Three Years on: An Evaluation of the EU-Turkey Refugee Deal

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01
Introduction

Since 2011, the civil war in Syria has displaced, both internally and externally, nearly 13 million people, more than half of the Syrian population (Pew Research Center, 2018). Syrians constitute the largest group within the 65.3 million forcibly displaced people worldwide. Other large displaced populations include Afghans, Colombians, Congolese, Iraqis, Nigerians, Somalis, Sudanese, South Sudanese, and Yemenis (UNHCR, 2016). As of May 2018, there are 3.589.384 Syrians living under temporary protection in Turkey[i], a number larger than the population of some European states like Lithuania or Slovenia. As a result of this, Turkey has become a key global and regional actor with regards to international migration. Lebanon (982,012), Jordan (666,113), Iraq (250,708) and Egypt (128,956) are also major states hosting Syrians in the region (UNHCR, 2018a).

Turkey initially responded to large numbers of Syrians crossing its borders with an open-door policy (terminated by Turkey's construction of a wall at the Syria border), and gradually came to incorporate temporary protection, non-refoulement, and humanitarian assistance into its response as the incoming flow of Syrian migrants continued. As outlined by İçduygu and Millet (2016,4), "Turkey's domestic policy towards Syrian refugees has evolved over time, going through a stage of admission and settlement (2013 - 2015), stabilization (towards the end of 2015), integration (throughout 2016) and is potentially heading towards a naturalization period" (the debate on access to Turkish citizenship for Syrian migrants is ongoing[ii]).

The European Union (EU)'s response to the refugee flows on the other hand, was mute until the summer of 2015, when the route of Syrian migrants changed course towards EU states and over a million refugees arrived in Europe (United Nations (UN), 2015). The change in the route was caused by two factors. Firstly, the number of refugees had enormously increased and reached a point where they could no longer be absorbed by Turkey. Secondly, refugees in Turkey risked their lives for legal status, better living standards, and permanent solutions in Europe. The

sheer number of refugees meant that the EU, with "frantic haste" (Okyay and Zaragoza-Cristiani, 2016, 3), was forced to sign the EU-Turkey deal, sine qua non for the sustained reduction of irregular maritime traffic through the Aegean border (Moreno-Lax and Giuffre (forthcoming, 25). Similar deals were established with Georgia, Ukraine, Moldova, Tunisia, Nigeria, Jordan and Lebanon as part of policies of externalization[iii] (Niemann and Zaun, 2018,5) and outsourcing the refugee issue as a part of externalized contactless control (Moreno-Lax and Giuffre, forthcoming, 4).

The EU-Turkey deal opened a new venue within the policy debate on migration that has been present between the EU policy elite and Turkish government, and migration governance became one of the most controversial issues of our time. Mass flows of refugees forced the international community to act at the global, regional, national, and local levels. Among the regional responses, the EU-Turkey deal was one of the most significant ones with respect to the governance of mass refugee flows from Syria. The flight of millions of Syrians from the civil war has been widely described as a global migration crisis or a global refugee crisis whereby nations, with shared responsibility, are failing to manage the humanitarian side of the issue on a global scale. It has also been defined as a crisis of solidarity (Ki-moon, 2016), multi-level political crisis (Frohlich, 2017), multiple crises of displacement and EU border controls (Duvell, 2017), crisis of Common European Asylum System (CEAS) (Nieman and Zaun, 2018), migration crisis (Slominski and Trauner, 2018) and crisis of European integration (Niemann and Zaun, 2018). This paper takes its motivation from these developments and evaluates the EU-Turkey deal in its third year in a descriptive manner. The second section presents the key features of the deal. The third section provides an update on its promises and current state. The fourth section discusses the ongoing controversies around the deal and its outcomes: namely the reluctance to share the responsibilities of the refugee crisis, the absence of local and subnational non-state actors in the

decision-making process, the violation of international laws, the fragmented response of EU member states as well as its linkage to other issue areas. The fifth section briefly reviews the influence of the deal upon the Turkey-EU relations whilst the sixth section concludes with expectations of a future shaped around the current deal.

02

What was the Deal About?

The EU-Turkey deal was a response to the hundreds of thousands of Syrian migrants using the Eastern Mediterranean route to enter Europe during the summer of 2015. Following the 29 November 2015 EU-Turkey Joint Action Plan (European Commission, 2015a) and 7 March 2016 EU-Turkey statement (European Council, 2016), Turkey and the EU agreed on the "one in, one out" deal, which stipulated that "for every Syrian being returned to Turkey from the Greek Islands, another Syrian will be resettled to the EU" (European Council 2016,1). In brief, the deal addressed the mass irregular crossings of refugees from Turkey to Greece via the Aegean Sea and allowed Greece to return "all new irregular migrants" reaching the Greek island, as of March 2016, to Turkey. In exchange, following the fulfillment of the visa liberalization roadmap, visa requirements for Turkish citizens to the EU's Schengen Zone was to be lifted at the latest by the end of June 2016, 6 billion EUR in total was to be granted to Turkey in support of refugees' needs, and Turkey's EU accession process was to be re-energized. The deal also mentioned that Chapter 33 was to be opened during the Dutch Presidency of the Council of the European Union and preparatory work on the opening of other chapters was to continue at an accelerated pace as well as welcoming the ongoing work on the upgrading of the Customs Union (European Council, 2016,1).

03
Update on the Deal: Numbers and Beyond

The success of the deal has been mostly judged through its implementation, namely the decline in irregular crossings from Turkey to Europe and enforcement of resettlement schemes. The daily average irregular crossings from Turkey into the Aegean islands fell from 1794 in the period from January to March 2016 to 80 since the activation of the EU-Turkey Statement in March 2016 (European Commission, 2018, 46). Yet, Frohlich (2017,10) defines this counting exercise as an "illusion" as the deal, while having a measurable effect on official, registered migration, does little to curb irregular, unofficial, unregistered immigration, rendering the actual number of migrants at least partly invisible. Siegfried (2016) shows that in 2015, UNHCR and IOM registered about 1.1 million new arrivals to Europe and yet 1.7 million asylum claims were lodged, suggesting that 600,000 people found their way into Europe through covert means. Furthermore, Walter-Franke (2018,3) states that "Low number of irregular crossings in the Aegean Sea thus do not result from the celebrated 1 for 1 swapping mechanism per se, but from its collateral damage in Greece, in combination with the closing of borders along the Balkan route that started before March 2016". The controversy about the deal was not limited to numbers, rather it expanded to the other premises of the deal such as visa liberalization, financial assistance and the re-energizing of the accession process.

After June 2016, visas were not lifted, since Turkey had yet to fulfill 7 out of 72 benchmarks, including the fight against corruption, judicial cooperation in criminal matters, cooperation with Europol, data protection legislation, anti-terrorism legislation, EU-Turkey re-admission agreement, and biometric passports (European Commission, 2018, p.49). Especially the 65th criteria, which is about organized crime and terrorism, stands as a major bottleneck in the visa dialogue. Considering the increasing security matters in the post-coup era, Turkey's intentions to revise "its legislation and practices on terrorism in line with European standards, notably by better aligning the definition of terrorism in order to narrow

the scope" (European Commission, 2016) became less likely, which jeopardizes the implementation of visa liberalization for Turkish citizens. In fact, neither visa liberalization nor the readmission deal are new issues in Turkey-EU relations. Visa liberalization has always been a controversial issue and has become a "carrot" for Turkey under the refugee deal. Signing a readmission agreement between Turkey and the EU was first brought up about a decade ago in the very early stages of Turkey's accession process, and in this way, signing the readmission agreement can be seen to be part of a lengthy negotiation process (Elitok, 2015). In addition to the refugee influx, Turkey was confronted with simultaneous conflicts and challenges such as the Gezi Park movement in 2013, diminishing support for the ruling AKP Party in the June 2015 elections, the 2015 resurgence of violence between the Turkish authorities and the Kurdish movement, a series of terrorist attacks and an attempted military coup in July 2016 (Duvell, 2018, 228). An emergency decree (No. 676) passed in October 2016 (as an amendment to the Law on Foreigners and International Protection) designates that people who are considered to be affiliated with terrorist organizations can be removed from Turkey without the possibility of suspending a removal decision by filling an appeal (European Commission, 2018). Moreover, even if Turkey successfully completes the criteria of the road map, visa liberalization is an issue that needs to be ratified at the European Parliament, one of the vocal critics of Turkey's application and reform of anti-terror laws (Slominski and Trauner, 2016).

The EU-Turkey accession dialogues were also not re-energized due to the June 15, 2016 military coup attempt, state of emergency, and further political internal developments in Turkey. Turkey's snap elections for presidency and parliament took place on 24 June 2018 under the state of emergency, which was in practice since the failed coup attempt and extended seven times. Human rights violations caused by decrees under the state of emergency have been outlined by various reports (Human Rights Watch, 2018; OHCHR, 2018). Re-energizing Turkey's

EU accession remained limited to strengthening the security and economic policies and failed to re-open the key chapters necessary for Turkey's full membership, namely Chapter 23 (judiciary and fundamental rights) and Chapter 24 (justice, freedom and security).

Another point worth making with respect to the deal is that the Commission launched the first half of the promised funding following the deal and the remaining EUR 3 billion by March 2018. However, the financial support that Turkey received (EUR 6 billion in total) hardly makes Turkey whole financially regarding the refugee crisis, as Turkey had already spent EUR 12 billion (European Commission, 2017) to cope with the technical, administrative, and social burdens of the mass influx of Syrians on its own.

Finally, the EU-Turkey deal led to legislative changes in Greece, namely the containment policy (reception facilities and hotspots) through which asylum claims and returns to Turkey are quickly processed, and in Turkey, namely adoption of the Law on Foreigners and International Protection (LFIP) in 2013 and additional legislation in 2014 that changed Syrians' legal status from temporary guests to those under temporary protection. Currently, Turkey unilaterally suspended the readmission agreement with Greece in 2018, as a reaction to the decision taken by a Greek court to release eight former Turkish soldiers who fled the country a day after the July 15, 2016 coup attempt.

04

Four Controversies Surrounding the Deal

Tying the refugee question to the visa liberalization

According to Betts (2011, 21), "it is important to be aware that in the field of international migration, states' interests may be strongly influenced by the politics of other issue-areas that the interests of one area of migration may shape the politics of another area of migration". "For example, the politics of asylum and refugee protection has been increasingly shaped by states' interests regarding irregular migration" (Betts 2011, 21). Along the same lines, in the case of the EU-Turkey refugee deal, Turkey's political interests regarding its EU membership and the EU's interest in limiting inward-coming irregular migration dominated the issue of refugee flows. By neglecting international law and regional legal frameworks (as will be discussed below), the negotiating parties were afforded the flexibility to shape refugee policy in line with their own national interests. Namely, Member States used existing EU Law and re-interpreted it in such a way that it solely suits a particular national interest and perspective (Slominski and Trauner, 2018, 104), and Turkey, as an accession candidate, used its position as a transit country of refugee flows to bargain concessions in return for preventing departures or accepting returns (Baubock, 2018, 142). Dealing at the bilateral level with the EU gave Turkey the flexibility to maximize its benefits on visa liberalization, domestic calculations (Zoetweij-Turhan and Turhan,2017), and on the EU accession while packaging the refugee issue with its political interests. The deal served to externalize the EU policy where it "offshores" its refugee crisis to Turkey in line with "security-based" governance (Fakhoury, 2018), and Turkey acted strategically and cooperated with the EU, using the refugee crisis as an opportunity to bargain for its EU accession as well as for visa liberalization for its citizens.

Peril of human rights violations

The deal received criticism due to its moral drawbacks and its incompliance with human rights

and refugee law (Bačić-Selanec ,2015;Den Heijer and Spijkerboer ,2015; Chetail, 2016; Roman et al., 2016; Collett, 2016). Rossi and Lafrate (2017) show that the deal did not fully respect the acquis communitaire nor comply with international conventions regarding asylum. The legality of the deal was questioned as the European Court of Justice denied the claims of three asylum seekers on the basis that it was not reached by an EU institution, but bilaterally by individual member states with Turkey. In order for the aforementioned violations to be legal, the European directive on asylum procedures has been extended and the European Commission categorized Turkey as a safe country[iv]. This means that irregular migrants, rejected asylum seekers, Syrians and other asylum seekers under temporary protection can be returned to Turkey, where they can find protection and are safe. However, classification of Turkey as a "safe country" provoked debate. Roman et al. (2016) have argued that, for three reasons, Turkey does not qualify as being a "safe" country. First, Turkey applies geographical limitations to the 1951 Geneva Convention and the 1967 Protocol and only recognizes the status of refugees from non-European countries. Secondly, due to the risk of execution, inhuman treatment or torture (especially for certain groups of refugees, like Kurds); Turkey is not considered as a safe place to return. Finally, Turkey's incompatibility with the EU Asylum Procedures Directive further strengthens the counter arguments against Turkey's eligibility to be considered a safe country.

Furthermore, returning migrants to Turkey is problematic, due to the limitations in the operational capacity of Turkey to protect refugees. Reports on the post-return human rights situation of Syrians document serious human rights violations such as arbitrary detention and deportation without access to legal aid and international protection (Tunaboylu and Alpes,2017, Ulusoy and Battjes,2017). In 2016, five Syrian refugees were shot dead at the Turkey-Syria border and many other faced beatings, assaults, injuries and pushbacks (Human Rights Watch, 2016).

Uncooperative behavior and lack of collective action

In the case of the EU's response to the Syrian refugee flows, supranational or subnational actors did not gain power over nation states. Bačić-Selanec (2015, 39) makes the point that the "EU crisis management technique was simply set within the wrong legal framework since only one member state took the burden, and existing European asylum rules were ignored, effectively contravening the EU Dublin regulation". The Common European Asylum System (CEAS) has been developed to apply the Geneva Convention to the EU framework. Article 78(2) (c) is devoted to the creation of a temporary protection scheme in case of massive inflows due to displacement. The Dublin regulation[v] defines the criteria for determining the responsible member state for providing international protection to a third country national. However, Vincent Cochetel (UHNCR) said that "Europe has not even fulfilled its agreement last September to relocate 66,000 refugees from Greece, redistributing only 600 to date within the 28-nation bloc" (Aljazeera, 2016). Thielemann (2018,79) discusses the limited effectiveness of European asylum system during the Syrian crisis and argues that Dublin system continued to undermine burden sharing efforts and instead legitimized burden-shifting practices.

In the case of the Syrian refugee crisis, national responses have varied among different EU states, from closing national borders (Visegrad group of Hungary, Czech Republic, Slovakia, Poland and Austria) to putting quotas in place regarding the number of refugees allowed to enter a country. In this manner, the deal was a case in point for demonstrating how Member States may exploit the EU as a venue to pursue migration-control oriented objectives (Slominski and Trauner, 2018,104). In the face of a mass influx of migrants, this fragmented response by EU states demonstrates a shift of power from the supranational EU bodies back to the nation states, all with their independent policies.

Among the factors paving the road to the refugee crisis, failure of EU institutions and leaders to Europeanize asylum and refugee policies in time (Baubock, 2018,142), low compliance with the Dublin regulation and regulatory gaps (Genschel and Jachtenfuchs, 2018) and persistent dysfunctionalities and shortcomings of the CEAS (Niemann and Zaun, 2018,3) can be counted. Before the beginning of the mass influx of Syrians and the deal, CEAS and the Dublin regulation had already been in question because of their placement of full responsibility of refugee flows on the frontline member states of the EU, since they are the first entry points for asylum seekers. As mentioned in the Agenda on Migration (European Commission, 2015b, 13), in 2014, five Member States dealt with 72% of all asylum applications EU-wide. However, in dealing with this uneven distribution mechanism, the EU has developed a framework to be used in case of large movements. Article 78(3) of Treaty on the Functioning of European Union (TFEU) allows additional measures benefiting the member states faced with sudden and massive inflows of refugees. In practical terms, this means a relocation of refugees from frontline states to other member states. According to Bačić-Selanec (2015); "even if these emergency mechanisms have been activated twice in 2015 so as to relocate asylum seekers from Greece and Italy towards other member states, the impact remained marginal due to time lag (4 months) in implementation and due to reluctance of some members to follow CEAS rules".

Instead of relocating migrants within the EU territory, the EU preferred to send them back to Turkey. The Temporary Protection Directive was introduced in 2011 to deal with cases of mass flows and based on the principle of solidarity, where each member state shares the responsibility. According to this directive, all persons under temporary protection can be transferred (relocated) to another member state. By not implementing the temporary protection directive, the EU intentionally chose to keep Syrians outside of its borders and has thereby shifted the responsibility onto the shoulders of the other states instead of sharing it[vi]. Hence, in the case of mass inflows of Syrian migrants, some member states did not interact with Turkey nor with one another due to their reluctance to follow the common EU framework, which requires them to shoulder the responsibility of frontline states. Their non-cooperative behavior, rejecting the equal distribution of Syrian migrants, resulted in the malfunction of collective action and solidarity[vii].

Lack of multiple actors and layers

Loescher and Milner (2011, 189) have stated that, "the global governance of refugees differs from, and is more robust than, the governance of other areas of migration, since a formal multilateral institutional framework for regulating states' responses to refugee flows has been in place for nearly six decades". They argue that "unlike other migration organizations, the UNHCR has a specific mandate from the international community to ensure the protection of refugees and to find a solution to their plight". However, as the global crisis of asylum emerged following the conflict in Syria in 2011, states largely excluded the UNHCR and increasingly began to devise their own responses to flows of migrants in order to insulate themselves from growing numbers of refugees seeking access to their territories. The EU sought ways to keep refugee flows outside of its borders and cooperated bilaterally with Turkey, hence, a global humanitarian issue was handled at a regional level. As mentioned above, Germany has become the central power of the EU and although various other actors, such as the member states and the European Council, were active in the decision-making process, the national governments of Germany and Turkey shaped the policy to a significant extent. Among the EU member states, Germany had a special role during the negotiation process preceding the deal (Slominski and Trauner,2016) not only due to its steering role in the formation of both EU policies in general and the EU's enlargement politics vis-a-vis Turkey in particular (Turhan, 2016a, 26), but also because Germany hosts the highest number of refugees in comparison with other member states. All EU member states were

involved in the refugee debate yet Germany, specifically Merkel, through EU-Turkey summits, mini-summits with member states on the Balkan route, intergovernmental consultations, visits, press conferences and parliament speeches (Turhan, 2016a), took an active role in negotiations with Turkey and had a dominant position in shaping the agreement[viii.] In this manner, nation states played the key role during the deal, leaving non-state actors, particularly the UHNCR, out of the policy making process. Among the few non-state actors, one think-tank, the European Stability Initiative (ESI), is worth mentioning on the Turkish side of the deal due to its crucial role in proposing the deal, building up consensus, and lobbying. The deal involved a small number of stakeholders, whereas NGOs and informal networks who had more engagement with the refugee population before and after the deal, both in Greece and in Turkey, were not involved enough in drafting the deal. Greece had a weak role in the diplomatic phase of the deal, however it struggled to relocate refugees to other member states on the one hand and to return refugees to Turkey on the other during the implementation phase.

05

Influence of the Deal Upon Turkey-EU Relations

The 2016 EU-Turkey deal has triggered a debate among scholars of European studies about the influence of the deal upon Turkey-EU relations - whether it carries the risk of worsening existing mistrust, or if it is an opportunity to revitalize the longstanding stagnancy of ascension negotiations. Optimists see it as a success because it has opened a "window of opportunity" for creating new dynamics (Krumm, 2015), new cooperation, re-vitalization (Kale, 2016 and Toygür and Özsöz, 2016), and a chance for re-cooperation (Nas, 2016). Pessimists, on the other hand, note the high-probability of failure, high costs, and potential spill-back effects, which may further jeopardize already fragile relations between Turkey and the EU (Şenyuva and Üstün, 2016), creating the risk of collapse due to obstacles in implementing the deal (Knaus, 2016) and highlighting the undeniable risks of damaging the relationship between the EU and Turkey in case of mismanagement of the bargaining process (İçduygu and Millet, 2016). Between these two perspectives, Turhan (2017) sheds light on the sudden and temporary rapprochement between Turkey and the EU following the transformation of the Syrian refugee crisis into a "European crisis" and argues that the EU-Turkey refugee deal fostered the development of bilateral relations between Turkey and the EU, however, this new institutional architectural framework is outside the framework of Turkey's accession process and is closer to a "strategic partnership". The author stands with the pessimists, considering this deal highly risky due to its unsustainability and given that it may decrease the likelihood of Turkey obtaining full membership in the EU, instead becoming merely a gate-keeping partner whose citizens are mobile in EU territory that re-admits irregular migrants and essentially has the benefits only of a revised Customs Union, which perfectly fits the privileged membership status instead of full membership.

06
Conclusion

Turkey is involved in governance of migration at international, regional and national levels. Regionally, which for the purpose of this paper concerns the EU and Europe, Turkey is involved in migration governance through a number of bilateral and multilateral agreements, tied up with visa liberalization and re-admission. This paper looks at the regional level and evaluates Turkey's migration diplomacy with the EU regarding flows of Syrians. By drawing on the case of the 2016 Turkey-EU Refugee deal on its third year, this paper contributes to the policy debate through its analysis of the governance crisis of Syrian displacement through a discussion of interests of both parties to the agreement; an analysis of legal drawbacks and implications for refugees; lack of shared responsibility as well as emerging challenges following the deal.

Even though Turkey and Germany have ended up being two main players in the governance of the crisis, the Syrian refugee issue resonates beyond the bilateral relations between Turkey and the EU and requires responsibility sharing on a global level. Indeed, in paying Turkey to play a more proactive role in the management of migrant and refugee flows into Europe, Roman et al. (2016) perceive the EU and its member states to be bargaining with the rights of both Turkish nationals and non-nationals, including asylum seekers fleeing conflicts and persecution but are of the opinion that the protection of rights should never be traded for more control.

As one of the largest refugee movements in history, it has broad implications for international peace and security, and cooperation in this area would contribute to global governance by encouraging solidarity and equal sharing of responsibility. The goal should be far-sighted policies dealing with the root causes of refugee flows as well as peace talks, instead of shortsighted solutions that are in contradiction with basic European norms and values, such as fundamental rights protection. Specifically, family reunification policies, resettlement programs, providing mechanisms for legal pathways for refugees as well as humanitarian visas (as discussed

in the case of Switzerland by Hanke et al., 2018) should be put into practice. Yet, the issue of how to share the responsibility of mass refugee flows is not solely for EU member states to solve, nor should it be dealt with between the EU and Turkey bilaterally. Rather, a humanitarian crisis of this sort requires governance on an international level.

References

■ Aljazeera. 2016 "UN Says EU-Turkey Refugee Deal Would Violate Law". http://www.aljazeera.com/news/2016/03/eu-turkey-refugee-deal-contravene-law-unhcr-160308160629966.html, accessed 22.03.2017

■ Betts, A. 2011 "Introduction: Global Migration Governance" in, A. Betts (ed), Global Migration Governance. Oxford: Oxford University Press.

■ Bačić-Selanec, N. 2015 "A Critique of EU Refugee Crisis Management: On Law, Policy and Decentralization" Croatian Yearbook of European Law and Policy. No. 11: 73.

■ Baubock, R. 2018 "Refugee Protection and Burden-Sharing in the European Union", Journal of Common Market Studies, Vol.56, No.1.

■ Cassarino, J.-P. 2007 "Informalising Readmission Agreements in the EU Neighbourhood", The International Spectator, 42:2

■ Chetail, V. 2016 "Will the EU-Turkey Migrant Deal Work in Practice?" Graduate Institute of International and Development Studies News, https://t.co/3vDyeJb8o1, accessed 22.03.2017

■ Collett, E. 2016 "The Paradox of the EU-Turkey Refugee Deal", MPI Commentaries, https://www.migrationpolicy.org/news/paradox-eu-turkey-refugee-deal, accessed 22.03.2017

■ Den Heijer, M. and T. Spijkerboer. 2016 "Is the EU-Turkey refugee and migration deal a treaty?" EU Law Analysis. http://eulawanalysis.blogspot.com/2016/04/is-eu-turkey-refugee-and-migration-deal.html, accessed 22.03.2017

■ Duvell,F. 2018 "The 2015 Refugee Crisis, EU-Turkey Relations and Migration Diplomacy" in "Who Counts in Crises? The New Geopolitics of International Migration and Refugee Governance" Allen, W., Anderson, B., Van Hear, N., Sumption, M., Düvell, F., Rose, L., Hough, J., Humphris, R., and Walker, S., Geopolitics, Vol.23, No.1

References

■ Elitok, S.P. 2013 "Turkish Migration Policy over the Last Decade: A Gradual Shift towards Better Management and Good Governance." Turkish Policy Quarterly Spring 2013.

■ Elitok, S.P. 2015 "A Step Backward for Turkey? The Readmission Agreement and the Hope of Visa-Free Europe", in IPC-Mercator Policy Briefs, http://ipc.sabanciuniv.edu/?p=5363

■ European Commission. 2015a EU-Turkey Joint Action Plan. http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm. Accessed 22.03.2017 accessed 22.03.2017

■ European Commission. 2015b A European Agenda on Migration. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf accessed 22.03.2017.

■ European Commission. 2016 Turkey's Progress on the Visa Liberalization Roadmap. http://www.avrupa.info.tr/sites/default/files/2016-08/Visa%20factsheet%2001246.pdf, accessed 22.03.2017

■ European Commission. 2017 European Civil Protection and Humanitarian Aid Operation (ECHO) Factsheet. http://ec.europa.eu/echo/files/aid/countries/factsheets/turkey_syrian_crisis_en.pdf. accessed 22.03.2017

■ European Commission. 2018 Turkey's Progress Report. https://www.ab.gov.tr/siteimages/kapbtablolar/20180417-turkey-report.pdf. accessed 19.06.2018

■ European Council. 2016 EU-Turkey Statement, 18 March, 2016. http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/ accessed 22.03.2017

■ Fakhoury,T. 2018 "Multi-level govenance and migration politics in the Arab world: the case of Syria's displacement", Journal of Ethnic and Migration Studies, https://doi.org/10.1080/1369183X.2018.1441609

■ Frelick, B.,Kysel I.M and J. Podkul. 2016. "The Impact of Externalization of Migration Controls on the Rights of Asylum Seekers and Other Migrants", Journal on Migration and Human Security, Vol.4., No.4: 190-22

■ Frohlich, C. 2017 "A Critical View on Human Mobility in Times of Crisis." Global Policy, Vol.8, Supplement 1.

■ Geiger, M. and A. Pécoud. 2013 The Transformation of Migration Politics: From Migration Control to Disciplining Mobility. New York: Palgrave Macmillan.2017 "Turkey: More Emergency Decrees Issued" http://www.loc.gov/law/foreign-news/article/turkey-more-emergency-decrees-issued/ accessed on 19.06.2018

■ Genschel, P. and M. Jachtenfuchs. 2018 "From Market Integration to Core State Powers: The Eurozone Crisis, the Refugee Crisis and Integration Theory, Journal of Common Market Studies, Vol. 56, No.1, pp.178-196.

■ Guiraudon,V. 2000 "European Integration and Migration Policy: Vertical Policy-making as Venue Shopping", Journal of Common Market Studies, Vol.38, No.2

■ Gokalp Aras, N.E. and Z. Sahin Mencutek. 2015 "The international migration and foreign policy nexus: the case of Syrian refugee crisis and Turkey". Migration Letters. Vol.12, No.3.

■ Hanke, P., M. Wieruszewski, and Marion Panizzon. 2018 "The 'Spirit of the Schengen Rules', the Humanitarian Visa, and Contested Asylum Governance in Europe – The Swiss Case." Journal of Ethnic and Migration Studies, https://doi.org/10.1080/1369183X.2018.1441615

■ Human Rights Watch. 2016 Turkey Border Guards Kill and Injure Asylum Seekers. https://www.hrw.org/news/2016/05/10/turkey-border-guards-kill-and-injure-asylum-seekers accessed on 20.06.2018

■ Human Rights Watch. 2018 Country Report. Turkey, https://www.hrw.org/world-report/2018/country-chapters/turkey accessed 19.06.2018

■ İçduygu, A. and E. Millet. 2016 "Syrian Refugees in Turkey; Insecure Lives in an Environment of Pseudo-Integration." Global Turkey in Europe Series, Working Paper 13. http://www.iai.it/sites/default/files/gte_wp_13.pdf, accessed 22.03.2017

■ Ineli-Ciger, M. 2018 Temporary Protection in Law and Practice, International Refugee Law Series, Volume: 10, Brill | Nijhoff

■ Kale, B. 2016 The EU-Turkey Action Plan is Imperfect, But Also Pragmatic, And Maybe Even Strategic, GMF on Turkey, http://www.gmfus.org/publications/eu-turkey-action-plan- imperfect-also-pragmatic, accessed 22.03.2017

■ Ki-moon, B. 2016 "Refugees and Migrants: A Crisis of Solidarity". United Nations University Publications.

■ Kirişçi, K. 2012 "Turkey's new draft law on asylum: What to make of It?", in:, Seçil Paçacı Elitok and Thomas Straubhaar (eds.), Turkey, Migration and the EU, Hamburg, Hamburg Univ. Press, pp. 65.

■ Knaus, G. 2016 "Keeping the Aegean Agreement Afloat." Turkish Policy Quarterly. Fall 2016., 43-50. http://turkishpolicy.com/files/articlepdf/keeping-the-aegean-agreement-afloat_en_1496.pdf. 12.12.2017

■ Krumm,T. 2015 "The EU-Turkey refugee deal of autumn 2015 as a two-level game. Turkish Journal of International Relations". Alternatives. Vol.14. No.4

■ Kunz R,. S. Lavenex and ., and M. Panizzon. 2011 Multilayered Migration Governance: The Promise of Partnership Routledge advances in international relations and global politics. 89. GB: Routledge Ltd.

■ Küçük, E. 2016 "The Principle of Solidarity and Fairness in Sharing Responsibility: More than Window Dressing?" European Law Journal. Volume 22. Issue 4. http://onlinelibrary.wiley.com/doi/10.1111/eulj.12185/full

■ Lavenex, S. 2016 "Multilevelling EU external governance: the role of international organizations in the diffusion of EU migration policies", Journal of Ethnic and Migration Studies, 42:4.

■ Loescher G. and J. Milner. 2011 "UNHCR and the Global Governance of Refugees", A. Betts (ed.), Global Migration Governance' Oxford: Oxford University Press, pp. 189-207

■ Mitsilegas,V. 2017 "Humanizing solidarity in European refugee law: The promise of mutual recognition", Maastricht Journal of European and Comparative Law, Vol. 24(5).

■ Moreno-Lax, V. and Mariagiulia Giuffre. Forthcoming. "The Rise of Consensual Containment: From "Contactless Control" to 'Contactless Responsibility' for Forced Migration Flows, S. Juss (ed.), Research Handbook on International Refugee Law (Edward Elgar)

■ Newland, K. 2010 "The Governance of International Migration: Mechanisms, Processes, and Institutions". Global Governance: A Review of Multilateralism and International Organizations: July-September 2010, Vol. 16, No. 3, pp. 331-343.

■ Nas, Ç. 2016 "Mülteci Krizi Ekseninde Türkiye - AB İşbirliği", İktisadi Kalkınma Vakfı Yayınları, pp.27-39.

■ Nieman, A. and N. Zaun. 2018 "EU Refugee Policies and Politics in Times of Crisis: Theoretical and Empirical Perspectives", Journal of Common Market Studies, Vol.56., No.1, pp.3-22.

References

- OHCHR. 2018 Report on the impact of the state of emergency on human rights in Turkey, Office of the United States High Commissioner for Human Rights, https://www.ohchr.org/Documents/Countries/TR /2018-03-19_Second_OHCHR_Turkey_Report.pdf accessed 19.06.2018

- Okyay A. & J. Zaragoza-Cristiani. 2016 "The Leverage of the Gatekeeper: Power and Interdependence in the Migration Nexus between the EU and Turkey." The International Spectator. http://www.tandfonline.com/doi/abs/10.1080/0 3932729.2016.1235403, accessed 12.12.2017

- Panizzon, M and M. van Riemsdijk. 2018 "Introduction to the Special Issue: Migration Governance in an Era of Large Movements: A Multi-Layer Approach." Journal of Ethnic and Migration Studies., https://doi.org/10.1080/1369183X.2018.1441600

- Pew Research Center. 2018 "About Six-in-Ten Syrians Are Now Displaced From Their Homes", http://www.pewresearch.org/fact-tank/2016/06 /13/about-six-in-ten-syrians-are-now-displaced -from-their-homes/ Accessed on 21.06.2018

- Roman, E., T. Baird and T. Radcliffe. 2016 "Why Turkey Is Not a 'Safe Country', in Statewatch Analyses, No. 3/16. http://www.statewatch.org/analyses/no -283-why-turkey-is-not-a-safe-country.pdf, accessed 12.12.2017

- Rossi, E. and P. Lafrate. 2016 "The EU Agreement with Turkey: Does it Jeopardize Refugee Right?" Center for Migration Studies Essays. http://cmsny.org/publications/rossi-iafrate-eu- turkey-agrmt/. Accessed 1.21.22017.

- Siegfried, K. 2016 The Hidden Failure of Europe's Migration Policy Billions, http://www.irinnews.org/ analysis/2016/09/16/hidden-failure-europe%E2% 80%99s-migration-policy-billions?utm_source=IRI N+-+the+inside+story+on+emergencies&utm_ca mpaign=e9395161ce-RSS_EMAIL_ENGLISH_ALL& utm_medium=email&utm_term=0_d842d98289-e 9395161ce-15757289, accessed on 20.06.2018.

- Şenyuva, Ö. and Ç. Üstün. 2016 "A Deal to End 'the' Deal: Why the Refugee Agreement is a Threat To Turkey- EU Relations". GMF on Turkey, No.132.

- Slominski, P. and F. Trauner. 2018 "How do Member States Return Unwanted Migrants? The Strategic (non-)use of 'Europe' during the Migration Crisis" Journal of Common Market Studies, Vol.56. No.1.

- Thielemann,E. 2018 "Why Refugee Burden-Sharing Initiatives Fail: Public Goods, Free-Riding and Symbolic Solidarity in the EU", Journal of Common Market Studies, Vol. 56, No.1

- Thym, D and E.(L.) Tsourdi. 2017 "Searching for Solidarity in the EU asylum and border policies: Constitutional and operational dimensions", Maastricht Journal of European and Comparative Law, Vol 24(5).

- Toygür İ. and M. Özsöz. 2016 "Reshaping Relations in the Midst of Crises: A Bitter Anniversary for Turkey-EU Accession Negotiations"– Istanbul Policy Center. Policy Brief.

- Tsourdi, E. (L.). 2017 "Solidarity at work? The prevalence of emergency-driven solidarity in the administrative governance of the Common European Asylum System", Maastricht Journal of European and Comparative Law, Vol (24(5).

- Tunaboylu, S. and J. Alpes. 2017 "The EU-Turkey deal: What happens to people who return to Turkey?" Forced Migration Review, FMR Online 54.

- Turhan, E. 2016a "Europe's Crises, Germany's Leadership and Turkey's EU Accession Process". CESifo Forum 2/2016. http://www.cesifo-group. info/DocDL/forum-2016-2-june.pdf

- Turhan, E. 2016b "Turkey's EU Accession process: do member states matter?" Journal of Contemporary European Studies. http://dx.doi.org/10.1080/14782804.2016.1198693

- Turhan, E. 2017 "Mülteci Krizinin AB-Türkiye İlişkilerine Etkileri: AB'ye Üyelik Sürecinden Bir "Stratejik Ortaklığa" Doğru mu?, İstanbul Ticaret Üniversitesi Sosyal Bilimler Dergisi, Yıl: 16, Sayı: 31

- Trachtman, J. P. 2009   The International Law of Economic Migration: Toward the Fourth Freedom. Kalamazoo, MI: W.E. Upjohn Institute for Employment Research.

- Toygür İ. and B. Benvenuti. 2016 "The European Response to the Refugee Crisis: Angela Merkel on the Move." Istanbul Policy Center. http://ipc.sabanciuniv.edu/wp- content/uploads/2016/06/IlkeToygur_BiancaBenvenuti_FINAL.pdf, accessed 12.12.2017

- United Nations. 2016   "New York Declaration for Refugees and Migrants" . http://refugeesmigrants.un.org/declaration, accessed 12.12.2017

- UNHCR. 2015   "Over One Million Sea Arrivals Reach Europe in 2015", News, http://www.unhcr.org/5683d0b56.html, accessed on 12.07.2018

- UHNCR. 2016   Global Trends: Forced Displacement in 2015. http://www.unhcr.org/en-us/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html. accessed on 21.06.2018

- UNHCR.   2018a   Refugee   Situations, https://data2.unhcr.org/en/situations/syria accessed on 21.06.2018.

- UNHCR. 2018b The Global Compact on Refugees, Zero   Draft.   https://refugeesmigrants.un.org/sites/default/files/180205_gcm_zero_draft_final.pdf. accessed on 27.06.2018

- UNHCR. 2018c Applying the Comprehensive Refugee   Response   Framework   (CRRF), http://www.unhcr.org/584687b57.pdf. accessed on 27.06.2018

- Ulusoy, O. and H. Battjes. 2017 "Situation of Readmitted Migrants and Refugees from Greece to Turkey under the EU-Turkey Statement", VU Migration Law Series No 15.

- Walter-Franke, M. 2018 "Two Years into the EU-Turkey "deal"- Taking stock", Policy Brief, Kacques Delors Institut, http://www.delorsinstitut.de/en/all-publications/two-years-into-the-eu-turkey-deal-taking-stock/ accessed 27.06.2018

- Wolff, S. 2014   "The Politics of Negotiating EU Readmission   Agreements: Insights   from Morocco and Turkey", European Journal of Migration and Law 16.

- Zaun, N. 2018 "States as Gatekeepers in EU Asylum Politics: Explaining the Non-Adoption of a Refugee Quota System" Journal of Common Market Studies, Vol. 56, No.1

- Zoeteweij-Turhan, M. H. and O. Turhan. 2017 "Above the Law- Beneath Contempt: The End of the   EU-Turkey   Deal?"   Swiss   Review   of International and European Law. Volume 27. Number 2.

Footnotes

i. Directorate General of Migration Management (DGMM) in Turkey. This number excludes unregistered Syrians and Syrians with residence permits.

ii. In 2017, Turkish authorities completed naturalization process for 36323 Syrians and issued 15700 work permits for Syrians under temporary protection (European Commission, 2018, 47)

iii. Here I use the concept of "Externalization" referring to Frelick et al. (2016,193)'s definition of externalization of migration controls describing extraterritorial state actions to prevent migrants, including asylum seekers, from entering the legal jurisdictions or territories of destination countries or regions or making them legally inadmissible without individually considering the merits of their protection claims.

iv. Please visit the website of the European Commission Migration and Home Affairs at https://ec.europa.eu/home-affairs/content/safe-third-country_en for the definition of "Safe Third Country".

v. For the basic premises of CEAS and Dublin regulation such as "first country of asylum" see https://eur-lex.europa.eu/legal-content/EN/ALL/;jsessionid=jHNlTp3HLjqw8mqGbQSpZh1VWpjCyVQq14Hgcztw4pbfSQZffnrn!557467765?uri=CELEX:32013R0604

vi. See Ineli-Ciger (2018) for a comprehensive discussion on the potential of Temporary Protection Schemes to provide a viable framework to respond mass influx of forced migrants and necessity to clarify its content, boundaries, legal foundation in many countries including Turkey and the EU.

vii. Scholars discussed the principle of solidarity specifically in the case of EU-Turkey deal from manifold perspectives. Mitsigelas (2017) calls for a shift from negative (inter-state level) to a positive (individual centered) mutual recognition of asylum decisions through humanizing solidarity. Thielemann (2018) approaches the unequal burden sharing from public goods theory perspective and underlines the need for Europe to move beyond the symbolic solidarity and suggests 'substantive co-operation" for effective outcomes. Constitutionality of the Dublin III Regulation (Küçük, 2016) constitutional significance of solidarity and its interaction with loyalty and mutual trust (Thym and Tsourdi, 2017) and emergency-driven solidarity (Tsourdi, 2017) have also been discussed.

viii. See Toygür and Benvenuti(2016) for the specific role and impact of Angela Merkel and Gokalp-Aras and Sahin-Mencutek (2015) for the impact of the Turkish foreign policy.