum seekers and refugees. That is why it is more likely that asylum

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([http://www.nato.int/cps/en/natohq/topics\\_128746.htm](http://www.nato.int/cps/en/natohq/topics_128746.htm)).

<sup>61</sup> Article 91 (1) of the LFIP defines the “temporary protection” as a protection status granted to foreigners who, having been forced to leave the country and cannot return to the country they left, have arrived at or crossed the borders of Turkey in masses seeking emergency and temporary protection (Koca 2015:210). This temporary protection is granted only to Syrians.

<sup>62</sup> Roman, Emanuela, Theodore Baird, and Talia Radcliffe. 2016. “Analysis: Why Turkey is Not a ‘Safe Country’?” *Statewatch*. Retrieved June 10, 2016 (<http://www.statewatch.org/analyses/no-283-why-turkey-is-not-a-safe-country.pdf>).

seekers and refugees will be exposed to insecurity, including harsh treatment within the detention centers (Amnesty International 2015)<sup>63</sup>, rather than safety. Moreover, asylum seekers and refugees are facing uncertainty regarding their legal situation. Turkey does not grant full legal status to those refugees who come from outside Europe, or to those who fall under the temporary protection regime (Roman et al. 2016:16-17).

The omission of these issues within the EU-Turkey Statement constructs reality that makes one support Union's policies regarding the exclusion of asylum seekers and refugees, rather than their inclusion in the EU.

In order to break the business model of the smugglers and to offer migrants an alternative to putting their lives at risk, the EU and Turkey today decided to end the irregular migration from Turkey to the EU...It will be a temporary and extraordinary measure which is necessary to end the human suffering and restore public order (EU-Turkey Statement 2016).

Within this quotation, the discourse "to end the irregular migration" and the discourse "to end the human suffering" are connected in a way that presents Union's actions as legitimate. However, the security logic is shown as lessening human suffering, instead of Union's securitization. In this situation, the safe third country (Turkey) plays the role of a "safe" place that can provide better conditions for asylum seekers' and refugees' wellbeing. Moreover, in comparison to the discourses brought to attention in the documents analyzed in Chapter I and the use of the term "illegal migration", here, "illegal migration" has been used only once in relation to Turkey's obligation "to prevent new sea or land routes for illegal migration" (EU-Turkey

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<sup>63</sup> Turkish authorities have been unlawfully detaining and pressuring refugees and asylum seekers to return to the countries of origin (Amnesty International 2015).

Statement 2016). Proof of a humanitarian European answer to the crisis is found in the tactic of using the term “irregular migration” and the language of human rights’ activists throughout the EU-Turkey Statement.

Moreover, the discourse of public order is added in order to present an exceptional situation that has to be changed back to ordinary. The problematization of migration and its linkage to public order incorporated in the EU policy debates from 1980s until now (Huysmans 2000:756) is not exactly the same. The extensive migration that occurred for more than a decade presented “a challenge to [the] welfare state and the cultural composition of the nation” (Huysmans 2000:756). However, in the EU-Turkey Statement and other main documents within the period of interest, public order is increasingly directed at the “criminal migrant” (Tsoukala 2005:182). The misleading conclusions of the criminal involvement of foreigners made within police, political, and media discourses provide Member States’ governmental rationales for neutralizing human rights activists who remind governments of their obligation to protect the lives and properties of their citizens (Tsoukala 2005:182, Tsoukala 2008:74).

By intertwining the discourses of human suffering and public order, the Union is “diminishing” its external borders instead of “creating” them. This paradox stems from the fact that the EU border is considered the best source of security for both Europeans and migrants in a situation of crisis. In such a way, the asylum seekers’ and refugees’ voices are ignored, thereby allowing refugees to be victims of a combination of forced returns, mistreatment, violence, and abuse at the hands of border guards. Such abuses have been recounted in many reports authored by the UNHCR.

Moreover, push back operations of the Union towards Turkey may create

indirect push back operations on the Turkish-Syrian border, and the EU is not directly responsible for these returns. According to the European Court of Human Rights, “there is no right to asylum as such” (European Union Agency for Fundamental Rights and Council of Europe 2014:36)<sup>64</sup>. Alternately, however, states have to respect asylum seekers’ rights.

At a time freedom of movement, particularly across borders, is considered essential to the full development of a person’s private life, especially when, like the applicant, the person has family, professional and economic ties in several countries, for a State to deprive a person under its jurisdiction of that freedom for no reason is a serious breach of its obligations (ECtHR 2005, *Iletmis v. Turkey*, No. 29871/96, para. 50, as cited in *Boeles et al.* 2005:116).

Even though, Turkey should not return anyone seeking asylum to their country of origin under the principle of non-refoulement, it has been reported that Turkey has closed its borders several times. According to Human Rights Watch Report (2012), the “closure of both official and unofficial crossing points blocked thousands of refugees from fleeing the terror of aerial bombardment and shelling from seeking safety in Turkey” (*Koca* 2015:216).

Moreover, human suffering is indirectly related to the suffering of specific groups of refugees, namely Syrians, which increases the identity “borders” between Europeans and non-Europeans from outside of Syria.

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<sup>64</sup> European Union Agency for Fundamental Rights and Council of Europe. 2014. “Handbook on European Law Relating to Asylum, Borders and Immigration.” *Office of the European Union*. Retrieved September 12, 2016 ([http://fra.europa.eu/sites/default/files/handbook-law-asylum-migration-borders2nded\\_en.pdf](http://fra.europa.eu/sites/default/files/handbook-law-asylum-migration-borders2nded_en.pdf)).



For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria (EU-Tukey Statement 2016).

By diminishing the significance of other nationalities seeking asylum within Europe, the Union creates a double standard that “privileges” Syrians’ suffering. Thus, discourses that are brought to attention in the EU-Turkey Statement do not simply “resonate” exclusionary practices and violate the human rights of other refugee groups, but also question their refugee status. This approach helps the EU to create policies that lead to new orders as an answer to the Union’s security needs by creating new insecurities for its citizens and for the asylum seekers and refugees who are staying in Turkey.

Once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced, a Voluntary Humanitarian Admission Scheme will be activated. EU Member States will contribute on a voluntary basis to this scheme (EU-Tukey Statement 2016).

The lack of clarity about which country will accept refugees from Turkey confirms once again the negative meaning of the safe third country concept. It appears that the Union’s main idea is to reduce the irregular crossings; however, that basis of its voluntary scheme may lead to a reduced number of refugees, be they Syrians or non-Syrians. Therefore, the deportations of asylum seekers and refugees from the Union to Turkey may not be considered to simply be a symbol of temporary and extraordinary measure, but will likely become a permanent and “ordinary” one. The Union’s borders, identities, and orders are discursively maintained through techniques of discursive alignments that present everything the EU does as reasonable and well-managed. This approach presupposes a change of order in a way that is acceptable by the audiences, as they are the most important element that will “allow” the EU to do

what it intends. Moreover, the safe third country concept within the EU-Turkey Statement facilitates visa liberalization for the Turks within the Schengen Area and promises future full membership of Turkey as part of the EU enlargement strategy<sup>65</sup>. This political move from the Union makes sense given that the EU has determined that Turkey is a safe third country. However, the European Commission Report on Turkey (SWD/2015/216) undermines the safe third country claim by indicating that “the enforcement of rights stemming from the European Convention on Human Rights (ECHR) and the case law of the European Court of Human Rights (ECtHR) is not yet fully ensured....the rights of the most vulnerable groups and of persons belonging to minorities are not sufficiently upheld” (21-22).

This Report together with the findings of Amnesty International (2016) make it difficult for one to believe that what matters for the EU is the alleviation of human suffering, instead of its own security. Moreover, the fact that the EU-Turkey accession talks are activated within the European refugee crisis context makes it evident that asylum seekers and refugees are not the Union’s priority.

Analysis, presented in this chapter goes beyond the simplicity of stating that the

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<sup>65</sup> The prospect of full membership was part of the 1963 Association Agreement between Turkey and the European Economic Community (EEC). In 1987, Turkey submitted a formal request for full membership, which was rejected by the European Commission in 1989 on the grounds that Turkey manifested grave democratic deficiencies (See Tocci, Nathalie. 2014. “Turkey and the European Union: A Journey in the Unknown.” *Center on the United States and Europe at Brookings*, November 5. Retrieved October 1, 2016 (<https://www.brookings.edu/wp-content/uploads/2016/06/Turkey-and-the-European-Union.pdf>).

EU-Turkey Statement is unfavorable for asylum seekers and refugees. It explores the how, which is in the core of constructing certain topic as a problem. Building on this approach, the chapter elucidates the techniques of the EU that have been implemented in the safe third country concept. Moreover, it becomes evident that it is not that discursive struggles are missing in the EU-Turkey Statement, but that they have been neutralized and constructed by the security logic itself. More importantly, the presence of the human security logic, even vaguely, in the Statement, brings a hope that policy changes in the field of asylum can be made by the EU in the future, because changes are matter of a discursive construction and not a discursive stability.

## CONCLUSIONS

Following the analysis in this thesis, one can notice the paradox between Union's "humanitarian" measures for sending asylum seekers to Turkey and the inhuman treatment and insecurities for the latter group in the receiving country. This puzzle is a result of the inability of the EU to explicitly close its borders the way other countries from the Middle East did as it has obligations aligned with international laws and citizens' expectations. The violent borders, refugees' lack of safety in camps, and the unwillingness to resettle these people in places where their livelihood will gain meaning, represent the conclusions of the EU asylum policies. However, it is the importance of policy formulation that has to be recognized by societies as critical and the most important stage of asylum seekers discursive construction as a threat.

The confrontation between the EU Member States territoriality and asylum seekers' rights to seek asylum outside of their country of origin undermines a country's obligations to ensure that no one is going to be returned to a place where one's life, dignity, or rights have been threatened. The shift of usage of the safe third country concept, from being applied within the Union to being used outside of it, indicates a new phase of the Union's policies towards asylum seekers and refugees. This phase is characterized with increased usage of the state security principle and violation of asylum seekers' and refugees' rights to seek asylum in the EU. Such an approach legitimizes the imposition of extraordinary/security measures for asylum seekers' returns to Turkey, measures which have actually become ordinary.

Proof for the latter statement can be found within the EU Global Strategy (2016), where the idea of constant threat was deployed. Even though the threats are not explicitly defined, the (in)security discourses build a connection between refugees

and threats. Once constructed in a security frame, those who seek asylum become targeted and held at a distance. In this way, the application of the safe third country concept in the Union becomes less and less necessary as the “threats” are increasingly controlled from a distance (Foucault 1991). However, the security logic does not seek to protect one from a real danger; instead, it is related to certain community’s protection from threats that can jeopardize its functioning (Zedner 2009:9). This logic has been facilitated through new surveillance technologies that have been normalized and which have indirectly strengthened the psychological and cultural borders between different groups. To control, to secure, and to prevent have been, for a long time, the Union’s primary means for maintaining its integrity. What has been problematic is the inability of the EU to preserve itself on the basis of security logic as the security logic does not have an ending point. Ericsson (2007) relates the security logic to limits of knowledge, and extent of uncertainty, managed through the conversion of uncertainty into risk (217). However, the security concept facilitates action that has usually been based on the “new” character of threats (constructed threats) that Europeans are exposed to. In such a way, the security practices reveal the paradox of globalization, where the advantage has to be given to the world humanity and the diminished significance of states’ borders.

By revealing these problematic points, the safe third country concept elucidates not simply the borders, identities and orders of the state security logic, but also the changed meanings of the states’ responsibility towards the security of the states’ citizens. In other words, things are done for states’ citizens, not for the state itself. The security framing enables the boundary to be created between the political community inside and a lack of community outside, the need for synchronization between the universalizing standards of conduct (democracy, openness and legitimate

authority) and the state's reason combined with the necessity of violence (Walker 1990:12). Moreover, the safe third country concept is used to remove certain borders, but only at the expense of the creation of other ones. This tactic enables particular orders, traditions, and knowledge to be sustained over time.

The securitization of migration has been presented as a legitimate decision without questioning how safe Turkey is for asylum seekers and refugees, or considering whether there are new risks for Europeans after the implementation of the EU-Turkey Statement. The latter approach to the migrant/refugee crisis isolates "old", current, and future insecurities in order to emphasize the Union's ability to manage the current crisis in a way that is neither based on old "managed" insecurities, nor will provoke new ones.

The intention of this work is to shed light on those discourses that have often not been recognized by those who are visible or invisible victims of the EU securitization policies. Information has been omitted within the EU-Turkey Statement so that the conclusions presented in it facilitate the "right" direction of public analysis of the Union's asylum policies. The European refugee crisis and the EU-Turkey Statement should not be seen as a single "extraordinary" case of states' security approach limited to a present day. Countries from all continents use barriers or fences to impede asylum seekers at all costs. Technologies have been used for the purposes of "our" security, and intentions to build fences between states indicate disciplinary practices that have not been diminished in time, but which have rather evolved. The irony of fabricated uncertainty (knowledge), insecurity (welfare state), and lack of safety (violence) undermines and reaffirms state power beyond democratic legitimacy (Beck 2006:345). While acknowledging the instability of the security logic, the new deployment of the old security practices of exclusion has to be recognized as negative,

coercive, and inapplicable to the world of globalization. This notion indicates why my aim in this thesis is to stimulate a change of the current practices that lead to insecurities for the asylum seekers. Thus, the findings of this study become meaningful only if they can reach different audiences. My inquiry needs to be disseminated, not only across the policy makers (even though they are the primal audience), but also across current academics who are involved or are going to be involved in different policy affairs.

The limitation of this study stems from the fact that I am exclusively engaging with a macro level analysis, specifically at the state level, and do not discuss asylum seekers' stories and their experiences in Turkey. Through in-depth interviews, further examination of asylum seekers' wellbeing in Turkey will be able to show how the state security logic has been experienced by the returned refugees, whether safe Turkey is safe in practice for the newcomers to the country, and how forced returns potentially create uncertainty, strain, and apathy in asylum seekers and refugees in today's world of bordered globalization.

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## FIGURES

Figure 1.

### Safe Third Country Concept, Main Discourses and European Union's Policies

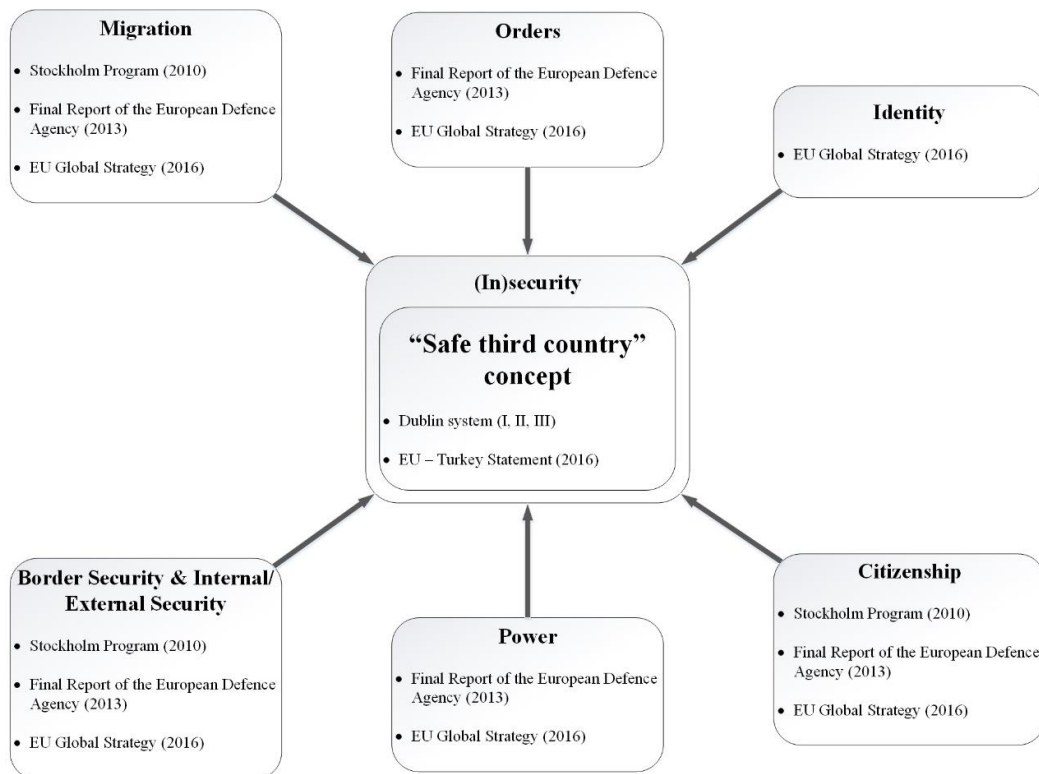


Figure 2.

State Thinking  
(Lapid's Model)<sup>66</sup>

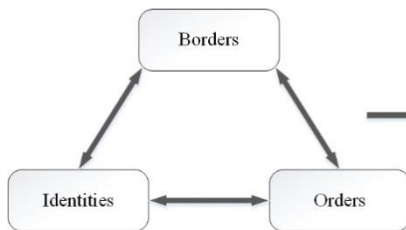
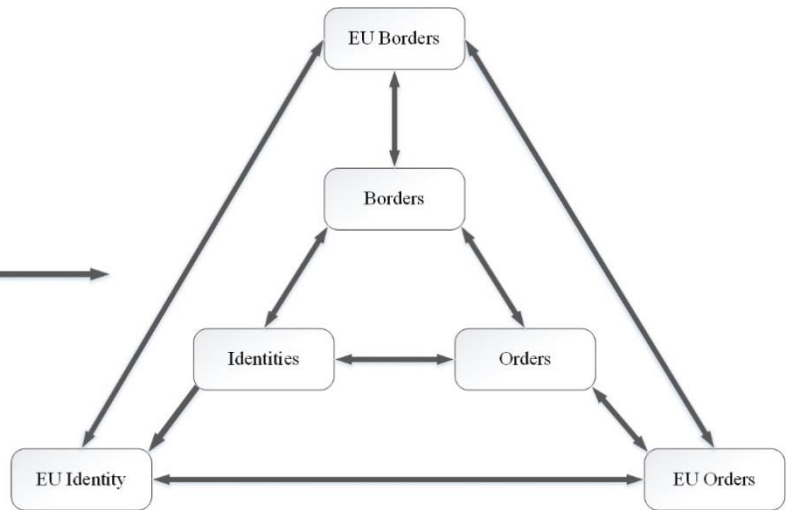


Figure 3.

European Union Thinking Model



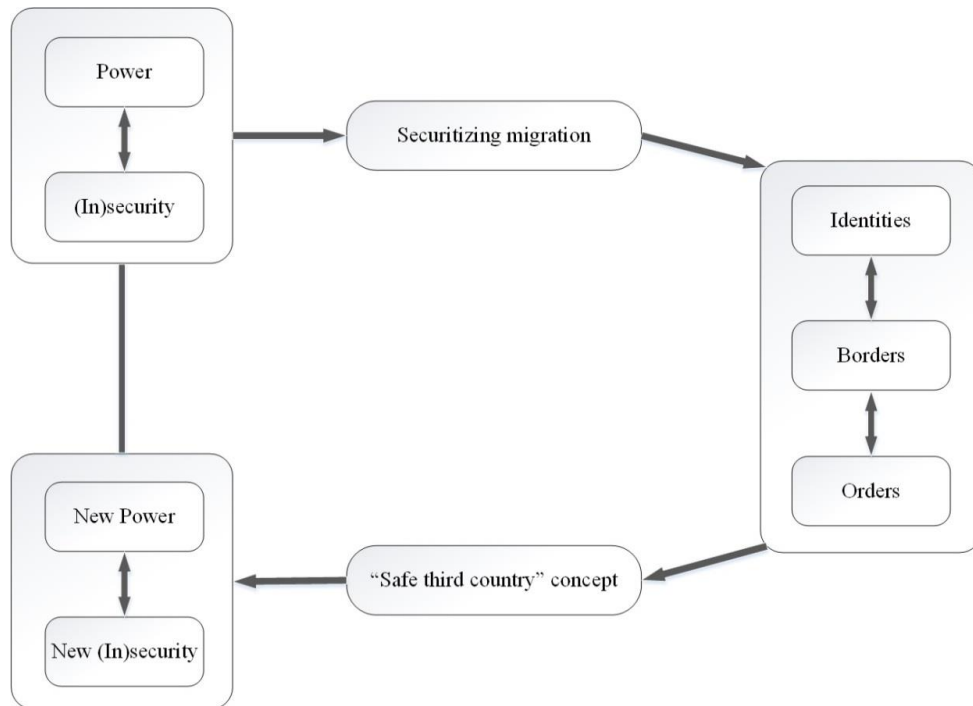
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<sup>66</sup> The identities are related to the national states. The borders are sharply drawn territorial lines. The orders are configurations of power among sovereign states (Lapid 2001:7-8).



Figure 4.

Placing the Safe Third Country Concept Within the Power & (In)security  
Reproduction Cycle



## TABLES

Table 1.

EU Asylum Policy Programs		
1 <sup>st</sup> Phase (1999 – 2010)	2 <sup>nd</sup> Phase (2010 – 2014)	Key Developments in the EU's Common Asylum and Immigration Policy (October 2014 – August 2015)
<ul style="list-style-type: none"> <li>• The Tampere Programme (1999): Area of Freedom, Security and Justice (2000 - 2004)</li> <li>• The Hague Programme (2004): Strengthening Freedom, Security and Justice in the EU (2005 – 2010)</li> </ul>	<ul style="list-style-type: none"> <li>• The Stockholm Programme (2010): An Open and Secure Europe Serving and Protecting Citizens (2010 – 2014)</li> </ul>	<ul style="list-style-type: none"> <li>• Preventing loss of life at sea</li> <li>• A fairer Common European Asylum System</li> <li>• The “Hotspot” approach</li> <li>• Cooperation with third countries: the case of Turkey</li> <li>• Unilateral responses to European challenges</li> </ul>

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