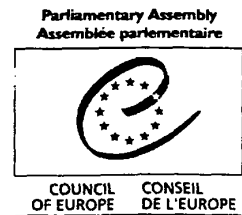


Parliamentary Assembly
Assemblée parlementaire



For debate in the Standing Committee — see Rule 15 of the Rules of Procedure

Doc. 10445
27 January 2005

Asylum seekers and irregular migrants in Turkey

Report
Committee on Migration, Refugees and Population
Rapporteur: Mr Bakhtiyar Aliyev, Azerbaijan, Socialist Group

Summary

The last decade has seen an increase in the importance of Turkey as a crossroads of migratory movements, as a country of origin, transit and destination. Migration in Turkey reveals all the complexity of contemporary migration movements in Europe: flows are of a mixed nature, that is they are composed of people in need of international protection as well as of others looking for economic betterment; they take place in a regular or irregular manner; they can be facilitated by smugglers of migrants or forced by traffickers in human beings; they may thrive on the existence of a strong informal economy.

The increased importance and complexity of migration poses daunting challenges to Turkey to which this country has tried to respond through a range of legislative and policy instruments. Despite satisfactory developments, Turkey needs to strengthen its legal framework in the field of asylum and migration and reinforce its co-operation with agencies such as the United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM)..

The case of Turkey shows that due to their transnational character, contemporary migratory flows can be addressed effectively only through a multilateral system of burden-sharing.

I. Draft resolution

1. The last decade has seen an increase in the importance of Turkey as a crossroads of migratory movements as a country of origin, transit and destination. Migration in Turkey reveals all the complexity of contemporary migration movements in Europe: flows are of a mixed nature, that is they are composed of people in need of international protection as well as of others looking for economic betterment; they take place in a regular or irregular manner; they can be facilitated by smugglers of migrants or forced by traffickers in human beings; they may thrive on the existence of a strong informal economy.
2. The increased importance and complexity of migration poses daunting challenges to Turkey, to which this country has tried to respond through a range of legislative and policy instruments.
3. In the field of irregular migration, the Parliamentary Assembly notes with satisfaction that Turkey has reinforced its legislative framework aimed at combating this phenomenon, including through the introduction of amendments to the Penal Code and the adoption of a Law on Combating Profit-oriented Criminal Organisations in 2002.
4. Likewise, the Assembly welcomes the ratification by Turkey of the United Nations Convention on Transnational Organized Crime and its Protocols on 23 March 2003.
5. This legislative effort has been complemented by policy measures aimed at improving Turkey's border control capacity, as well as by the approximation to the European Union visa regime and the conclusion of readmission agreements with a number of countries.
6. The Assembly acknowledges the financial efforts which have been made by Turkey to improve its efficiency in combating irregular migration and recognizes the need for Turkey to be supported in this process through facilitated access to international assistance and technical co-operation programmes.
7. In the field of asylum, the Assembly takes note of the prolongation of the time-limit for filing asylum applications, recently introduced into the legislation and welcomes the acceptance of the involvement and guidance of the United Nations High Commissioner for Refugees (UNHCR) in status determination procedures.
8. The Assembly also welcomes the willingness of the Turkish authorities to discuss the possibility of lifting the geographical limitation to the 1951 Geneva Convention relating to the status of refugees which limits the recognition of refugee status by Turkey to European refugees.
9. Access to the asylum procedure, however, remains a matter of concern. In this regard, the Assembly reiterates Turkey's obligation to guarantee security and safety for people who are in need of international protection as well as their access to a fair asylum determination procedure, irrespective of their regular or irregular legal status or manner of entry into Turkey, in compliance with the 1951 Geneva Convention relating to the status of refugees.
10. In this context, the Assembly recalls the binding character on Turkey of the European Convention on Human Rights and its relevance for asylum and migration cases.
11. In the field of return, the Assembly welcomes the reduction in the number of controversial expulsions of foreigners and encourages Turkey to envisage and implement a policy to facilitate voluntary return, in co-operation with the International Organization for Migration (IOM).
12. Finally, the Assembly believes that Turkey's efforts to address migration should be supported by the European Union and other Council of Europe member states in the framework of an effective system of burden-sharing.

13. The Assembly therefore calls on the Government of Turkey to:
 - i. in the field of irregular migration:
 - a. develop and strengthen its financial and technical resources to deal effectively with irregular migration and irregular employment;
 - b. continue the process of amending or introducing new legislation in order to address irregular migration and organised crime more effectively and in particular align its legislation with the Schengen Convention;
 - ii. in the field of asylum:
 - a. lift the geographical limitation to the 1951 Geneva Convention relating to the status of refugees;
 - b. ensure that all those who wish to apply for asylum are given unimpeded access to a fair asylum determination procedure, irrespective of their regular or irregular legal status or manner of entry into Turkey;
 - c. review certain requirements imposed on asylum seekers such as the 10 days limit for filing an application or the 15 days limit for providing the authorities with valid documentation;
 - d. continue to develop more comprehensive arrangements for the establishment of a fair and efficient refugee status determination procedure, in co-operation with UNHCR;
 - e. contribute to share the burden of hosting non-European refugees who are granted refugee status by UNHCR, by accepting to act as a resettlement country;
 - f. improve accommodation and social support services for asylum seekers and refugees, if necessary by seeking international financial support;
 - g. elaborate and submit concrete projects to provide assistance to asylum seekers and refugees in order to obtain financing from the Council of Europe Development Bank;
 - iii. in the field of return:
 - a. devise and implement a policy to facilitate voluntary return, also in co-operation with the IOM;
 - b. ensure that expulsions, when necessary, are conducted in full compliance with the European Convention on Human Rights and its Protocols and in a manner which is respectful of the security and dignity of the person, consistent with Assembly Recommendation 1547 (2002) on Expulsion procedures in conformity with human rights and enforced with respect for safety and dignity.
14. The Assembly calls on the Council of Europe Development Bank to give positive consideration to projects in the field of migration and asylum submitted by the Turkish authorities for financing.
15. Finally, the Assembly encourages the European Union to allocate financial assistance to Turkey to facilitate its progress in combating illegal migration and complying with international standards in the field of migration and asylum.

II. Explanatory memorandum by Mr Bakhtiyar Aliyev, Azerbaijan, Socialist Group

1. Introduction

1. During the last five years, the Committee on Migration, Refugees and Population prepared two reports on the situation of the displaced Kurdish population in Turkey. Following the debate in the Parliamentary Assembly two recommendations have been adopted¹.

2. The present report deals with the new challenges imposed on Turkey by considerably increased migration in the region, mainly of an irregular nature. The Rapporteur has focused on migrants and asylum seekers directed to Turkey, transiting through it and originating from it as Turkey is at the same time a country of destination, transit and origin.

3. The motion for a recommendation on asylum seekers and irregular migrants in Turkey presented by Mr Branger and others in October 2003 resulted from the Seminar on the subject organised by the Sub-Committee on refugees, in Istanbul on 18-19 September 2003 (*see programme appended*). Your Rapporteur has taken account of the conclusions of the Seminar. Furthermore, the Rapporteur has used the information provided in the report on the access to assistance and protection for asylum seekers at European seaports and coastal areas (Rapporteur on behalf of the Committee on Migration, Refugees and Population: Mr Danieli) in its part concerning Turkey. Finally, the present report includes several references to the Regional Conference on 'Migrants in transit countries: sharing responsibility for management and protection', organised by the European Committee on Migration (CDMG) of the Council of Europe, Istanbul, 30 September – 1 October 2004.

4. Mention should be made of another report which is currently under preparation in the Committee: New trends and challenges for Euro-Mediterranean migration policies (Rapporteur: Mr Danieli). Your Rapporteur has tried to avoid possible duplication of work by focussing exclusively on Turkey.

5. It should be recalled that in 2004 the Assembly decided to close the monitoring procedure on Turkey and to start a post-monitoring dialogue on a twelve-point list of outstanding issues, including the lifting of the geographical limitation of the 1951 Geneva Convention relating to the status of refugees and the implementation of the recommendations of the Council of Europe Commissioner for Human Rights on the treatment of refugees and asylum seekers².

2. General overview of migration in Turkey

6. Due to its geographical position as the natural crossroad between Asia, Africa and Europe, Turkey has always been an important country of migration. In recent years, however, and in particular since early 1990s, migratory flows have considerably grown in size. Their main feature is the irregular character. Indeed, with its 7.000 kilometre coastline and 2.800 kilometres of mountainous border with Iran, Iraq and former Soviet republics, Turkey's borders are extremely difficult to control.

7. There are many reasons explaining the appeal of Turkey for irregular migrants. One of them is that increasingly restrictive European immigration policies have resulted in Turkey developing into a buffer zone where asylum seekers and other migrants aiming to reach the West become stranded.

8. Migration flows into Turkey, both legal and illegal, include three main categories of migrants: the first category includes people from Eastern Europe, mainly from Moldova, Romania, Ukraine and the Russian Federation who come to Turkey in search of work. These migrant workers are absorbed in selected industrial and service sectors. For example, Moldovan women are employed as domestic workers; Moldovan, Ukrainian, Romanian and Russian women work in the sex and entertainment sectors; Moldovan and Romanian women are employed in the textile industry; Moldovan and Romanian men find employment in the construction sector; and men and women migrant workers of different nationalities work in the restaurants and other food related sectors. Many of these migrant workers enter Turkey legally but overstay the duration of their visas or do not apply for a work permit.

¹ Recommendation 1377 (1998) on the Humanitarian situation of the Kurdish refugees and displaced persons in south-eastern Turkey and northern Iraq and Recommendation 1563 (2002) on Humanitarian situation of the displaced Kurdish population in Turkey

² Resolution 1380 (2004), 22 June 2004.

A related phenomenon is known as 'cyclic migration': a number of foreigners come to Turkey for business reasons at different times during the year: their main destination is Istanbul, where they purchase goods that they will resell once back in their countries of origin. Every time they stay for a limited period of time, from a few days to a couple of weeks. Most of them are from eastern European countries and do not need a visa to enter Turkey³. In this context Turkey is a country of destination and transit.

9. Secondly, there is a large group of asylum seekers. According to UNHCR statistics, there were as many as 31.000 asylum applications were lodged in Turkey between 1994 and 2000. Out of these, 11.000 were accepted and 18.000 rejected. Non-European asylum seekers who have been granted refugee status are resettled to third countries, as a result of the geographical limitation (see *below*). A large number of rejected asylum seekers, however, fail to leave the country and remain in Turkey in search of illegal jobs or opportunities to enter another country illegally. They are able to find occasional employment mostly in the construction sector, in restaurants and other food related sectors, in some small workshops and also often as street vendors in big cities⁴. Also in this case, Turkey appears as a country of destination and/or transit.

10. The third, and by far the largest category of migrants, mainly irregular ones, consists of transit migrants who come to Turkey on their way to the European Union with the clear intention of leaving it. Estimates on the numbers of irregular migrants can only be speculative. Government statistics, however, indicate that more than 477.000 such persons were apprehended between 1995 and 2004 (June)⁵. According to the Turkish Ministry of the Interior, the number of persons arrested due to their illegal entry or presence in Turkey peaked at 92.364 in 2002, before declining to 82.825 in 2003 and 56.219 in 2004⁶. As a result of intensified efforts and initiatives, irregular migration via Turkey has decreased and migration flows have been diverted away towards north (Iran-Caucasus-Ukraine) and south (Iraq-Syria-Lebanon) international routes in 2002 and 2003⁷.

11. Irregular migration in Turkey is often considered as a product of increasingly well organised and effective trafficking and smuggling networks.

12. Generally, however, the systematic coercion of migrants into migration channels destined for prostitution, and other forms of exploitation seems to be less prevalent in Turkey than elsewhere and it is not very common for migrants, including women and children, to be trafficked for purpose of labour or sexual exploitation.

13. Those travelling by land tend to follow two main routes: 1. Iran, Iraq or Syria – Turkey – Bulgaria or Greece – the Balkans – Italy – Western Europe, or 2. Iran, Iraq or Syria – Turkey – Bulgaria – Romania – Hungary – Austria – the Czech Republic – Slovakia – Germany. However, the ways of crossing the border have been changing recently. The crossing of the 'dangerous' land border between Turkey and Greece has been gradually replaced by the sea route in the preferences of migrants⁸.

14. Smugglers use large cargo vessels leaving from the Mediterranean or Aegean coasts of Turkey and arriving in Italy or small crafts going to the Greek islands. The cost of the passage is around 3.000 US dollars per person. With 300-500 persons aboard, the income from one crossing may reach even 1 million dollars per vessel⁹.

³ Regional Conference on 'Migrants in transit countries: sharing responsibility for management and protection', organised by the European Committee on Migration (CDMG) of the Council of Europe, Istanbul, 30 September – 1 October 2004.

⁴ IOM – Study on irregular migration in Turkey conducted in 2003 by Assoc. Prof. Ahmet Icduygu, Bilkent University.

⁵ Kemal Kirisci, paper prepared for the Council of Europe Regional Conference on migrants in transit countries: sharing responsibility for management and protection, Istanbul, 30 September – 1 October 2004.

⁶ *Ibidem*

⁷ The decrease in trend of illegal migration is also mentioned in EU 2003 Regular Report.

⁸ See Doc. Doc. 10011, rapporteur: Mr Danieli.

⁹ see "Preventing illegal migration: juggling economic imperatives, political risks and individual rights" Claude-Valentin Marie, Council of Europe publications, 2002.

15. Turkey is a main transit country not only for migration flows from the East but also from the South. An indication of this is the diversified national background of migrants crossing Turkey: the authorities have identified 163 nationalities arriving in the country over the last 8 years. The main origins of migrants are: the Middle East (Iran and Iraq), Asia (Pakistan, Bangladesh and Sri Lanka), and Africa (Nigeria, Somalia and Congo). This fact emphasises the importance of Turkey as a transit country.

16. In addition to being a country of destination and transit, Turkey is a country of origin from which large numbers of asylum seekers and irregular migrants originate. According to UNHCR, during the 1990s, nearly 340.000 Turkish citizens applied for asylum in Europe.

17. There are some 3.7 million Turks (including 1.3 million of those who are naturalized citizens) living in the European Union. According to the figures for 2002, there are 2.637.000 Turks in Germany; 370.000 in France, 270.000 in the Netherlands, and 200.000 in Austria (all figures include both naturalized and non-naturalized legal migrants of Turkish origin).

18. Finally, when considering migratory flows in Turkey, one cannot abstract from internal displacement. According to different estimates, the number of people affected by this phenomenon is 353.576. Turkish authorities stand ready to discuss the source and accuracy of the claims that show this number much higher. Most of the displaced live in great hardship in Turkish cities, and unemployment, poverty and illness are not uncommon realities for this category of persons¹⁰.

3. Migration policies in Turkey

19. Obviously, the management of a complex phenomenon such as migration with all the features described above, is a daunting challenge for the Turkish authorities.

20. Mainly as a result of its aspirations for EU membership, since 1994 Turkey has made significant progress in improving its migration and asylum policy and practice. Following the adoption of the EU Accession Partnership Document in December 2000, the Turkish Government issued a National Programme for Accession in April 2001 covering a wide range of issues including migration and asylum. Similarly, a working group was set up in the Ministry of Interior to develop a comprehensive strategy to bring Turkish law and practice in line with the *Acquis Communautaire*.

21. Since then, the Turkish authorities have achieved a great deal in improving institutional, legal and administrative frameworks and procedures in the area of migration control and asylum, in line with EU requirements, and have cooperated successfully with UNHCR.

22. Reforms are underway in two main areas: management of migration flows and strengthening capabilities to control irregular migration and combat trafficking in humans on the one hand, and liberalisation of asylum policies and practice on the other. Both imply additional administrative commitments and financial outlay.

23. In order to combat irregular migration Turkey has adopted and implemented a number of legislative acts, and in particular:

i. it has introduced amendments to the Penal Code and adopted a Law on Combating Profit-oriented Criminal organisations (3 August 2002). This law introduces the definition of trafficking in human beings and smuggling of migrants into the Turkish legal system and prescribes heavy penalties against traffickers and smugglers. In addition, the new Penal Code which was adopted by the Turkish Grand National Assembly on 26 September 2004 places great emphasis on human trafficking and migrant smuggling and introduces heavier penalties and fines for the perpetrators;

ii. it has introduced legislation on work permits for foreigners, adopted by the Parliament on 27 February 2003, to regulate the access of migrant workers to the Turkish labour market. For example, under the new law foreigners are allowed to be employed as domestic workers, which was not the case before;

¹⁰ see Doc. 9391, rapporteur: Mr Connor.

- iii. it has introduced an amendment to Article 5 of the Citizenship Law, further to the vote of the Parliament on 4 June 2003. This amendment is particularly important in fighting trafficking in women through sham marriages. Under the previous law, a foreign woman would become a Turkish citizen immediately after marriage. With the new law there is a provisional period of 3 years before a request for citizenship can be made.
24. Furthermore, between 2001 and 2002 Turkey introduced visa requirements for Kazakhstan, Bahrain, Qatar, the United Arab Emirates, Kuwait, Saudi Arabia and Oman. Turkey has made considerable progress in the process of harmonization with the EU visa regime. In 2002, visa requirements were introduced to 6 Gulf countries. This is an ongoing process, whereby visa requirements for an additional 13 countries are to be introduced with a view of harmonizing its visa regime with EU standards by the end of 2005.
25. As requested by the EU, the Land Forces Command has taken over responsibility from the Gendarmerie for the protection of most green borders in the south and southeast and security measures at borders. The number of border control staff and sea patrols has been increased.
26. Turkey has signed readmission agreements with Greece, Kyrgyzstan, Syria and Romania and is in the process of negotiating agreements with Belarus, Bulgaria, Egypt, Kazakhstan, Jordan, Libya, Lebanon, "the former Yugoslav Republic of Macedonia", Sri Lanka, Russia, Ukraine and Uzbekistan¹¹.
27. In July 2002, the Turkish security forces played an important role in the dismantling of the Turkish part of an international network of smugglers.
28. While considerable progress has already been made regarding the introduction of, and changes to relevant policies and practice, much remains to be done. Turkey faces great challenges. Therefore, in order to be in a position to comply with EU requirements, Turkey needs greater access to international assistance and technical cooperation. In particular, it is demanding EU aid to strengthen its land borders, first of all those with Iran and Iraq, and to organise the removal of those who are not entitled to remain in the country.
29. Progress has also been noted as regards the asylum procedure. The five-day limit for filing asylum applications with the police, heavily criticized by human rights organizations (*see below*) was raised to ten days in 1999, and the number of controversial removals from Turkey has been significantly reduced in the last years.
30. The authorities have also started developing a system of reception centres for applicants at border crossings.
31. Since 1999, the Turkish Government has shown its willingness to discuss the possibility of eliminating the geographical limitation to the 1951 Geneva Convention on refugees (*see below*).
32. Turkey has agreed to enter "transit arrangements" with a number of European States whereby Iraqi rejected asylum seekers can be returned from Europe to Iraq via Turkey.
33. In reply to criticism concerning the status determination procedures, the Turkish Government has also increasingly accepted the involvement and guidance of UNHCR, and the cooperation with this agency has considerably improved.
34. Since 1998 UNHCR is also involved in providing regular information and training on refugee law and status determination to Turkish officials, prosecutors, judges and members of the Gendarmerie.
35. Again, a recent easing of tensions between Turkish authorities and Turkey's Kurdish population and improvements in the country's overall human rights record such as the abolition of the death penalty, recognition of Kurdish linguistic and cultural rights and progress towards the abolition

¹¹ Kemal Kirisci, paper prepared for the Regional Conference on migrants in transit countries: sharing responsibility for management and protection, Istanbul, 30 September – 1 October 2004.

of torture and freedom of expression and association undoubtedly contributed to a notable decrease in outward migration from Turkey in recent years. Pressure from the EU on Turkey has been a major factor behind reform initiatives in this domain.

36. Finally, on 23 March 2003 Turkey ratified the UN Convention on Transnational Organized Crime and its additional protocols.

37. In contrast, progress has been particularly slow and laborious in areas such as the alignment with the Schengen Convention, the improvement in the provision of social support services and, more importantly, despite readiness to consider the issue there has been no final decision on waiving the geographical limitation.

38. According to the Turkish authorities, Turkey needs much more time to carry out these changes and translate them into law, administrative practice and budgetary provisions. This seems to be particularly true of progress in status determination, refugee integration and the provision of social support services, which require substantial amounts of training, restructuring and financial investment.

39. Furthermore, the EU is pushing for Turkey to reconsider the policy of "resettlement and repatriation" (*see below*) and take on some of the burden of refugees entering its territory, thereby alleviating pressure on European countries. EU countries and other states that have traditionally welcomed refugees and asylum seekers from Turkey for resettlement, such as Canada, Australia, the United States, Sweden, Norway and the Netherlands, have increasingly criticised Turkey arguing that Turkey is now in a position where it can and should take responsibility for accepting the presence of some of the refugees and asylum seekers entering Turkish territory rather than systematically shifting the burden over to Western governments through resettlement.

40. In response, Turkey has accused the EU of double standards, arguing that its directives conveniently ignore the reality of Turkey's geopolitical situation. Whilst on the one hand requesting from Turkey that it take in more refugees, the EU is progressively building itself into a guarded "fortress" doing all it can to keep asylum seekers and migrants out. This has severe consequences for countries which, like Turkey, are situated on the periphery of the Union.

41. Moreover, it is important to note that recognition rates in Turkey are in fact substantially *higher* than in most European countries.

4. Areas of concern

42. Despite a high rate of recognition, human rights organisations have expressed concerns about the availability of protection for asylum seekers of non-European origin in Turkey. Although Turkey has ratified the 1951 Convention relating to the status of refugees and its 1967 Protocol, it operates the Refugee Convention with a geographical limitation, applying its terms only to refugees from Europe.

43. Under the Turkish regulations of 1994¹² non-Europeans as well as Europeans are requested to submit their applications to the Turkish authorities within 5 days of their arrival in the country (legal or illegal). The 5 day limit was changed into 10 in 1999 following criticism by the EU and the international community. Such a tight time limit raised serious concerns as, in practice, it might have resulted (and it did on many occasions) in *refoulement*: those who failed to comply with this requirement were liable to immediate removal without any consideration of their asylum requests.

44. Non-Europeans are expected to file their asylum claim both with the Turkish authorities and with UNHCR. The latter will process their claim. If they are recognised as having a valid claim for protection, they will be resettled to a third country. If a negative decision is reached, an expulsion order is issued, which may be appealed against within 15 days.

¹² Regulation on the Procedures and the principles related to Mass Influx and the Foreigners arriving in Turkey either as individuals or in groups wishing to seek asylum from Turkey or requesting residence permits with the intention of seeking asylum from a third country.

45. It has been reported that some refugees recognized by UNHCR have been detained by the Turkish authorities and/or returned to their countries of origin or to unsafe third countries, despite interventions and protests by the UNHCR, on the grounds that they have not complied with the procedure, namely by submitting their requests directly to UNHCR, without submitting it in parallel to the Turkish authorities.

46. The reasons for non-compliance with the Turkish asylum procedure may be numerous. One of them is that after registering with the police asylum seekers must provide the authorities with valid documentation within 15 days. This clause obviously fails to take into account the fact that even "genuine" asylum seekers are rarely in a position to carry valid documentation with them when crossing borders and that they sometimes deliberately choose not to do so.

47. Moreover, even after having been recognised by UNHCR as a legitimate refugee, failure to be resettled within a "reasonable period of time" may in theory lead to an individual's expulsion.

48. According to UNHCR's Global Appeal, some 13 per cent of asylum seekers registered with UNHCR were unable to lodge their applications with the Turkish authorities due to the procedural requirements described above.

49. In Turkey, the provision of services such as social support, housing, healthcare, counselling, legal advice and training, is seriously underdeveloped. Following even a positive appreciation of their application, asylum seekers are assigned to live in one of 25 "satellite" cities, usually in poor neighbourhoods and in cheap accommodation.

50. Although in theory refugees and asylum seekers are entitled to work and receive social assistance, in practice it is very difficult to obtain work permits and social support programmes are virtually non-existent, with the exception of those provided by UNHCR. Consequently, the majority of refugees and asylum seekers experience serious social isolation and economic hardship in Turkey and many are forced into illegality so as to overcome economic and other difficulties. In doing so, they inevitably become liable to expulsion.

51. Irregular transit migrants face the greatest difficulties in Turkey, as in other countries. Their journey can be a very lengthy one, delays between departure from the home country and the arrival in the country of destination varying from a few days to several years. Irregular migrants tend to live in greater poverty than that they used to in their home country.

52. It should be emphasised that the difference between an asylum seekers and migrants transiting through Turkey is not that clear-cut. Analyses of migrants' motivations in leaving their home countries usually reveal a complex mixture of political, economic and social factors, particularly in the region around Turkey. Thus the rigid categorization of migrants often proves to be inadequate to represent reality and as a result, the authorities should proceed with the highest caution when deciding whether to issue removal orders.

53. Another point of concern relates to agreements for the readmission of irregular migrants who are apprehended in an EU member state after transiting through Turkey. So far such a readmission agreement has been concluded with Greece. It enables illegal migrants to be sent back across the border, if the Greek authorities can prove the route taken.

54. Although non-governmental organisations in Turkey have not had a huge impact on Turkish asylum policy and practice they have nonetheless made some useful contributions to maintaining a constant dialogue with the Turkish authorities and they have achieved some results. The role of the civil society is growing.

5. Conclusions and recommendations

55. Turkey is undertaking an important effort in order to establish an effective administrative, legal and financial infrastructure to better control irregular migration and irregular employment of foreigners, and to combat trafficking and smuggling. The Turkish authorities, however, continue to have reservations about a number of sensitive issues, and face practical difficulties in implementing reform, rendering progress in some areas slow.

56. In order to overcome these difficulties, Turkey should comply with the following recommendations:

- i. develop and strengthen its financial and technical resources to deal with irregular migration and irregular employment effectively;
- ii. improve the legal framework to address irregular migration and organised crime more effectively;
- iii. give effective implementation to the new legislation and relevant amendments without delay, in order to address irregular migration and related criminal activities more effectively;
- iv. ensure the necessary cooperation and coordination among the different national entities and institutions currently dealing with the various aspects of irregular migration in an independent and uncoordinated manner;
- v. reinforce border control and endeavour to bring its legislation and practice in line with the Schengen acquis;
- vi. increase its capacity to fight organised crime including trafficking in human beings and smuggling of migrants;
- vii. cooperate with international organisations, such as UNHCR, ILO and IOM, as well as the EU to gain information and access to programmes which will help Turkey successfully tackle irregular migration, fight against irregular employment, as well as trafficking in human beings and smuggling of migrants;
- viii. cooperate with IOM¹³ in putting in place return programmes on behalf of irregular migrants who wish to return to their countries of origin, be they stranded migrants, rejected asylum seekers or victims of trafficking as this organisation successfully does in many countries around the world in close cooperation with government authorities.

57. In the area of asylum Turkey should:

- i. lift the geographical limitation on the 1951 Convention on the Status of Refugees;
- ii. develop new and more comprehensive arrangements for refugee status determination in cooperation with UNHCR, and in particular ensure that all intercepted irregular migrants who wish to apply for asylum are granted unimpeded access to a fair asylum determination procedure;
- iii. further develop accommodation facilities and social support services for refugees.

58. The EU should be urged to allocate more financial assistance.

59. However, in light of the fact that it is becoming increasingly difficult to distinguish between "genuine" asylum seekers and other irregular migrants, there are doubts as to whether two objectives, namely combating the illegal migration and protection of asylum seekers, are fully compatible. The important question is to which of the two the EU chooses to attach greater importance. On the one hand, there is little doubt that as a result of the reforms undertaken by the Turkish authorities in its bid for EU membership refugees and asylum seekers will have access to improved status determination and social support services. On the other hand, the situation whereby they enjoy relative freedom from government supervision and control in Turkey will undoubtedly change if all the required reforms are implemented. If Turkey applies strict controls and regulations at and within its borders, asylum seekers are likely to face even greater difficulty in gaining access to asylum procedures and *refoulement* may become an increasingly common phenomenon.

¹³ Turkey has become a member of the IOM as of 30 November 2004.

APPENDIX

Seminar on the situation of refugees and migrants in Turkey**Istanbul (18-19 September 2003)**

(MÖVENPICK HOTEL ISTANBUL, Büyükdere Caddesi 4. Levent 80640 Istanbul)

PROGRAMME**18 SEPTEMBER**

9.00-9.30 am

OPENING OF THE SEMINAR*Chair.* Mr Pedro AGRAMUNT, Chairman of the Sub-Committee on Refugees*Statements by:*

- Mr Murat MERCAN, Chairman of the Turkish Parliamentary Delegation
- Mr Ali Müfit GÜRTÜNA, Mayor of Greater Istanbul
- Mr Muzaffer ECEMIŞ, Undersecretary of the Ministry of Interior
- Mr Tadeusz IWIŃSKI, Chairman of the Committee on Migration, Refugees and Population

9.30-9.45 am

Coffee break

9.45-12.00 am

SESSION I: REFUGEES IN TURKEY

- Mrs Gesche KARRENBROCK, Representative, Office of the United Nations High Commissioner for Refugees (UNHCR), Turkey
- Prof. Kemal KIRIŞÇI, Lecturer at the International Relations Department, Boğaziçi University
- Ms Derya DURMAZ, International Catholic Migration Commission (ICMC)

12.00 am-2.00 pm

Lunch

2.00-4.00 pm

SESSION II: REFUGEES AND MIGRANTS TRANSITING TURKEY

- Mrs Regina BOUCAULT, Chief of Mission of the International Organization for Migration (IOM)
- Mr Mehmet TERZIOĞLU, Head of the Foreigners, Borders and Migration Affairs Department, General Directorate of Security, Ministry of Interior

- Prof. Ahmet İÇDUYGU, International Relations Department, Koç University

- Debate

4.00-4.15 pm Coffee break

4.15-5.00 pm PANEL DISCUSSION with the participation of:

- Mr Bivan İZADI, Counsellor, Deputy Head of Mission, Embassy of Iran
- H.E. Abdul Ghafoor Poya FARYABI, Ambassador of Afghanistan
- H.E. Sher AFGAN KHAN, Ambassador of Pakistan

5.00-5.30 pm CLOSING SESSION

- Summing up of the main findings of the Seminar by Mr Jean-Guy BRANGER, Rapporteur
- Closing remarks by Mr Mevlüt ÇAVUŞOĞLU, member of the Committee, Turkey

8.00 pm Dinner

19 SEPTEMBER

9.00 am Departure from the hotel

9.30 am Visit to Saint Sophia Museum

10.30 am Visit to Sultanahmet Mosque

11.30 am Visit to Topkapı Palace

1.30 pm Lunch at Topkapı Palace

Reporting Committee: Committee on Migration, Refugees and Population.

Reference to committee: Doc. 9965, Reference No. 2890 of 25 November 2003.

Draft resolution unanimously adopted by the Committee on 7 December 2004.

Members of the Committee: Mr John **Wilkinson** (Chairperson), Mrs Tana **de Zulueta** (1st Vice-Chairperson), Mr Søren Søndergaard (2nd Vice-Chairperson), Mr Jean-Guy **Branger** (3rd Vice-Chairperson), Mr Pedro **Agramunt**, Mrs Lale Akgün, MM. Gulamhuseyn Alibeyli, Jozef Bernik, Akhmed Bilalov, Ms Oksana Bilozir, Mrs Mimount Bousakla, MM. Ivan Brajović, Márton Braun, Christian Brunhart, Mevlüt **Çavusoğlu**, Doros Christodoulides, Boriss **Cilevičs**, Mrs Minodora **Cliveti**, Mrs Elvira **Cortajarena**, MM. Franco **Danieli**, Joseph Debono Grech, Taulant Dedja, Nikolaos Dendias, Sergejus Dmitrijevas, Karl Donabauer, Mats **Einarsson**, Mrs Lydie **Err**, Valeriy Fedorov, Ms Daniela Filipiová, MM. Karl Theodor Freiherr von und zu Guttenberg, Andrzej Grzesik (alternate: Mr Henryk **Kroll**), Mr Andrzej Grzyb (alternate: Mr Piotr **Gadzinowski**), Ali Riza **Gülçiçek**, Michael Hagberg, Michael **Hancock**, Jim Higgins, Mrs Jelena **Hoffmann**, MM. Ilie **Ilaşcu**, Tadeusz **Iwiński**, **Lord Judd**, Mr Oleksandr Karpov, Mrs Eleonora Katseli, MM. Evgeni Kirilov, André **Kvakkestad**, Geert Lambert, Jean-Marie Le Guen, Younal Loutfi, Tito Masi, Jean-Pierre Masseret, Ms Nóra Nagy, MM Giuseppe Naro, Xhevdet Nasufi, Pasquale Nessa, Kalevi Olin, Pieter Omtzigt, Gheorghe Popa, Virgil Popa, Gabino **Puche**, Milorad Pupovac, Martin Raguž, Anatolij Rakhansky, Marc **Reymann**, Branko Ružić, Ms Katrin Saks, Mrs Naira Shakhtakhtinskaya (alternate: Mr Bakhtiyar **Aliyev**), MM Össur **Skarphéðinsson**, Luzi Stamm, Mrs Terezija **Stoisits**, MM. Michael Stübgen, Mehmet **Tekelioğlu**, Mrs Elene Tevdoradze (alternate: Mrs Irine **Kurdadzé**), MM. Vojtech **Tkáč**, Tigran Torosyan, Mrs Jelleke Veenendaal, Mr José Vera Jardim, Mrs Ruth-Gaby Vermot-Mangold, MM. Sérgio Vieira, Oldřich Vojtř, James **Wray**, Akhmar Zavgayev, Vladimir Zhirinovskiy (alternate: Mrs Vera **Oskina**).

N.B. The names of those members present at the meeting are printed in bold.

Secretariat of the committee: Mr Lervik, Mrs Kostenko, Mrs Sirtori-Milner.

