



POLICY PAPER

No. 3 (144), January 2016 © PISM

Editors: Wojciech Lorenz (Managing Editor)

Jarosław Ćwiek-Karpowicz • Anna Maria Dyer • Aleksandra Gawlikowska-Fyk
Dariusz Kała • Patryk Kugiel • Sebastian Płóciennik • Patrycja Sasnal • Marcin Terlikowski

The EU-Turkey Deal on Refugees: How to Move Forward

Pinar Elman

Since the EU-Turkey deal on refugees on 29 November, there has not been a significant reduction in the numbers of migrants crossing into the EU from Turkey. One of the main reasons is probably lack of trust between Turkey and European Commission in their readiness to keep promises. EU can break the impasse by offering Schengen visa liberalisation but at the same time should use the accession negotiations to exert greater pressure on Ankara.

As the Syrian refugee crisis has turned into a critical challenge for the EU, the need to prevent uncontrolled flows of unidentified migrants has made Turkey's role in EU security and political stability more critical. This has resulted in a series of meetings and agreements with Turkey, leading to the EU-Turkey joint action plan, agreed on 15 October, followed by the Turkey-EU Summit on 29 November, which resulted in a four-point deal. In return for Turkey taking control of migration flow into the EU, the Member States offered Turkey an initial €3 billion assistance package to relieve the burden of hosting the refugees, agreed to open one EU accession negotiation chapter, and confirmed the prospects for lifting Schengen visa requirements provided Turkey meets the requirements of its visa roadmap. The deal also includes a revival of relations between Turkey and the EU, with summits twice a year alongside regular high level dialogues on economy and energy, and intensified political dialogue on foreign policy. On 15 December the European Commission presented its recommendation for a voluntary humanitarian readmission scheme with Turkey for refugees from Syria.

Turkey is expected to expand its efforts to provide better conditions for Syrians, and to continue attempts to prevent illegal border crossings to the EU. In turn, the EU should prepare to implement the provisions of the joint action plan, mainly through auctioning projects and delivering funds. However, nearly two months since the deal, the results have not been satisfactory, with between 2,000 and 3,000 people arriving every day in Greece from Turkey.¹

¹ "Migrant flows 'still way too high', EU tells Turkey," *Ekathimerini*, 11 January 2016, www.ekathimerini.com/204956/article/ekathimerini/news/migrant-flows-still-way-too-high-eu-tells-turkey.

Turkey's Central Role in the EU Migrant Crisis Management

Confronted by an unprecedented flow of asylum seekers,² German Chancellor Angela Merkel during a visit to Turkey on 18 October, asked it to better secure its border facing the EU. Merkel's initiative was followed by a series of meetings between Turkish and EU officials and was finalised with a deal between the 28 EU and Turkish heads of states on 29 November.

The disagreements among the Member States on the redistribution of asylum seekers, the temporary reintroduction of intra-Schengen border checks, and the rise of Eurosceptic parties, are all symptoms of the EU failing to unite in order to manage the migration crisis. Border controls have also become an urgent necessity in order to identify people entering EU territories, particularly in view of rising security concerns after recent terror attacks.

At the same time, control of the EU's external borders, specifically the Aegean Sea, which is the main route for Syrian migrants, is only possible with Turkey's cooperation. Hence, Turkey is asked to control its borders, fight human trafficking, and improve the standards of living of 2.5 million refugees currently on its territory, limiting both the motivations and opportunities for illegal emigration to the West. To see such extensive measures implemented, the EU will have to make skilful use of the incentives at its disposal, which so far has not been the case.

The Essence of the Deal

The EU agreements with Turkey, the Mutual Action Plan of 15 October, and the 29 November deal, aim to share Turkey's burden, though to a limited extent, as it proposes an initial €3 billion assistance package and voluntary humanitarian readmission scheme with Turkey for refugees from Syria. It revitalises EU-Turkey relations, which have, for technical and political reasons, been unusually cold in recent years. Turkey's accession negotiations have been nearly frozen for several reasons. Fourteen out of 35 accession negotiation chapters are blocked due to the Cyprus problem, the political climate in EU states such as France and Germany have been unfavourable to Turkey's membership for identity reasons based on historic reasons, and Turkish leaders seem to have lost the motivation to push forward with Turkey's EU bid.

On the other hand, Turkey does not see the Syrian refugees as a burden, even if it publically declares that the EU's €3 billion in aid has arrived too late and remains too limited compared to what Turkey has already spent. Moreover, the presence of Syrian migrants has not been a topic of political controversy, as these people are presented as an economic opportunity. This, on the other hand, contradicts a growing negative public perception, as 70.8% Turks believe the Syrians in their country damage the Turkish economy.³ Despite the socio-political risks involved in the unplanned accommodation of so many refugees, Ankara did not make burden-sharing a diplomatic priority. But in reality the burden was shared, because the Turkish government has simply not made any extra efforts to prevent the refugees from fleeing to the EU. Although Ankara accepted the deal, it seems to be eager to exploit its new leverage vis-à-vis the EU in order to seek additional advantages. These include boosting the image of the new government in domestic politics, greater political and diplomatic support for Turkey against Russia and the threats emanating from the south, and advancing negotiations on EU membership and visa liberalisation.

² More than 850,000 migrants from Syria, Iraq and Afghanistan arrived on Greek shores in 2015, mostly arriving from Turkey according to the International Organisation for Migration.

³ M. Murat Erdogan, "Syrians in Turkey: Social Acceptance and Integration Research," Hacettepe University Migration and Politics Research Centre, 31 December 2014, <http://passthrough.fw-notify.net/download/189287/http://www.hugo.hacettepe.edu.tr/TurkiyedekiSuriyeliler-Syrians%20in%20Turkey-Rapor-TR-EN-19022015.pdf>.

Cooperation on the Refugee Crisis Management

Ankara, together with local and international NGO's, made efforts to improve the conditions of Syrians living in Turkey prior to the deal with the EU. The legal status of these migrants has been improved through the temporary protection law of October 2014. The Syrians now have the right to access health services, and since more recently, education. They may also receive work permits soon, as a draft law to legalise employment has already been prepared prior to the June elections.

However, Turkey's capacities to improve access to accommodation, health care and education for hundreds of thousands of refugees is limited. The employment market is too narrow to absorb additional qualified job seekers, and the larger unqualified job market is much less attractive compared to the conditions provided in most EU countries. The EU's initial financial assistance will represent additional support to existing efforts, but Turkey's limited capacity and the still strong appeal of Europe is likely to attract Syrian refugees to opt for migrating to the EU.

This increases the importance of clamping down on human traffickers and enhancing border controls. Turkey briefly demonstrated its capability to decrease the number of irregular migrants arriving in the EU, when Turkish coastguards stopped nearly 1500 people right after the deal. The Turkish authorities claim they currently preventing around 500 migrants from reaching the EU each day,⁴ yet substantial numbers still make the journey successfully.

To further limit the immigration pressure on the European Union, Turkey needs this year to implement the readmission agreement with the EU (in force since 2014) for irregular third country citizens. In return, Schengen visa requirements for Turkish citizens could be lifted. The readmission agreement is already in place between Greece and Turkey, and in the past year Turkey has accepted a considerably higher number of irregular migrants. But the results have still been disappointing. Of the 8727 migrants proposed by Greece between January and September 2015, Turkey has accepted only 2395, and the long bureaucratic process means that just eight have actually arrived.

The Realities of the EU Accession Dimension

The 29 November deal does not reflect a strong political will to bring Turkish EU accession to a conclusion, from either side.⁵ Although it refers to Turkey as a candidate country and marks a formal resumption of negotiations, it does not provide a substantial revitalisation of Turkey's EU membership process. Indeed, the opening of EU negotiation Chapter 17 had already been planned for 2015. At the end of the day, Turkey's accession negotiations are largely blocked by Cyprus and the European Council, due to the ongoing stalemate on the Cyprus problem. Since the beginning of accession negotiations in 2005, only 15 chapters out of 35 have been opened, with only one has been concluded (albeit provisionally) so far. The unblocking of Turkey's negotiation chapters, especially chapters 23 and 24, dealing with EU values, fundamental rights and freedoms and seen as key chapters in proceeding towards membership, will truly revitalise the process.

To address the gap between the deal's accession provisions and the reality of Turkey's blocked negotiations, Jean Claude Juncker, the president of the European Commission, has written to Turkey's prime minister, promising progress in the opening of five negotiation chapters between Turkey and the EU in the first quarter of 2016. However, this letter is not binding unless it is followed by a decision at the European Council, and therefore is rather a show of good will. Turkish bureaucracy has long experience of such promises from the EU (for example, the Lipponen letter of 1999, and the Annan Plan in 2004), and

⁴ "Turkey plans to introduce work permits for Syrian refugees, minister says," *Hurriyet Daily News*, 11 January 2016, www.hurriyetdailynews.com/turkey-plans-to-introduce-work-permits-for-syrian-refugees-minister-says.aspx?pageID=238&nID=93686&NewsCatID=347.

⁵ Since Turkey's official recognition as an EU candidate state in 1999, several EU-Turkey official documents as well as a European Court of Justice ruling have repeatedly defined Turkey as a "Candidate state destined to join the Union," and highlight the nature of EU-Turkey relations as aiming for deeper integration.

therefore a non-binding letter may not be convincing enough. Furthermore, the EU's initial considerations prior to the 29 November deal, to use Turkey's IPA (instrument for pre-accession) funds to support the refugees, could not be described as support as it would only raise the costs for Turkey.

The impression that the deal is the result of realpolitik and lacks a tangible EU membership vision for Turkey, at least for now, is reinforced by Turkey's lack of sincere commitment to reform the country in line with EU values. President Recep Tayyip Erdogan has already nearly suspended the constitution, as he announced the country has de facto shifted to a presidential system, and all that is needed is to adopt the constitution to this reality. He is now expected to press hard to change the constitution, imposing an authoritarian presidential system. Meanwhile, the Turkish government's undemocratic practices are expanding at an ever increasing speed, while the freedom of press and the rule of law hit a record low when the editors-in-chief of two opposition newspapers were jailed only five days prior to the EU-Turkey meeting.⁶ While the continuing deterioration challenges the notion of Turkish policies being brought into line with EU values, EU leaders have been silent on the issue. Merkel visited Ankara in order to strike a deal with Turkey, only two weeks prior to the 1 November elections. Following her visit, European Commission decided to delay the publication of progress reports critical of the Turkish government, until after the elections.

However, the significance of the new opening of Turkish-EU relations should not be underestimated. First, it is important that Merkel and Juncker, known for their opposition to Turkey's full EU membership, have changed their tone. This may be a signal that EU strategic interests are at play and other politicians, parties and governments can follow suit, although the process will take time. There is also a change in the Turkish attitude. The prime minister, Ahmet Davutoglu, a Eurosceptic, has voiced his support for the pace of Turkey's EU accession negotiations to be increased. An academic who long defined Turkey as an entity separate from than the EU, and who leads a party that has long searched for alternatives to the Union (for example, the Shanghai Cooperation Organisation and the Eurasian Union), Davutoglu suddenly defined Turkey as a European nation destined to become a member of the European family.

The beginning of this new political climate creates an opportunity for the continuation of accession negotiations. Besides, despite the technically blocked negotiations and the unfavourable political developments, the EU-Turkey sub-committees have been working on aligning Turkey's legislation with the EU acquis. As a result, 61% of Turkish law is in line with the acquis. If a settlement can be found in Cyprus in 2016, and the Turkish government commits itself to EU reforms, Turkish legislation could meet EU requirements fully, within two years. Still, because the implementation of reforms for such a large country will take much longer and will be costly, the pronounced aim of 2023 (as the 100th anniversary of the Turkish Republic) for potential Turkish membership of the EU may be overly optimistic.

Visa Liberalisation: A Realistic Possibility

The prospect of Schengen Visa liberalisation for Turkey in 2016 appears to be the most tangible encouragement for Ankara to cooperate on the refugee crisis. It would boost relations between Turkey and the EU by building a bridge to Turkish citizens who, without such liberalisation, will probably start to question their government's cooperation with the EU.

Unlike citizens of other EU candidate states, Turks are still subject to complicated and time consuming Schengen visa requirements. In turn for visa liberalisation, Turkey still needs to adopt the 72 benchmarks in the visa roadmap. These include crucial reforms such as changes to the law on protection of private data, which the government has recently adopted but still remains below EU standards. Turkey's progress in the last two years is assessed as going in the right direction, but too slowly. Meanwhile there is a lack of clear assessment regarding other criteria such as respect for human rights and minority rights, the rule of law, and tackling corruption. In turn, Turkey could receive a positive assessment report on March 2016 if it

⁶ Cumhuriyet daily's editor-in-Chief Can Dündar and its Ankara bureau chief, Erdem Gül, were arrested for a story on intelligence trucks bound for Syria on 24 November.

moves forward in the key reforms, and in stemming the flow of refugees and securing its borders with the EU.

Meanwhile, Turkey is required to demand a visa from citizens of 89 other countries on the EU's Schengen blacklist. This would affect 10 million visitors to Turkey each year, and could therefore be a new blow to the country's tourism sector, which has already been affected by tensions with Russia.

There is little trust among the Turkish public, who could have otherwise pressured the government to do more in helping the EU secure its borders and accelerate the visa roadmap, that visa liberalisation will be implemented. The anti-migrant political climate in the EU does not give hope to the Turkish public, whose image remains unpopular in the EU on social and religious grounds. The Turkish government's practices further damage this image. Rather than playing a constructive role as a secular state, the Islamist government only adds fuel to intercultural clashes through its rhetoric and practices at home.

Nevertheless, if Turkey does meet the technical requirements of its roadmap, and makes efforts to prevent the flow of refugees to the EU, visa liberalisation is possible. The final decision on lifting the Schengen visa requirements for Turkish citizens will be taken by a qualified majority vote, and therefore no single state can block it. With Germany turning in favour of the deal, the outcome of such a vote could be positive.

Let's Use the Opportunity

The EU needs Turkey to stem the flow of uncontrolled and unidentified migrants, and to cope with long-term instability in the MENA region, which has the potential to undermine Europe's strategic stability. For Turkey, the deal creates room for diplomatic manoeuvre, to manage the challenges from its neighbourhood and to advance its interests with the EU, mainly its membership bid and visa liberalisation. The deal may not yet have brought about the expected results in reducing the uncontrolled refugee flow, but Turkey and the EU have increased the pace of their implementation of the joint action plan.

Meanwhile, since there has not yet been a substantial decrease in the number of uncontrolled migrants, Turkey needs to make more efforts to curb migration, including ensuring the proper engagement of its security forces. While Turkey makes several other reforms, such as introducing work permits for refugees, the EU should effectively deliver on its commitments in support the refugees residing in Turkey. The prospect of Schengen visa liberalisation is a useful tool, as it requires concrete results from Turkey in stemming the migration flow and in readmitting immigrants who have already reached the EU illegally via Turkey.⁷

Once implemented, visa liberalisation could also influence the Turkish public and boost support for European rules and values. The assessment report on the visa roadmap in early March 2016 will therefore play an important role, and the EU should demonstrate that it is ready to lift the visa requirements for Turkish citizens.

The Cyprus issue remains a game changer. Even if in early 2016 Cyprus lifts its veto on talks with Ankara, the implementation of the EU *acquis* will still take several more years. Nevertheless, it is of utmost importance that the process is gradually unblocked and negotiations are pushed forward, strengthening Turkish-EU strategic interests. This will give grounds for more effective cooperation at a time when the stability of Europe is challenged by threats from MENA and by Russia's attempts to enforce a new global order, more beneficial for undemocratic regimes.

⁷ P. Elman, "Lifting Visas for Turkey: A Safer EU and a Stronger EU Foreign Policy," *PISM Bulletin*, no. 116 (449), 6 December 2012, www.pism.pl/publications/bulletin/no-116-449.