

## Stormy months on the Aegean: the refugee deal and its impact on Turkey-EU relations

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### Theme

The refugee deal of 2015, followed by the opening up of a negotiation chapter, has revitalised the relations between Turkey and the EU; however, there are crucial points to bear in mind for future relations to be sustained.

### Summary

The relations between Turkey and the EU have been unexpectedly revitalised by the refugee crisis, which has served as a wake-up call for the EU on the importance of maintaining dialogue with Turkey. However, the timing of the refugee agreement between Turkey and the EU is questionable given the former's domestic circumstances. In 2015, the Turkish government tried to use the deal in general, and German Chancellor Angela Merkel's visit in particular, for electoral leverage before the country's critical elections on 1 November. Even if the hope of revisiting accession negotiations was desirable to both parties, the path taken is far from ideal. Not publishing the 2015 Progress Report on time because of the 'secret' request of the Turkish government to delay it has been the icing on the cake. In addition to certain details of the refugee deal, the lack of transparency regarding the distribution of the promised EU funds has been criticised. It is very clear that the optimum solution for refugees deserves a more complex policy and a sharing of responsibilities. However, the last Turkey-EU summit on 7 March proved that there is no long-term plan whatsoever, since what is on the table is hard-core bargaining, which is even being referred to as outright 'horse trading' by some media outlets. It looks like Turkey is trying to convert the crisis into an opportunity both internationally and nationally, while the EU leaders have differing concerns that might lead them to accept 'anything' to get away with minimal damage, and possibly to save Schengen or influence the forthcoming elections.

### Analysis

#### Turkey-EU relations: breaking the routine, as usual

Behind closed doors, Turkish and EU officials have been working on a draft plan for refugees for months. Over this period, advocates from both the EU and Turkey have embarked upon a marketing tour to promote the plan, starting with high-level EU officials visiting Turkey, together with EU Council President Donald Tusk, Commission President Jean-Claude Juncker and three Commissioners, including Johannes Hahn, responsible for European Neighbourhood Policy and Enlargement Negotiations. Then came

President Recep Tayyip Erdoğan's visit to Brussels and the warm welcome he received from the EU's leaders. Last but not least, two and a half years after her previous visit to Turkey, German Chancellor Angela Merkel went to Istanbul to meet President Erdoğan and the Prime Minister, Ahmet Davutoğlu, also twice, in order to convince Turkey to accept the refugee deal. Just two weeks before the critical elections, and only days after the bombings in Ankara that killed over 100 people at a peace rally, the EU promised a set of gifts for Turkey in return for it playing a more active role in preventing the refugee crisis from overflowing onto European territory –a role that could be summarised as merely containing refugees on Turkish soil–.

To be more specific, all of the following promises were on the table for the first part of the bargaining process, which will be surprisingly raised afterwards in March 2016:

- Speeding up the previously negotiated free-movement deal for Turkish citizens within the Schengen Area.
- Opening up new chapters in the negotiation process, namely on energy, economic and monetary policies, judiciary and fundamental rights, justice, freedoms and security, education and culture, and foreign, security and defence policies.
- An invitation for Turkey to participate in EU summits as a candidate country.
- The provision of new funds to help tackle the migration crisis, which will not be taken from the EU's Turkey allowance.
- A proposal for an initiative to recognise Turkey as a 'safe third country'.
- Better cooperation in the fight against illegal migration and terror.

Added to this, Brussels and Ankara also agreed on a certain 'hidden agenda,' the contents of which surfaced during the delay of the publication of the European Commission's Turkey's 18<sup>th</sup> Progress Report that was supposed to be published in mid-October. Rumour has it that the delay had been Turkey's 'secret' request to the EU, since the government did not want to face outright criticism just before the elections, especially on fundamental rights, the judiciary and freedom of expression. All in all, the situation was, once again, a break in the routine of the long history of Turkey's relations with Europe.

Following the first Turkey-EU Summit on November 2015, the refugee crisis has not lost speed since there has been no settlement in Syria. With the rising number of refugees crossing the Aegean in January and February 2016, the EU's leaders decided to meet Turkey once again after four months on 7 March 2016 in Brussels. With Merkel's 'allocation plan' failing in Europe, the EU once again found itself on the card table to deal with the possible refugee flows from Turkey, since with spring coming, many more people were expected to move towards to Europe.

### More than a promise: Turkey-EU leaders' summits

The unexpected pace of Turkey-EU relations first reached full speed on 29 November 2015, when the EU's leaders and the Turkish leadership led by Prime Minister Davutoğlu met in Brussels for the Turkey-EU Leaders' Summit. The Summit acted as a platform for both sides to formalise promises made to one another. The Declaration announced at the end of the November Summit focused on four specific points:

1. Opening up Chapter 17 for negotiations on 15 December 2015.
2. Speeding up the visa liberalisation dialogue to a set date in October 2016.
3. Establishing a joint mechanism and signing the agreement on 17 December 2015 to fight against illegal and irregular migration with an annual budget of €3 billion.
4. Organising similar summits twice a year on a more systematic and institutional basis.

Apart from these steps, the two sides also agreed to establish the mechanism on High-Level Economic Cooperation, to speed up the Energy Dialogue, to contribute to the peace process on the Cyprus issue and to work more intensely on the revision of the 20-year-old Customs Union between Turkey and the EU.

The partnership, which can also be seen as an alternative view of the 'privileged partnership', a concept that has been on the table for Turkey before, has been generally welcomed by most actors on both sides; however, criticism has also emerged. The latter has centred on three points.

First, the timing of the close cooperation was a poor choice on the EU's part. While in the Progress Report Turkey is said to be violating the rule of law and basic human rights, including an incredibly alarming situation in eastern Turkey, the EU should not be seen to be reaching out to such an illiberal country. However, it is also incredibly important that the EU does not lose its leverage on Turkey, especially when it is in such dire circumstances. Secondly, the refugee crisis is a much larger international problem, quite beyond a single country to handle alone. The agreement, focusing predominantly on Turkey, can only resemble a small bandage over a colossal wound. Lastly, the agreement does not point towards credible and feasible targets, so the result is still up for debate, which may end up deteriorating the bilateral relations.

The second get-together happened months after the first one. With Turkey unable to stop the refugee flow, with the aim of slowing it down the EU leaders decided to meet once again with Turkey in March 2016. By then, Merkel's notorious 'reallocation plan' had also failed, with some member states accepting very limited numbers of Syrians in their countries. The alternative Merkel-Samson plan proposed by the European Stability Initiative (ESI),<sup>1</sup> which assumed close cooperation between Greece and Turkey, was also subject to criticism. According to an official statement made after the summit, 'Turkey confirmed its commitment to implementing the bilateral Greek-Turkish

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<sup>1</sup> For more information regarding the plan see <http://www.esiweb.org/index.php?lang=en&id=597>.

readmission agreement 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 apprehended on Turkish waters'.<sup>2</sup> This statement means that the result of the summit is closer to the Merkel-Samson plan, which is a quicker solution, compared with having to convince 28 member states.

Developments before the second Turkey-EU Leaders' Summit are also important. Italy objected to contributing a €3 billion fund to Turkey and Matteo Renzi needed to be convinced by Germany. Greece granted Turkey the status of 'safe third country' and with this a major problem in the Turkey-Greece readmission agreement was solved. This is also an important step for the Turkey-EU readmission agreement, without the EU being criticised since the status is open to discussion regarding the internal situation in the country. Days before the second Summit, the European Commission published its second assessment report on visa-free dialogue for Turkey, with an emphasis on Turkey improving its fulfilment with 72 criteria for the visa roadmap. The Commission even released a small portion of the fund to be allocated, as a gesture, days before the second Summit in Brussels. On the eve of the summit, Merkel and Davutoğlu held an hours' long meeting, which could be defined as the pre-bargaining process for a Turco-German plan.

The timing of the second Summit could not have been any better for Turkey. A day before the Turkish Prime Minister, Davutoğlu, met the Greek Prime Minister, Tsipras, in İzmir, there were long hours of debate in Brussels. The end was again a new set of promises given by both sides, the draft outline of the plan being: the EU closing the Balkan loop-hole and both sides agreeing on a proposal that for every Syrian refugee returned to Turkey from Greece, a Syrian would be placed in the EU. According to the draft plan that will be discussed further on 17 and 18 March,<sup>3</sup> The EU will pay an extra €3 billion to Turkey to guarantee the deal and open up new chapters on the accession talks. In return, visa-free travel for Turkish nationals was rescheduled with a new date, June 2016.

According to the latest issue of the *Economist*, 'every element of the arrangement is politically, legally or morally problematic', but still necessary.<sup>4</sup>

### The refugee deal in detail: what to expect?

While both parties have managed to agree, the question for the EU and for Turkey is whether they are both willing to honestly accelerate bilateral relations or not. This is the key issue, since Turkey-EU relations and the membership process have been in progress for years, with abundant ups and downs. If working on the refugee crisis and fulfilling the EU's expectations can become a firm incentive instead of a shallow promise

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<sup>2</sup> The full text is at [http://www.consilium.europa.eu/en/press/press-releases/2016/03/07-eu-turkey-meeting-statement/?utm\\_source=dsms-auto&utm\\_medium=email&utm\\_campaign=Statement+of+the+EU+Heads+of+State+or+Government%2c+07%2f03%2f2016](http://www.consilium.europa.eu/en/press/press-releases/2016/03/07-eu-turkey-meeting-statement/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Statement+of+the+EU+Heads+of+State+or+Government%2c+07%2f03%2f2016).

<sup>3</sup> For the draft agenda of the forthcoming meeting see <http://www.consilium.europa.eu/en/meetings/european-council/2016/03/17-18/>.

<sup>4</sup> For the full text of 'A messy but necessary deal' see <http://www.economist.com/news/leaders/21694536-european-bargain-turkey-controversial-offers-best-hope-ending-migrant?cid1=cust/ednew/n/bl/n/20160310n/owned/n/n/nwl/n/n/n/n>.

for moving ahead with the negotiation, this will be a very important development. However, in the event of the agreement not reaching a positive outcome for both parties, what will become of Turkey's accession process? Will history judge such a move as nothing more than a meaningless political exchange, trading refugees for political gain, one way or the other? The pattern has been criticised by many different circles both in Turkey and Europe, since it has emerged at a time when the governing party was under criticism for its stance on basic values such as human and minority rights, freedom of expression and the press, and, most importantly, the impartiality of the judiciary process –ie, the very basis for the Copenhagen political criteria–.

*Realpolitik* should not be the only basis for the action of European leaders. Europe should provide an impetus for improving basic rights and freedoms in Turkey and also seek a humanitarian solution for the refugees. A fair and sustainable deal for refugees requires further attention, not a shallow set of promises when there are already almost 2 million people in Turkey in 2015 according to the UN<sup>5</sup> –and many more expected to follow–.

### Why open chapters if Turkey cannot close them?

Whether or not the two sides are committed to the refugee agreement, there are serious consequences for the future of Turkey-EU relations, for instance in the EU's pledge to open new chapters in Turkey's accession process. Five out of six chapters that are proposed to be opened have been repeatedly blocked by the recalcitrant Cyprus problem. If the EU, especially Germany, can pressure Cyprus into opening the blocked chapters, this could be a step forwards in the negotiation process.<sup>6</sup>

Speaking about the potential opening up of new chapters, some facts from the past should be borne in mind. Both the EU and Turkey have stressed the urgency of opening new chapters, especially on fundamental rights, justice and energy over several years in the hope that Turkey can patch up its deteriorating image in Europe. Finally, after a two-year stalemate, on 14 December 2015, Chapter 17 on Economic and Monetary Policy was opened. However, the question is: is there any hope that the chapter will be closed? On the 10<sup>th</sup> anniversary of Turkey-EU membership talks, 15 chapters have been opened with Turkey while only one has been closed, although only provisionally. In order for the EU accession talks to advance, however, chapters must not only be opened but also closed. Yet due to the European Council decision of December 2006, no chapter can be provisionally closed until Turkey fulfils its commitments under the additional protocol to the EU-Turkey association agreement –ie, until it can solve the Cyprus problem–.

Because of this decision, Turkey's EU membership has been in a deadlock that no one can break but Cyprus: even if chapters are opened and the necessary targets are

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<sup>5</sup> For further information see <http://www.unhcr.org/pages/49e48e0fa7f.html>.

<sup>6</sup> For further information on accession negotiations and the Cyprus problem see William Chislett (2015), 'Turkey's 10 years of EU accession negotiations: no end in sight', Working Paper, nr 14/2015, Elcano Royal Institute, Madrid, [http://www.realinstitutoelcano.org/wps/portal/web/rielcano\\_en/contenido?WCM\\_GLOBAL\\_CONTEXT=/elcano/elcano\\_in/zonas\\_in/wp14-2015-chislett-turkeys-10-years-of-eu-accession-negotiations-no-end-in-sight](http://www.realinstitutoelcano.org/wps/portal/web/rielcano_en/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/wp14-2015-chislett-turkeys-10-years-of-eu-accession-negotiations-no-end-in-sight).

accomplished, there will be no possibility of closing them without the cooperation of one country. If a solution is reached on the Cyprus issue, Turkey would still need to rework the chapters in order to harmonise them with current EU legislation. Therefore, it would be a very encouraging development to remove the clause that prevents the closing of any chapter provisionally. If this happens, then the promise of advancing in accession negotiations can become a reality.

Opening a parenthesis, developments in Cyprus are promising. For the last year and a half, leaders on both sides seem to be synchronising on finding a lasting solution to the long-lasting Cyprus problem. But nothing is definite because a problem might arise, as in 2004, at the last moment with the Cyprus referendum. Still, there is a positive trend, which might lead to a peacefully united island.

### The promise of visa-free travel for Turkish nationals

Another issue brought up in the refugee agreement is the debate over visa-free travel for Turkish nationals, a problem that was supposed to be naturally resolved by 2017 in accordance with Turkey's progress towards visa liberalisation. The new refugee deal, however, states that the problem will be resolved a year earlier than anticipated, with June 2016 being set as the new target at the latest summit. The point has been the most publicised issue in the deal, since it has been a prime concern for Turkish citizens for over 30 years as visa regulations have a crucial impact on businessmen, Erasmus students and academics participating in EU programmes, in addition to all other travellers.

According to the European Commission's Schengen Statistics, Turkish nationals rank fifth in the number of applications for C-type Schengen visas (short-term entry) around the world. Research by the Economic Development Foundation (IKV), a prominent Turkish NGO working on Turkey-EU relations, shows that from 2008 to 2014 Turkish nationals have paid, in total, a minimum of €250 million for C-type Schengen visa applications alone. And this does not include fees paid to intermediary agencies and bank commissions or other hidden costs associated with the visa application process.<sup>7</sup>

The legal fight for visa liberalisation should also be considered one of the most important clauses of the agreement, given the issue's long history. While Turkish citizens had obtained important legal gains in the EU's highest judicial organs and within member states' national courts in the past decades, the results were unproductive. Turkey was pressured into signing the Readmission Agreement with the EU in December 2013, which had largely been negotiated over several years between the parties. With the signing of the readmission agreement, the two parties showed their commitment to solving the so-called visa problem, wherein the rules and the framework of the visa liberalisation process for Turkish citizens were determined and the parties expressed reciprocal commitments towards achieving this. According to the deal, visa facilitation would take place in 2017. With the refugee deal, the date has become closer. It is

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<sup>7</sup> For more information see the related report (in Turkish) at [http://ikv.org.tr/images/files/IKV%20degerlendirme%20notu\\_140\\_pdf.pdf](http://ikv.org.tr/images/files/IKV%20degerlendirme%20notu_140_pdf.pdf).



important to underline that Turkey is the only candidate country for which the visa applies.

### €3 billion to Turkey: how?

Another important issue in the Turkey-EU migration deal is the financial assistance to be given to Turkey. At first, the EU declared its readiness to contribute €1 billion to Turkey's refugee plan using the money from IPA I funds that remained unused. However, after President Erdoğan's declaration in Brussels that Turkey had already spent over €7.5 billion so far in order to accommodate more than 2 million Syrians in the country, the EU's leaders reassessed their contributions, resolving to provide €3 billion to Turkey to help tackle the migration crisis. Then, in March the Turkish government doubled the money requirement to €6 billion until 2018. In order to guarantee the agreement's success, it is thus very important to ensure transparency in receiving and spending the money.

Yet the question still remains: how to use this money? On the one hand, Turkey has insisted on a formula where financial assistance will not be taken from the EU's Turkey allowance. On the other hand, member states, except Germany and the UK, are reluctant to put their hands into their own pockets. The Greek Prime Minister, Alexis Tsipras, for instance, claimed that under current economic circumstances Greece could not contribute any further to the refugee fund. Frontex figures show that in 2015 850,000 refugees arrived in Europe, with the Greek islands in the Aegean being the most frequently used route on the way to Germany, the primary destination for refugees,<sup>8</sup> with most of them entering Europe from Turkey. Such an influx of refugees puts Chancellor Merkel in a difficult position as in her own country she is held personally responsible for guarding the borders. The three State elections on Sunday 13 March showed that the German leader is being penalised while there is a clear rise in support for the anti-immigrant extremist right-wing *Alternative für Deutschland* (AfD). Merkel's position on the issue, according to the *Economist*, is defined as pragmatism at home, power politics within Europe and *realpolitik* with Turkey.<sup>9</sup>

### Conclusions

In light of the recent EU-Turkey agreement, the big questions still remain unanswered: how to deal with the refugee crisis? What are the best conditions for the refugees? The United Nations High Commission for Refugees (UNHCR) has reported that a record number of people have fled their homes in search of safety around the world. According to data gathered by UNHCR, over the course of 2014 the number of people forcibly displaced during the reporting year swelled to an overwhelming 59.5 million, compared with 51.2 million the previous year. Currently, one in every 122 people on the planet is now either a refugee, internally displaced or seeking asylum.<sup>10</sup> The UNHCR also states that if this number were the population of a country, it would be the 24th largest state in

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<sup>8</sup> For further information see <http://frontex.europa.eu/trends-and-routes/migratory-routes-map/>.

<sup>9</sup> For the full article see the *Economist* at <http://www.economist.com/node/21676780>.

<sup>10</sup> See the UN Refugee Agency website, <http://www.unhcr.org/558193896.html>, for a more detailed analysis.

the world. With over 2 million Syrians living within its borders, Turkey is today the country hosting the most refugees in the world.

After the EU-Turkey leaders' summits, there have been important developments. Turkey started to take initiatives to control its borders, mainly in the Aegean Sea. However, it is hard to say they are fully secure right now. The main reason is that Turkey continues its open-door policy in the eastern region, without a proper refugee registration system. Still, things are moving forward, with already agreed measures on the table. The third meeting of the Reform Action Group (RAG), which coordinates future moves to harmonise Turkey's legislation with EU standards, focused on this issue. At the meeting, EU membership was claimed to be one of the main driving forces behind Turkey's reform process,<sup>11</sup> and special measures were included in the Government Action Plan. Above all, the necessary steps towards visa-free travel to the Schengen area were prioritised with an agreed timetable to fully comply with the criteria by June 2016. Is this agenda realistic? Time will tell.

In the meantime, on December 15, the European Commission announced the establishment of a European Border and Coastal Guard to meet the new challenges.<sup>12</sup> The new Agency will replace Frontex and monitor the Union's external borders, have a pool of European border guards and the right to intervene when necessary. The Agency will also have a new mandate to send liaison officers and launch joint operations with neighbouring third countries, including operating on their territory.<sup>13</sup> The latest statement of the EU Heads of State and Government indicates that Frontex will launch an additional call for national guest officers. In addition to EU forces, NATO has been involved in the Aegean Sea to help fighting human trafficking.

Such figures clearly show the magnitude of the problem, as well as the fact that the crisis requires a global solution rather than a national or regional one. In addition, with the impact of climate change there will be further migration flows in the near future. Given the ever-greater number of refugees, it will thus be impossible for Turkey or for the EU to tackle the problem alone.

One of the deal's most urgent requirements is for Turkey to define the status of refugee within its borders. The Turkish government does not have the necessary registration system in place to classify such people. Commissioner Hahn defined the difference between refugees and immigrants and explained how they will be treated accordingly.<sup>14</sup> For this reason, it is very important to define the status of refugees and register them. The magnitude of the problem requires an international and systematic solution. Should this not be the case and if related bodies try to solve it with their national/international popular image or public opinion as their main concern, the situation will become even more tragic in the near future.

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<sup>11</sup> For the press release of the meeting see <http://www.ab.gov.tr/index.php?p=50136&l=2>.

<sup>12</sup> For more information see [http://europa.eu/rapid/press-release\\_IP-15-6327\\_en.htm](http://europa.eu/rapid/press-release_IP-15-6327_en.htm).

<sup>13</sup> For more information see [http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/securing-eu-borders/fact-sheets/docs/a\\_european\\_border\\_and\\_coast\\_guard\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/securing-eu-borders/fact-sheets/docs/a_european_border_and_coast_guard_en.pdf).

<sup>14</sup> For the interview (in Spanish) see *El País* at [http://internacional.elpais.com/internacional/2015/10/26/actualidad/1445877749\\_614811.html](http://internacional.elpais.com/internacional/2015/10/26/actualidad/1445877749_614811.html).



Finally, it is important to bear in mind that refugee flows deserve further attention in Europe considering the use made of the issue by extreme right-wing political parties to stir up ultranationalist sentiments. All over Europe, anti-immigrant feelings have been emerging and becoming a very significant topic that could define the continent's future. The issues related to the Schengen agreement and its violation have proved to be important. If no action is taken, anti-immigrant populism can shake European integration to its core.