

THE READMISSION AGREEMENT BETWEEN EU AND TURKEY: THE VISA LIBERALISATION DIALOGUE KNOT

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ABSTRACT

Readmission Agreements are important, functional instruments of international cooperation among states in the area of expulsion and deportation of irregular migrants back to origin or transit countries. Among the various aspects on combating irregular immigration, removal of irregular migrants who especially apprehended while illegally entering into or exiting from the country, who are undocumented, who violated or breached the law has become a top priority to many states for some reasons such as protecting public order or public security or public health as well as for being a deterrent factor. The European Union, resorting to the asymmetrical interdependency has persuaded the origin and transit countries including Turkey by using incentives like visa liberalisation. As a result, the European Union-Turkey Readmission Agreement has turned to be a key to Turkish citizens' travel in Schengen area without any visa requirement prior to the accession as well as being a benchmark on the road to Turkey's membership. In the end, Turkish citizens have not obtained visa liberalisation yet while irregular migration pressure, which is one of the most prominent threats to many member states, has been alleviated thanks to the readmission agreement.

Keywords: Readmission Agreement, Visa Liberalisation, Irregular Migration, Turkey-EU Relations.

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AVRUPA BİRLİĞİ VE TÜRKİYE ARASINDA GERİ KABUL ANLAŞMASI: VİZE SERBESTİSİ DİYALOĞU DÜĞÜMÜ

ÖZ

Gerikabulanlaşmaları, düzensiz göçmenlerin kendi ülkelerine ya da geldikleri üçüncü ülkelere geri gönderilmeleri için ülkeler arası önemli ve işlevsel araçlardır. Düzensiz göçle mücadelede ülkeye izinsiz girerken veya çıkarken yakalanan, belgesiz veya sahte belge kullanarak giriş-çıkış yapan düzensiz göçmenlerin kamu düzeni ve güvenliğini, kamu sağlığını korumak amacıyla geri gönderilmesi caydırıcı bir nitelik taşımaktadır. Avrupa Birliği, asimetrik karşılıklı bağımlılık ilişkisini kullanarak aralarında Türkiye'nin de olduğu menşe ve transit ülkeleri ikna etmek için vize serbestisi gibi teşvikleri kullanmıştır. Sonuçta, Türkiye-Avrupa Birliği Geri Kabul Anlaşması, Türkiye'nin üyeliği yolunda en önemli kıstaslardan biri haline gelirken bir yandan da üyelik öncesinde Türk vatandaşlarının vizesiz olarak Schengen bölgesi ülkelerinde dolaşmasını sağlamanın anahtarı haline gelmiştir. Gelineen noktada Türk vatandaşları vize serbestisine kavuşamazken Avrupa Birliği, geri kabul anlaşması sayesinde, birçok üye devletin hükümetleri için en önemli tehditlerden birisi olan düzensiz göç baskısını hafifletmiştir.

Anahtar Kelimeler: Geri Kabul Anlaşması, Vize Serbestisi, Düzensiz Göç, Türkiye-AB ilişkileri.

INTRODUCTION

It is expected that the number of irregular migrants would augment in the near future due to worsening political conditions and other factors in the Worldwide and irregular migration has grown in importance within the Turkish and the European Union (hereinafter EU) political agenda in the last couple of years. Owing to the conflict and instability in Syria, Iraq and Afghanistan, millions of people have been displaced in masses and forced to migrate under rarely seen conditions in the World history. Depending on that, Turkey has become the most significantly affected country and has eventually had to provide temporary protection for about 3,5 million Syrians. That has brought about the urgent need to manage irregular migration phenomenon.

Readmission Agreement (hereinafter RA)s are important, functional instruments of international cooperation among states in the area of expulsion and deportation of irregular migrants back to origin or transit countries. They are one of the most prominent measures related to the combat against irregular migration. Among the various aspects on combating irregular immigration, removal of irregular migrants who are apprehended while illegally entering into or exiting from the country, who are undocumented, who violated or breached the law has become a top priority to many states for some reasons such as protecting public order or public security or public health as well as for being a deterrent factor. Signing a Readmission Agreement with an origin country, which enables countries to take measures against irregular migration, is an effective tool that allows irregular migrants to be sent to the origin/transit country in a way worthy of human dignity of irregular migrants. Turkey attaches importance to the RAs to return irregular migrants to the origin country in the framework of combating irregular migration.

The Readmission Agreement between the EU and Turkey signed on 16 December 2013 together with the Visa Liberalisation Dialogue (hereinafter VLD) has turned the irregular migration issue to a hot topic on both parties' political agenda (Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorization, 2013). In fact, the EU purposely uses RAs to deter irregular migrants. On the other hand, it is a preferred method to transfer liabilities for unfavourable outcomes of irregular



migration to the origin and transit countries like Turkey. Also, EU usually uses RAs to impose its own migration policy while chasing after its own interest and that policy can be tracked down in the bond between the RA and the VLD in Turkish case. In the meantime, the Syrian crisis, started in 2011 and not stopped since then, has led to Turkey being as the top refugee-hosting country. As the terms and definitions are very transitive in the field of migration, it is quite possible to become an irregular migrant while holding a refugee or international protection applicant/asylum seeker status. Syrians or other nationalities from Syria under international protection status apprehended by the Turkish law enforcement forces while trying to cross the maritime or land borders illegally are common samples of this statement.

The study argues that the EU benefited from the complex and asymmetrical interdependency with origin and transit countries like Turkey while signing readmission agreements. Furthermore, the EU has been following up a politically realistic policy in the field of migration by only chasing after the interest of the member states. As migration issues are beyond a state's capacity to tackle with, states are interdependent to overcome such issues (Rana, 2015, 291). The balance of power among states force them to cooperate but Keohane and Nye point out "It is asymmetries in independence that are most likely to provide sources of influence for actors in their dealings with one another" (Keohane and Nye, 2012, 11). The EU needed to sign RAs to return irregular migrant to the origin and transit countries, otherwise, it would be highly costly to deal with them. However, the origin and transit countries were reluctant to sign those agreements as they were likely to cause heavy burden. Therefore, the EU proposed visa liberalisation as the most incentive to attract those countries including Turkey.

In this study, some answers will be sought to the questions like what the RAs are, why they are signed, what advantages or disadvantages they would provide, what is their content, how the RA between EU and Turkey, developed, what is the VLD and the current situation about it, what is the outcome of the RA and the VLD, etc. To accomplish the main goal of the study, the texts on RAs, the joint action plan, the statement and the reports published by EU will be analysed. Since the content of RAs covers not only third country nationals (TCNs) but also the own nationals and the TCNs like Syrians, Iraqis and Afghans who

transit Turkish territory through the EU member states are more important for Turkey because of the burden they cause, the main focus of the study will be on them. The study is divided into 3 parts. The first one will be focusing on the distinction between irregular migration and asylum. Also, the importance of RAs will be studied in this part. The second part will discuss the content of the RAs both in the Turkish legislation and EU acquis. Last but not least, the third part will try to center on the bond between the RA and the VLD. Now, we should lay out the distinction between the concept of asylum and irregular migration.

1. THE DISTINCTION BETWEEN IRREGULAR MIGRATION AND ASYLUM: THE IMPORTANCE OF READMISSION AGREEMENTS

Based on their goals as to work or to seek for asylum, migrants can be divided into two categories: economic migrants who go to a new country because living conditions or opportunities for jobs are not good in their own country (Macmillan Dictionary, 2015) and refugees who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country (UNHCR, Convention and Protocol Relating to the Status of Refugees, 1951). It is not quite possible to define irregular migration, so each country's definition is different in accordance with national legislation. According to Article 3 of the Law on Foreigners and International Protection (LFIP), irregular migration is the form of migration whereby foreigners enter into, stay in or exit from Turkey through illegal channels and work in Turkey without a permit. As seen in the definition, there are four different ways of becoming irregular migrant: illegal entry into, stay in or exit from, and undocumented work in the Turkish territory. According to Article 2 of the Directive 2008/115/EC, the Directive applies to all third-country nationals 'staying illegally' in a member state, which is defined as a person who either 'does not fulfil, or no longer fulfils the conditions of entry as set out in Article 5 of the Schengen Borders Code, or who does not or no longer fulfils 'other conditions for entry, stay or residence in that Member State (the Return Directive, 2008).

The management of irregular migration flows is an issue of particular concern to the governments in the Worldwide, due to the complicated interplay



between its security, humanitarian and economic dimensions (Memişoğlu, 2014, 1). Although the issues regarding migration and asylum are taken into consideration as different subjects, it is not so easy to make a distinction between them. Also, the question of what makes an asylum seeker a “genuine” refugee is of course already highly contentious (Robinson and Segrott, 2002, 4). As in migration, asylum includes legal or illegal migrations to other countries as well. Asylum, which distinguishes with its human dimension often under the influence of social and political phenomena, remains important today, as in the past, for one of the main issues in the world.

International protection including asylum is about securely entry into a territory in which refugees are sheltered from the risk of being persecuted or in other ways treated in a prohibited manner, or in a way that is inhumane or degrading (Pirjola, 2009: 347). Actually, the ones who seek asylum and international protection constitute a significant numbers of irregular migrants. Economic conditions, geography and politics are some of the factors leading asylum seekers to another country. Asylum systems start their functioning only once refugees can be considered to have reached a State’s territory (Moreno Lax, 2008, 317). According to Amnesty International, 48% of all irregular entrants and 63% of all those arriving irregularly by sea came from Syria, Eritrea, Afghanistan and Somalia, countries torn by conflict and widespread human rights abuses, in 2013 (Amnesty International, 2014). That is a fact that proves almost half of irregular migrants in the EU member states are asylum seekers and refugees. As stated in a briefing by the European Parliament, EU law does not provide for the regulated arrival of asylum seekers, so their entry into EU territory is in most cases irregular, as they travel without the necessary documentation and/or use unauthorised border-crossing points (Irregular immigration in the EU: Facts and Figures, 2015). In other words, there is no lawful way for asylum-seekers to arrive in Greece as the first stop to reach to other EU member states, and also no practical way to arrive as migrant workers, so all asylum-seekers arrive in Greece in the same way as do illegal migrants (Baldwin-Edwards, 2006, 119).

Notably, it is witnessed that EU member states have been seeking some solutions to irregular migration such as accelerating procedures regarding international protection applications which raised some concerns with regard to the

applicants' rights. That tendency reflects upon the procedures regarding the international protection applications. Nevertheless, implementation of RAs should not pose any legislative and practical obstacles to the right of asylum seekers to submit asylum or protection applications in EU member states. Over the period from 1982 to 2006, the proportion of decisions that resulted in recognition under the definition of the 1951 Refugee Convention was 18% (Hatton, 2009, 189). This low percentage even before the Syrian crisis causes some worries about the increase in irregular migration because many of the applicants whose applications rejected would try to seek other ways to reach their ultimate goal: to go to a country with better living standards while fleeing from execution or other serious threats to their lives. As stated by Djajić, there are two principal ways in which an asylum seeker can reach an advanced country: (a) Relatively quickly, but at a high cost and risk, with the aid of human smugglers and without proper documentation or (b) by applying for resettlement at a UNHCR refugee facility close to the home country (Djajić, 2014, 83).

All the same, the EU has adopted a panoply of measures to deter, detect and remove irregular migrants (Peers, 289, 2015). According to a study conducted on the matter, economic conditions in countries of origin are statistically significant and substantively important determinants of aggregate numbers of asylum seekers coming to Western Europe. Thus, policies aimed at improving economic conditions in these countries, such as generous development assistance and the opening of protected European markets to imports from developing countries, can lower the migration pressure from these countries (Neumayer, 2005, 405). It was not until the signing of the Treaty of Maastricht, which entered into force on 1 November 1993, that the issue of asylum became part of the Treaties in EU (Cherubini, 2015, 138). Currently, EU has a special Directive (recast) for granting and withdrawing refugee status. Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast) introduces a minimum framework in EU on procedures for refugee status (Asylum Procedures Directive, 2013). The Directive acknowledges that a common policy on asylum, including a Common European Asylum System (CEAS), is a constituent part of the EU's objective of establishing progressively an area of freedom, security and justice open to those who, forced by circumstances, legitimately seek protection in EU.



Basically, there is a strong bond between asylum and irregular migration. If the problems associated with irregular migration-dangerous journeys, exploitative employers, lost taxation revenue, displaced local workers, and increased insecurity-are to be effectively tackled, recognizing that “refugees” and “migrants” are often the same people, and developing legal alternatives to their irregular migration, is likely to prove vital (Long, 2015, 3). On the other hand, migration has never been distinct from international labour migrations due to influxes of refugees. But when it assumes massive proportions, destination countries have begun to suspect that political migration is disguising an economic migration (Moulier-Boutang and Jean-Pierre Garson, 1984, 584). As of the Syrian example, some of those people aspire to seek a better life in an EU member state like Germany by trying to cross the western and maritime borders of Turkey in illegal ways and end up a consisting majority of irregular migrants apprehended both in Turkey and in the EU member states. There is a predicament about Syrians as they can not be expelled from Turkey even if they are apprehended as irregular migrants because of the non-refoulment principle in accordance with Article 4 of the LFIP.

In fact, hundreds of thousands of people try to reach the territory of another country and settle in a more secure environment every year. In the early 1980s, the number of asylum applications received by the developed countries was in the range of 100.000–200.000 per year. It peaked at 850.000 in 1992, fell back to about 400.000 by 1997, and then rose again to roughly 600.000 in 2001. For 2009, the industrialized nations received a total of 377.000 asylum requests (IOM, 2010). Owing to the migration flows ended up with asylum applications, the trend kept rising during the whole year of 2015. EU authorities declared that almost 1,5 million irregular migrants reached to a member state as of December 2015. This latest figure for 2015 marked an increase of 693.000 first time applicants in comparison with the year before, as the number of first-time applicants more than doubled from 563.000 in 2014 to almost 1.26 million in 2015 (eurostats, 2016). Irregular migration has continued to increase in parallel with political instabilities, suppressive regimes, ethnic conflicts, civil wars and violation of human rights in origin countries such as Syria, Iraq, Afghanistan and Pakistan in Turkey. The latest example of this phenomenon is the arrival of approximately 3,5 million Syrians fleeing the conflict zone to Turkey as a safe haven. Turkey has granted the temporary protection status to those Syrians addressing their need

for shelter and food (Regulation on Temporary Protection Status, 2014). That kind of temporary protection status is only given when mass influx situations occur and make it impossible to grant international protection status quantitatively. Currently, the crisis caused by Syrians continues to create challenges to Turkey in the field of migration and asylum.

When migration and asylum issues have gained such significance in the world, it is of the utmost importance to take the necessary steps for adequately managing them, to establish an efficient institutional structure and a regulatory infrastructure to strengthen and activate the legal infrastructure of the struggle against irregular migration which has become an international problem rather than a local one, and to reduce the bureaucratic procedures of legal migration as far as possible by adopting the migration management policy that is based on consistency and trust. As EU has placed greater emphasis on the combat against irregular immigration in recent years, the conclusion of readmission agreements has risen to the top external relations priorities (Roig and Huddleston, 366, 2007). Because they are essential tools to control and curb irregular migration flows, they solely cover irregular migrants. EU announced that whilst granting protection to those in need remains a priority, returning those who do not possess the right to stay in the EU in accordance with the rules and procedures set out in the EU *acquis* is equally important for a well-functioning asylum system (European Commission - Fact Sheet, 2017).

The international protection applicants (asylum seekers) who are under protection within refugee law are not subject to RAs unless their applications rejected in final procedure and not deemed as irregular migrants. RAs are based on the principle that irregular migrants apprehended in a country's territory should be returned to either their origin country or to the country where they transited. Readmission is the main instrument of return, and the EU has recently put major efforts into negotiating readmission agreements with transit countries in geographic proximity as well as with more distant countries of origin (Kruse, 119, 2006). Signing and implementation of RAs with origin and transit countries usually deter irregular migrants and human smugglers from using the channels through the signatory countries' land. Therefore, EU has concentrated on signing readmission agreements with origin and transit countries including Turkey. Within



this context, it is possible to track down this intention even in the 2nd Accession Partnership Document of Turkey dating back in 2003 like in the statement “Reinforce the fight against illegal immigration, negotiate and conclude as soon as possible a readmission agreement with the European Community” (Council Decision 2003/398/EC, 2003). Interestingly enough, EU did not offer any version of the VLD to Turkey until 2012 and those efforts reached the peak after the 2010s when EU realised that suspending some chapters, which currently are 14, was not beneficial to both parties and a positive agenda to accelerate negotiations was essential.

As part of the positive agenda, signing a RA with Turkey was put forward along with signing a VLD which is a kind of EU policy to lure the origin and/or transit countries because VLD means that citizens of the country which possesses visa liberalisation with EU can travel within the Schengen area and stay within there without any visa obligation something not only Turkish governments but also Turkish citizens have been longing for decades. Finally, EU and Turkey signed the RA and the VLD on 16 December 2013. However, the unprecedented irregular migration flows in 2015 urged both parties to take some elaborative measures to tackle the issue leading to signing a joint action plan and announcing a joint statement. We will be elucidating the action plan and the statement and their outcomes in the following chapters in detail. After clarifying the bond between irregular migration and asylum as well as the significance of RAs, it is better to focus on the RAs and their content in the Turkish legislation and the EU acquis.

2. THE READMISSION AGREEMENTS AND THEIR CONTENT IN THE TURKISH LEGISLATION AND EU ACQUIS

Growing human mobility around the world has turned migration phenomenon into an important policy area with its political, economic, social and cultural aspects. Almost every country is affected by different forms of migratory mobility. When migration can be managed effectively in accordance with well-designed policies and procedures, public order and safety can be ensured and possible violations of human rights can be eliminated. Development of policies with a human rights-based approach always leads to durable solutions for both origin and target countries. Without impinging on the rights of those who are legitimately entitled to stay, readmission agreements aim at creating a

legal framework for forced returns (Giuffre, 2013, 81). RAs are among the ways to develop remedies to irregular migration. The purpose of these agreements is, indeed, to facilitate deportations, which can otherwise prove a very costly, lengthy and complex process, particularly when the government of the state to which individuals are being deported does not cooperate with the returning state (Collinson, 1996, 85).

According to Article 23 which titled as “Freedom of residence and movement” of Turkish Constitution, “Citizens shall not be deported or deprived of their right of entry into the homeland” and that means the provisions of RAs regarding readmission except deporting about Turkish nationals are technically not of significance. At the same time, miscellaneous works such as identification, providing travel documents, planning of the travel about deportation and expulsion of Turkish nationals are carried out by the Turkish Consulates where they reside however those will not be of the subject to this study. On the other hand, among the various aspects of the EU’s policy on combating irregular immigration, the question of removal and repatriation of irregular migrants - i.e. persons who are undocumented, who do not or no longer have the right to stay regularly in the EU - has become a priority (Billet, 46, 2010). Under the Maastricht Treaty, issues relating to the return of persons illegally residing in the European Union fell solely in the competence of the Member States but that changed later and main policy areas regarding migration and asylum were transferred to the jurisdiction of the EU itself by the Treaty of Lisbon. The reason for this transfer of powers was that conviction had gained momentum that individual Member States were no longer able to react appropriately to the increasing difficulties encountered by their competent authorities in the field of return (Schieffer, 2003, 343).

Generally speaking, there are both advantages and disadvantages of RAs drew from some implementation experience. In short, they can be classified as below:

The advantages of readmission agreements are;

- They are to be binding in the public sector and impossible to be ignored or to fail to comply with.



• They prove the political will of governments in the combat against human smuggling or organized crimes.

• They are effective in the lack of other mechanisms available to ensure the return of irregular migrants.

On the other hand, the disadvantages of readmission agreements are;

• They are not a well-known agreement type in comparison with others and that cause third countries' aversion to making such agreements.

• They need longer periods of negotiations.

• They create red tape in spite of the need for some smooth implementation.

Now, we can start examining the RAs signed by both Turkey and EU and their content.

2.1. The Readmission Agreements Signed by Turkey

Turkey has signed sixteen (16) RAs with various countries as well as EU so far.

Table 1: The Countries Turkey Signed RAs

	COUNTRY	DATE
1.	Syria	10.09.2001
2.	Greece	08.11.2001
3.	Kyrgyzstan	06.05.2003
4.	Romania	19.01.2004
5.	Ukraine	07.06.2005
6.	Pakistan	07.12.2010
7.	Russia	18.01.2011
8.	Moldova	01.11.2012
9.	Belarus	29.03.2013
10.	Montenegro	18.04.2013
11.	EU	16.12.2013
12.	Nigeria	02.02.2011
13.	Bosnia and Herzegovina	16.02.2012
14.	Yemen	20.10.2012
15.	Kosovo	15.12.2015
16.	Norway	26.04.2016

The RAs with Nigeria and Yemen are currently pending for ratification in the Turkish Grand National Assembly (TGNA). Negotiations with Serbia and Switzerland are still ongoing. Among the RAs being implemented, the one between Turkey and Greece is the most effective in terms of the irregular migrants subject to it. Actually, it is not an agreement, it is a protocol, namely the Protocol for the implementation of Article 8 of the Agreement between the Government of the Republic of Turkey and the Government of the Hellenic Republic on combatting crime, especially terrorism, organized crime, illicit drug trafficking and illegal migration signed on 8 November 2001 and published on the Official Gazette on 24 April 2002. Until 2015, more than 100.000 irregular migrants, mainly TCNs have been subject to readmission request, however, only about 1/5 of them were delivered for some reasons. In the meantime, EU took the initiative to deal with issues regarding the RA covering Greece as well. Furthermore, there is another agreement between Turkey and Bulgaria and some exchange of people crossing borders illegally argued within. However, not only the irregular migration happened through the Turkey-Bulgaria Border is in smaller quantity but also are the readmission requests and resendings. Also, there is a bilateral agreement with Romania and it is not that functional, either.

2.2. The Readmission Agreements Signed by EU (EURAs)

Within the perception of EU, irregular migration is one of the most compelling phenomena to manage and control, so readmission is officially framed as an 'essential' instrument in increasing return and ensuring the success of EU expulsions policies (Carrera, 1, 2016). EU utilizes EURAs as a complementary tool to its return policy as explained in the Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in the Member States for returning illegally staying third-country nationals. They are processed together with bilateral readmission agreements between the member states and non-EU countries, however, they take precedence of them. However, the policy brought by the directive has raised some concerns regarding the compliance with the international law but not urged EU to change its policy on RAs.

EU has started using EURAs to encourage reforms in third countries' justice and home affairs legislation as well as soothing the reactions to strict



visa regime for regular visitors. EURAs are also incentive-based instruments coupled with migration, border management operational and financial support, visa facilitation/liberalisation or mobility partnerships (Wolff, 72, 2014). EU had a previous practice about EURAs and visa liberalisation/facilitation bond on the Western Balkans prior to Turkish case. By laying out in the Communication from the Commission on “the Western Balkans on the road to the EU: consolidating stability and raising prosperity” COM(2006) 27 that progress in negotiations on visa facilitation will be linked to negotiations on EURAs with the European Community and to progress in reforms in relevant areas (European Commission, 2006). Visa facilitation agreements, aimed to ease travel for specific groups such as business people, academics or close relatives, were offered to the five Western Balkan countries (Flessenkemper and Bütow, 2011, 164). In terms of EU, it is possible to find how to finalize the RAs in the provisions set out in Article 79/3 of the Lisbon Treaty: “*The Union may conclude agreements with third countries for the readmission to their countries of origin or provenance of third-country nationals who do not or who no longer fulfil the conditions for entry, presence or residence in the territory of one of the Member States*” (TFEU – Consolidated Version of the Treaty on the Functioning of the European Union, 2012). It can be assessed that migration-related issues are far beyond a member state’s ability to tackle with, therefore EU has taken the responsibility within its jurisdiction to deal with migration leading to the aforementioned article of the Lisbon Treaty. This provision would not only give an explicit competence to the EU to conclude such agreements but would also clarify the potential scope of such agreements (Billet, 60, 2010).

In fact, EU had started negotiations on readmission agreements as early as in 2000. There are 22 negotiating directives adopted by EU so far are as below (European Commission Migration and Home Affairs:

- 2000: Sri Lanka, Russia, Morocco, Pakistan.
- 2001: Hong-Kong, Macao.
- 2002: Ukraine, Albania, Algeria, China, Turkey.
- 2006: Serbia, Montenegro, Bosnia and Herzegovina, FYROM, Moldova.
- 2008-2009: Georgia, Cape-Verde.
- 2011: Belarus, Armenia, Azerbaijan.
- 2014: Tunisia.

Lastly, EU signed a Common Agenda for Migration and Mobility (CAMM) with Nigeria in March 2015 making Nigeria the 23rd country to start negotiations on a readmission agreement (EEAS, 2018). Under the negotiation directives so far issued by the Council, 17 EURAs have entered into force as of the date this study has been finalized. As noticed from the table below, the efforts to sign a readmission agreement have increased in compliance with EU's enlargement in 2004 and in 2007 with the new neighbours. The Council selects the country to propose a readmission agreement as well as visa liberalisation/facilitation according to some criteria like (Roig and Huddleston, 366, 2007);

- Migration pressure exerted by the country,
- Geographical position relative to EU,
- Geographical balance and regional coherence,
- Added value of EU agreement.

The 17 EURAs in force are as shown below:

Table 2: EURAs

Partner country	Date of signature	Date of entry into force	Official Journal (OJ) citation for the text
the Chinese Special Administrative Region of Hong-Kong	27.11.2002	01.03.2004	OJ L 17 of 17.01.2004, pp. 25-39
the Chinese Special Administrative Region of Macao	13.10.2003	01.06.2004	OJ L 143 of 30.04.2004, pp. 99-115
Sri Lanka	04.06.2004	01.05.2005	OJ L 124 of 17.05.2005, pp. 43-60
Albania	14.04.2005	7.11.2005	OJ L 124 of 17.05.2005, pp. 22-40
Russia	25.05.2006	01.06.2007	OJ L 129 of 17.05.2007, pp. 40-60
Ukraine	08.06.2007	01.01.2008	OJ L 332 of 18.12.2007, pp. 48-65
Macedonia	18.09.2007	8.11.2007	OJ L 334 of 19.12.2007, pp. 7-24



Montenegro	18.09.2007	8.11.2007	OJ L 334 of 19.12.2007, pp. 26-44
Serbia	18.09.2007	8.11.2007	OJ L 334 of 19.12.2007, pp. 46-64
Bosnia and Herzegovina	18.09.2007	8.11.2007	OJ L 334 of 19.12.2007, pp. 66-83
Moldova	10.10.2007	01.01.2008	OJ L 334 of 19.12.2007, pp. 149-164
Pakistan	09.11.2008	1.12.2010	OJ L 287 of 4.11.2010, pp.50-51
Georgia	18.01.2011	1.03. 2011	OJ L 52 of 25.2.2011, pp. 47-65
Cape-Verde	18.04.2013	1.12.2014	OJ L 282 of 24.10.2013, pp. 15-34
Armenia	19.04.2013	01.01.2014	OJ L 289 of 31.10.2013, pp. 13-29
Azerbaijan	28.02.2014	01.09.2014	OJ L 128 of 30.4.2014, pp. 17-41
Turkey	16.12.2013	01.10.2014	OJ L134 of 07.05.2014, pp. 13-29

In fact, all these agreements above are structured in the same way. Thus, it clearly appears that the EU lays down a general structure of the agreement and that the partner can only negotiate the contents of some of the clauses (Billet, 67, 2010). Only small changes can be witnessed in the content of EURAs, however, just a few of them are really the result of negotiations and the rest can be deemed as unavoidable. EURAs generally lay down common operational procedures and administrative rules for ‘swiftly’ identifying ‘migrants to be readmitted’ and issuing the necessary travel documents (laissez-passer) for their expulsion (Carrera, 2, 2016). In the meantime, EU published a communication on an evaluation of the EU readmission agreements in 2011. The Communication from the Commission to the European Parliament and the Council Evaluation of EU Readmission Agreements COM (2011) comprises of 15 recommendations identifying main challenges about receiving data, leverages/incentives (including funding) and flexibility on the content (e.g. TCNs clause). After studying EURAs in general, we can start analysing the RA between EU and Turkey now.

2.3. The Readmission Agreement – Visa Liberalisation Bond in the Western Balkans and Eastern Europe Cases

VLDs have been used as a compensatory measure for the first time in the conclusion of the RA with Russia but the EU has not granted the visa liberalisation to Russia yet and visa facilitation has been in force since 2007. Moreover, the EU retained a previous practice about the RAs and the visa liberalization bond on the Western Balkans, prior to the Turkish case. Albania befell the first country not only in the so-called Western Balkans but also as a country, not neighbouring the EU and encouraged with the incentives to be a member state in the future and/or the least, obtaining visa liberalisation. The European Parliament noticing Albania's eagerness for the accession proposed to use visa facilitation as a reward for Albania when having implemented the agreement in 2005 (Kruse, 2006, 126). Subsequently, the EU proposed visa liberalisation to the Western Balkan Countries accompanied with a roadmap on the condition that they were to harmonize their migration policies in line with the EU acquis and adopt stricter security measures. After the process monitored by the Council and the Commission, the EU decided that the benchmarks on the roadmaps were consistently implemented and granted visa liberalisation to the citizens holding biometric passports of FYR of Macedonia, Montenegro and Serbia first and then Albania and Bosnia Herzegovina. As regards to the visa liberalisation with the Eastern Europe countries, Georgian citizens holding a biometric passport have also been exempt from the visa requirement since 28 March 2017 and the citizens of Ukraine who hold biometric passports were granted visa-free regime starting on 11 June 2017 (Frontex, 2018).

Meantime, the EU's pragmatic approach has progressively changed in two dimensions after the Western Balkans experience, firstly, in how to negotiate visa-free travel with a third country (pre-visa liberalisation) and, secondly, in how to maintain visa-free travel (post-visa liberalisation) (Trauner and Manihrassi, 2014, p. 144). The most significant difference between the Western Balkans, Eastern Europe, and the Turkish cases is that the starting point of negotiations was already problematic in the latter one. The possibility of Turkey's becoming a member state has diminished for more than a decade and of apparent failure in the visa liberalisation process has proportionately increased because of the remaining



benchmarks. Whereas Turkey has been involuntarily offered the visa liberalisation only in 2012 after an extended period of negotiations, the EU member states had already embraced the bond between RAs and visa liberalisation before even starting negotiations with Eastern Europe and the Western Balkan states.

3. THE EU - TURKEY READMISSION AGREEMENT AND THE BOND WITH VISA LIBERALISATION DIALOGUE

Even before the European Council agreed to the candidate status of Turkey in 2004, the Commission repeatedly called upon the Member States to use their bilateral relations and diplomatic contacts to push Turkey for a prompt start of negotiations for a Community readmission agreement (Coleman, 181, 2009). Turkey's starting point of a Readmission Agreement with EU was the readmission of own nationals and TCNs possessing a residence permit in Turkey. The milestones on the road towards signing the Readmission Agreement can be listed as below:

- EU adopted a negotiating directive on a readmission agreement with Turkey in 2002.
- Turkey received a draft Readmission Agreement text from EU in March 2003.
- The signing of the Readmission Agreement with EU was adopted in principle in the National Program dated 2003.
- The first negotiations of committees on the draft Readmission Agreement were launched on 27 May 2005.
- The Readmission Agreement text was initiated on 21 June 2012.
- The Readmission Agreement was signed on 16 December 2013 in Ankara.
- The law no 6547 on "Approving the Adoption of Turkey-EU Readmission Agreement" was adopted by the Grand National Assembly of Turkey on 25 June 2014.
- The Readmission Agreement was decreed by the Council of Ministers and the decision was published in the Official Gazette on 2 August 2014 on 27 July 2014.
- The Readmission Agreement between the European Union and the Republic of Turkey on the readmission of persons residing without authorisation

entered into force on 1 October 2014.

- When 2015 and the first half of 2016 witnessed an unprecedented irregular migration flows mainly because of Syrian, Turkey and EU agreed on an Action Plan and decided to apply an earlier date like March 20, 2016, with an actual start on April 4, 2016 (European Commission-Fact Sheet, 2015).

Within the framework of the Readmission Agreements to which the Republic of Turkey is a party, the readmission of TCNs, stateless persons and Turkish Citizens are subjects. As readmission agreements can be a burden on the origin and transit countries, the EU cunningly resorted to some specific incentives for persuasion such as visa liberalization. So, while trying to persuade Turkey to sign the RA, EU made some promises to Turkey in return. Abolishing the visa requirements for Turkish citizens was among the most significant ones. VLDs are powerful instruments in terms of making third countries comply with a range of EU-set conditions in the realm of Justice and Home Affairs (JHA) (Trauner and Manihrassi, 127, 2014). So, EU prefers to bind RAs with VLDs and there usually is a road map to reach a visa-free regime with EU on account of the other party. For this purpose, EU has developed a particular policy instrument, namely the EU's Mobility Partnerships as one of the tools of the EU's Global Approach to Migration as seen in the Western Balkans example. The Mobility Partnerships are pragmatic policy tools par excellence: in their efforts to create a common European immigration policy, the Member States have long found it difficult to achieve a shared approach on thorny questions of migration including legal migration (Parkes, 2009, 330). Within this partnership, EU asks the third countries to take some steps including signing readmission agreements with EU. In return, EU would facilitate legal migration tools like visa facilitation or/and liberalisation in as like in the Turkish case (Reslow, 2012, 394). Compensatory measures on visas have been used for the first time as a "carrot" for the conclusion of readmission agreements with Russia. In 2009, an evaluation of the EU visa facilitation agreements clearly demonstrated that the implementation of these agreements does not lead to a rise in the irregular migration into the EU from those third countries (CSWD, 2009). Furthermore, these agreements are intricately linked; the readmission agreement cannot enter into force without the agreement on visa facilitation (Billet, 70, 2010). Visa facilitation would include only lower visa fees, simpler and faster application procedures, etc.



To lift the visa obligation imposed on Turkish citizens travelling to the Schengen area for a short term visit, EU has concurrently launched discussions with Turkey as a part of the Readmission Agreement negotiations. As a matter of fact, signing a readmission agreement and lifting/facilitating visa obligations simultaneously is an EU policy not only applied to Turkey but also some other countries. It is not only facilitation but also abolishing all visa procedures, in the Turkish case. Visa liberalisation is a process which refers to the abolishment of Schengen visa requirement for Turkish citizens holding a biometric passport in line with EU standards and granting the right of visa-free travel for Turkish citizens to Schengen countries for short stays (i.e. of 90 days within any 180-day period). Turkey had been asking EU for equal treatment with the Western Balkans that had just been given visa liberalisation during the talks on the readmission agreement with EU (Wolff, 86, 2014). On the other hand, the EU's approach has been changed in two dimensions after the Western Balkans experience, firstly, in how to negotiate visa-free travel with a third country (pre-visa liberalisation) and, secondly, in how to maintain visa-free travel (post-visa liberalisation) (Trauner and Manihrassi, 144, 2014). In the EU VLD process meeting held on 27 May 2013 between the Turkish Minister of Foreign Affairs and Stefan Füle, the Commissioner for Enlargement and European Neighborhood Policy, the EU made a suggestion. Foreseeing that Turkey would define its roadmap, put its demands and drawbacks into a written statement under the title of "Annotated Roadmap" under the EU Commission Roadmap ensuring EU's and Turkey's views to be compiled in a single document. The visa liberalisation roadmap was technically a European Commission document, hence member states were only officially consulted (Wolff, 87, 2014). It was also envisaged that the Readmission Agreement would be signed after the mentioned document was prepared and thereby "the visa dialogue" process would begin. Within this framework, the Ministry of Interior, the Ministry of Foreign Affairs, the Ministry of Justice and the Ministry of EU Affairs prepared the "Annotated Roadmap" at a technical level.

Turkey highlighted five issues regarding the Annotated Roadmap. These issues were as below:

- Turkey would only launch discussions to lift "geographical limitation" provision which was added to the 1951 Geneva Convention by Turkey when granting the full membership to EU.

- The LFIP was already addressed to the “transit visa” application suggested by the EU.

- Protocol no 4 of the European Convention on Human Rights would be adopted when Turkey is granted full membership to EU. The same would be applied to Protocol no 7.

- Some concerns about the monitoring and the follow-up of the implementation of the Readmission Agreement were expressed.

- Turkey asked EU to supply with some technical support in the area of border checks, electronic surveillance, etc.

- Turkey acknowledged that implementation of the Readmission Agreement would be abandoned if the ultimate goal to obtain visa-free regime failed.

In conclusion, Turkey and EU compromised on a text containing 72 benchmarks/requirements organised in five blocks: document security, migration management, public order and security, fundamental rights and readmission of irregular migrants. It was agreed that six-monthly reports on the implementation of the Readmission Agreement would be prepared by the EU Commission beginning from the date when the provisions regarding the TCNs would go into force. In this context, the first EU Commission Report, namely, the Report from the Commission to the European Parliament and the Council on progress by Turkey in fulfilling the benchmarks/requirements of its visa liberalisation roadmap was published on 20 October 2014 (European Commission, 2014). It was stated in the report that 62 of 72 benchmarks/requirements were partially or fully met and Turkey failed to meet 10 of them. Five of these benchmarks/requirements were related to the 5th Block titled “Readmission of Irregular Migrants”.

However, the deteriorating situation in Syrian crisis made the procedure applied an earlier date. Therefore, it was announced in the statement after the meeting of heads of state or government with Turkey on 29/11/2015 that *“The EU welcomed the commitment by Turkey to accelerate the fulfilment of the Visa Roadmap benchmarks vis-à-vis all participating Member States. The European Commission will present the second progress report on the implementation by Turkey of the visa liberalisation roadmap by early March 2016. Both sides agree that the EU-Turkey readmission agreement will become fully applicable from*



June 2016 in order for the Commission to be able to present its third progress report in autumn 2016 with a view to completing the visa liberalisation process i.e. the lifting of visa requirements for Turkish citizens in the Schengen zone by October 2016 once the requirements of the Roadmap are met” (EU-Turkey statement, 2015). As perceived from the statement that Turkey would start readmitting the TCNs in June 2016, instead of October 2017 and EU would grant a visa-free regime to Turkish citizens in September 2016 in return. Then came the Second report accompanied by a Commission Staff Working Document (CSWD) on 4 March 2016. EU tried to evaluate the possible consequences of Turkey’s visa liberalisation on the migratory situation of the EU by that CSWD (European Commission Press release, 2014). Finally, a Third Report was published again accompanied by a CSWD giving factual information on the state of play of fulfilment of each requirement on 4 May 2016 (European Commission, 2016). In this report, EU authorities stated that 7 benchmarks/requirements out of 72 have not yet been fulfilled. Those benchmarks are listed as:

- upgrading the existing biometric passports so as to include security features in line with the latest EU standards;
- fully implementing the provisions of the EU-Turkey readmission agreement, including those related to the readmission of third-country nationals
 - adopting the measures to prevent corruption foreseen by the Roadmap i.e. ensuring an effective follow-up to the recommendations issued by the Council of Europe’s Group of States against Corruption (GRECO).
 - aligning the legislation on personal data protection to EU standards notably to ensure that the data protection authority can act in an independent manner and that the activities of law enforcement agencies fall within the scope of the law;
 - negotiating an operational cooperation agreement with Europol. This also depends upon the above changes to the data protection legislation. ;
 - offering effective judicial cooperation in criminal matters to all EU Member States;
 - revising the legislation and practices on terrorism in line with European standards notably by better aligning the definition of terrorism with that set out in Framework Decision 2002/475/JHA as amended in order to narrow the scope of the definition and by introducing a criterion of proportionality.

As of the final date of this study, these 7 benchmarks remain unmet but the Turkish Government submitted a work plan to EU to be able to fulfil them (Daily Sabah, 2018). Among those 7, the amendment on the terrorism legislation constituted a serious conflict between EU and Turkey. After the Third Report, the European Parliament announced that all the criteria must be met before lifting the visa obligation as all the member states, as well as the European Parliament, have to contend with the level of fulfilment of the above benchmarks so as to grant visa liberalization.

3.1. Reports on the Joint Action Plan

The EU-Turkey Joint Action Plan (JAP) was activated in November 2015 aiming to step up cooperation for the support of Syrian refugees under temporary protection and their host communities in Turkey and to strengthen cooperation to prevent irregular migration flows to the EU. For EU, the signing of a readmission agreement was considered to be dependent on certain incentives, most notably on visa facilitation (Trauner and Kruse, 2008: 411). However, there were some more incentives like opening more negotiation chapters that ended up with only one chapter's opening, which was Chapter 33 (Financial and Budgetary Provisions) opened on 30.06.2016 during the presidency of Netherlands. Also, allocating Turkey "3-plus-3" billion Euros in a funding mechanism namely "the Facility for Refugees in Turkey" was important to share the burden as promised in Article 23 of the RA between EU and Turkey. Last but not the least, EU launched a resettlement program namely one for one acknowledging that "For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria". As the focus of this study is the VLD, we will omit the rest but analyse it. The JAP comprises 3 parts and the first report on it was published covering the period between 30 November and 16 December 2016. Then, the second report covered the period from 17 December 2015 to 31 January 2016 and the final report focused the period from 1 February to 2 March 2016. EU published a report on 15 November 2017 as the final version {SWD(2017) 372 final} (European Commission, 2017). There are 15 concrete priorities within this action plan on this latest report:

1. Increase the deployment of asylum processing staff at the islands
2. Processing the Dublin family reunification cases



3. Processing the vulnerability cases
4. Speed up the interviews and procedures for the assessment of asylum applications
5. Maintain and further accelerate the eligibility procedure for applicants from countries of origin with low recognition rates
6. Improve the security and safety arrangements on the islands
7. Appoint permanent coordinators for the hotspots
8. Increase the number of Appeal Committees
9. Increase the number of decisions per the Appeal Committee
10. Maintain European Border and Coast Guard Agency deployments at the necessary levels
11. Limit the risk of absconding
12. Scaling up the Assisted Voluntary Return and Reintegration (AVRR) programme in the islands
13. Issue return decisions at an earlier stage in the return process
14. Create additional reception capacity on the islands and upgrade the existing facilities
15. Create sufficient detention capacity on the islands

As can be noticed from the priorities mentioned above, EU generalized the action plan to combat irregular migration and did not restrict it to only Turkey. They mainly consist of urgent measures to be taken in the Greek islands. After the JAP, EU and Turkey reconciled on a joint statement on 18 March 2016 and EU started publishing reports on the statement, instead of the JAP.

3.2. Reports on the Progress Made in the Implementation of the EU-Turkey Statement

EU has made 8 reports public so far on the progress made in the implementation of the EU-Turkey Statement so far. First Report on the progress made in the implementation of the EU-Turkey Statement was published on 20 April 2016 after a month of the statement which built on the JAP. All reports start with an introduction summarising the issue and they are divided into 11 chapters ending up with a conclusion. The chapters of the reports are respectively shown as below except the last report not following the same order:

1. Current situation
2. Return of all new irregular migrants from Greece to Turkey
3. “One for One” Resettlement from Turkey to the EU
4. Prevention of new sea or land routes for irregular migration
5. Voluntary Humanitarian Admission Scheme
6. Visa liberalisation
7. Facility for Refugees in Turkey
8. Upgrading the Customs Union
9. Accession process
10. Humanitarian conditions inside Syria
11. Conclusion

The return of the irregular migrants apprehended in Greece to Turkey is the main goal of the Statement. According to the eighth and the last report, the total number of migrants returned to Turkey since the date of the Turkey-EU Statement in March 2016 is 1.969. Furthermore, EU reveals that the total number of Syrians resettled from Turkey to the EU under the “one for one” resettlement mechanism was 12,476 after 2 years implementation period and that would mean approximately 500 resettlements in a month (European Commission, EU-Turkey Statement two years on, 2018). As understood from the figures provided in the Eighth Report, the numbers within the scope of readmission and resettlement are not so significant, however, the outcome of the statement is much more important to decrease the mass influx of irregular migrants. EU made a smart move to curb the irregular migration flows from Turkey reaching to almost 10.000 illegal crossings to even less than before 2014 numbers by offering Turkey the VLD to lure. The figures below supplied by UNHCR can be interpreted that way to better understand this statement (UNHCR, 2018).

Table 3. Irregular Migration Via Maritime Channels to EU in the Mediterranean Sea

Previous years	Sea arrivals	The number of deads and missings
2017	29,718	54
2016	173,450	441
2015	856,723	799
2014	41,038	405



The table proves how fruitful the outcome of the statement was for EU as of 2017 the numbers were lower even than in 2014. In April 2018, two years after the statement, EU has announced that irregular arrivals remained 97% lower than the period before the Statement became operational, while the number of lives lost at sea has decreased substantially (European Commission, EU-Turkey Statement two years on, 2018). When both the outcomes of the RA and the VLD are considered together, it is noteworthy that EU made good agreement to protect its territory from the unprecedented migration flows. On the other hand, the VLD has not ended up with the outcome Turkey was aiming at. The process about the VLD is still going on, however, there are strong indications that some EU member states are reluctant to grant Turkish citizens a visa-free regime within the Schengen area. The positive outcome of the statement can be counted as the 3-plus-3 billion Euros to soothe the Syrian crisis and support Syrians under temporary protection in Turkey. Unfortunately, the one for one program has not worked as planned yet since just a small amount of resettlement has been carried out so far.

CONCLUSION

Readmission agreements are used to control and manage irregular migrations and have turned out to be a very popular tool after some recent political crisis in the Middle East and Asia as well as the enlargement of EU. When the EU added migration and asylum issues to its jurisdiction from the member states, readmission agreements have been imposed on the third countries as a part of the policy in both areas. However, it was not easy to make those countries accede to those agreements which would cause serious burdens financially, politically, etc. Then, the EU resorted to the asymmetrical interdependency and developed the VLD policy as the main incentive to exert influence on the origin and transit countries including Turkey. That policy yielded a result in the Turkish case when Turkey signed a readmission agreement and also a visa liberalisation dialogue with EU.

When both the outcomes of the EURAs and the VLs are considered simultaneously, it is noteworthy the EU has been politically realistic to secure its territory from the unprecedented migration flows. The EU has been making cost calculation by reducing migration and asylum issues to the numbers only

and creating excuses to justify its actions stemming from economic and political reasons but none of those efforts helps developing remedies to the problems of migrants and asylum seekers.

On the other hand, the VLD has not ended up with the desirable outcome for Turkey yet. Now, Turkey and EU are collaborating to find remedies to the issues originated from irregular migration flows and asylum issues emerged from it. The outcomes of both texts are analysed in the study and it appears that they are lucrative for EU and it is hardly possible to tell the same applies to Turkey. On the other hand, what has been achieved so far is nothing but to keep the problem out of the EU borders exerting the asymmetrical interdependency. However, there still is some time and hope left for the positive results as migration and asylum both are human problems and require some humanitarian perspectives which can not be assessed as numbers or the amount.



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