Understanding the Changing Migration Dynamics: Turkey as a Test Case

The issue of migration management and the need for migration governance have become more salient in light of the recent political and social changes occurring in the Middle East and North Africa. While trying to devise policy responses to the pressing needs, the EU undoubtedly relies on the cooperation of third countries to regulate migration flows. This paper seeks to pinpoint Turkey's changing position in the Eurocentric international migration regime as an immigrant as well as a transit and emigrant country. It will attempt to capture, understand and contextualize the institutional/legal/discursive changes taking place in Turkey parallel to the EU accession process and the requirement to align with the EU acquis as well the need to respond to the pressing challenges exerted by international norms. There is also revived interest from European scholars to understand the Turkish context since as a candidate country and in light of the Arab Spring, Turkey can no more be confined to the external dimension of the EU migration policy but will be incorporated into the ‘pan-European migration regime’ that aims at preventing all types of politically or socially unwanted migration into the EU¹.

Driving from rationalist institutionalism and sociological/constructivist institutionalism, this paper attempts to investigate to what extent Turkey’s migration and asylum policies are in line with that of the EU and to unravel how far and to what extent the EU accession process has an impact on the reform of Turkish migration policy-making with a particular focus on visa politics as a form of ‘policing at the distance’. It will focus on the “new” visa regime of Turkey in the light of recent steps taken and it will debate Turkey’s migration regime vis-à-vis Europe’s migration management in terms of instruments available, approaches adopted and routes taken. How does EU conditionality influence Europeanisation and securitization of migration policies in Turkey in general and visa policy in particular?

Europeanisation At Work: A Theoretical Framework

The issue of migration management and regulating irregular migration is viewed as a part of the ‘Europeanisation’ process. Although there is not a mutual agreement on how to define Europeanisation, the term is commonly used to depict the ‘influence of the EU’ and/or the ‘domestic impact of the EU’. More precisely, it alludes to “processes of construction, diffusion and institutionalisation of formal and informal rules, procedures, policy paradigms, styles, “ways of doing things” and shared beliefs and norms to a European model of governance, caused by forms of cooperation and integration in Europe.”³

By constituting a key part of the Union’s enlargement strategy, conditionality has become a successful element of the Union's foreign policy. The conditionality refers to the fulfilment of the conditions determined by the priorities of the promise of technical and financial assistance, association agreements, and ultimately membership to influence the conduct of both non-member and non-candidate countries.⁴ As in other policy fields, the conditionality for membership has proved to be a powerful instrument in the promotion of strict immigration control standards beyond the territory of the Member States. Enlargement politics, and in particular the decision to make adoption of the complete EU and Schengen acquis compulsory upon candidate countries were hence vehicles to expand the territory of immigration control beyond the circle of the member states⁵.

³ Bulmer, S. and Radaelli C. (2004), 'The Europeanisation of National Policy?', Europeanisation Online Papers, Queen's University Belfast, No. 1/2004
⁵ Lavanex, S. “Shifting Up and Out: The Foreign Policy of European Immigration Control” West European Politics, 29:2, pp.334-335
Within the studies of Europeanisation in general, and the studies of conditionality in particular. Rationalist institutionalism and Sociological/constructivist institutionalism are widely used. Rationalist institutionalism indicates that changes are stimulated by the utility maximization intentions of the domestic actors; whereas the sociological/constructivist institutionalism implies a model in which a socialization process takes place thus domestic actors internalize the EU norms. The two principal approaches represent two basic logics of social action through which human action can be interpreted, these are ‘logic of consequences’ and ‘logic of appropriateness’ respectively. In the logic of consequences, action can be seen as being driven by a logic of rational and strategic behaviour that anticipates consequences and is based on given preferences, whereas in the latter, behaviour is guided by notions of identity and roles shaped by the institutional context in which actors operate. Furthermore, rationalist institutionalism is driven by rule-based (external) constraints, whereas sociological institutionalism involves norm-based (internal) constraints.

Having said this, two logics of political action outlined above are not mutually exclusive, since political action cannot generally be explained either as based exclusively on a logic of consequences or as based exclusively on a logic of appropriateness but probably involves elements of each. As much as it is hard to differentiate between the two, it is equally hard to determine with great certainty and clarity under which conditions the respective logic operates.

This article will make use of the ‘external incentives model’ by rationalist institutionalism according to which, the EU tends to reach the desired outcome in the candidate country by means of ‘reinforcement through reward and punishment’. Also, ‘cost-benefit calculations’ are acknowledged as the main drive for candidate countries to comply with the EU’s conditionality therefore, the behaviour of candidate countries changes depending on their ‘cost-benefit calculations’, which may result either in compliance or non-compliance with the conditions laid down by the EU. The most common hypothesis of this model with respect to the reinforcement by reward strategy is stated as: ‘a government adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs’.

In this article, I will refer frequently to the ‘credibility of conditionality’, which alludes to the EU’s ‘threat of witholding rewards’ if the candidate countries do not comply with the EU conditions and to the EU’s ‘promise to deliver the reward’ if the candidate countries are successful in terms of rule adoption. Also, regarding the domestic adoption costs, the hypothesis is as follows: If the veto players are few and the adoption costs are small, then, it is highly likely that rule adoption takes place.

Turning to the sociological/constructivist institutionalism, the underlying rationale behind it is that in spite of any material gains/incentives, candidate countries deem that the EU norms and values have

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12 Ibid.

13 Ibid
fundamental importance and therefore, they aim to internalize those norms and values through the processes of socialization and persuasion.

Based on the 'social learning model’ deriving from sociological/constructivist institutionalism, rationalist explanations of conditionality are challenged. This model aims to explain how international organizations can influence state actors based on sociological premises and make them comply with their norms and values. In the EU’s case, the EU is seen as an international organization with its shared norms and values; whereas candidate countries are seen as state actors who adopt the EU rules and comply with the EU's conditions if and only if they feel persuaded and confident about the ‘appropriateness’ of those rules.

The authors argue that, although the two approaches are not mutually exclusive and may be complementary, the External Incentives approach is more suitable to explain candidate country Europeanisation due to the use of conditionality in the accession process. Thus, this paper argues that, without disregarding the role and influence of social learning, the external incentives model is more suitable to explain Turkey’s rule adoption in the area of asylum and immigration in general and visa politics in particular.

**Turkey’s Changing Position in the Eurocentric Migration Regime and EU Process**

Turkey’s geo-strategic location between immigrant-producing areas and Europe coupled with extensive land borders and coastlines and a large share of the informal economy makes her an attractive transit zone for migration flows. Although Turkey is generally acknowledged as a “country of emigration” deriving from her experience with the migration of ‘guest workers’ to West European countries since the early 1960s, migratory inflows in recent years to Turkey has transformed her to a “country of immigration”.

Yet more strikingly Turkey, standing at the crossroads of Asia, Europe and Africa, is becoming a transit country for all those migrants, who in pursuit of better life chances, and due to political and conjectural changes in the international arena, strive to reach to EU countries.

Since the 1990s, parallel to the marked increase in the number of irregular migrants using Turkey as a transit route, which constituted nationals of Iraq, Iran and Syria as well as of Afghanistan and Pakistan, irregular migration has attracted more scholarly attention. Also, the implications of transit migration from a perspective of Turkey-EU relations have come to the fore especially after Turkey was granted candidacy and even more so after the accession negotiations with the EU started in 2005. Recently, in the wake of the Arab revolts and refugee flows triggered by the changes in the Middle East and North Africa, as EU and Turkey re-position themselves as key stakeholders in the region, Turkey's role has become more prominent as an influential regional actor and recipient of refugees.

Despite stalemate in the accession negotiations due to the unresolved Cyprus problem and unilateral blockages by member states, efforts to harmonize Turkish policy and legislation with that of the relevant EU legislation and to meet the obligations put forth by the EU in Chapter 24- Justice, Freedom and Security are ongoing. To this end, significant legal and policy changes have been made so far and many are underway, whereas progress is still lagging behind in some particular areas. Needless to say, cooperation in Justice and Home Affairs in general and policies on border control and fighting irregular immigration in particular are considered key priorities within the scope of Accession Partnership with Turkey. In an effort to curb irregular migration driven by EU accession process,

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Turkey has had to introduce new measures, among which are increasing efforts to reinforce border controls and surveillance mechanisms as well as starting negotiations on a readmission agreement with the EU.

Visa politics as a form of ‘policing at the distance’ to prevent irregular migration can be regarded as a stumbling block or a ‘resistance point’ not only in the course of preparations regarding the Justice, Freedom and Security chapter but also in Turkey’s EU process. It offers a generous terrain for testing the limits of EU’s policy of conditionality and contrasting the models of “external incentives model” and “social learning model” stemming from rationalist institutionalism and sociological/constructivist institutionalism respectively.

**Visa Politics**

In today’s world, “visa” continues to be an effective instrument in the hands of nation-states in controlling migration flows. This notion is closely linked to “the almost inevitable outcome of the Westphalian state” or “inherent in the very nature of sovereignty”. In line with their economic or political interests, nation-states have formulated visa policies, which enable them to facilitate free movement for citizens of some countries while limiting this very right for others. “The resulting system is one of highly unequal access to foreign spaces, reinforcing existing inequalities.” Visa restrictions manifest states’ unaltering willingness to monitor, regulate and control entrance to their territory in a globalised world. In order to guarantee security and order a state has to keep a close eye on who enters its territory and must be free in its decision to refuse entry, argued Bertellmann in his study on the passport system just before the First World War.

The EU, as a sui generis supra-national organisation, is a safe and attractive haven for potential migrants due to perceived accumulated wealth, vast and promising educational and work opportunities as well as generous access to social security. The EU has devised strict policies to curb the inflows of people into the Union, to the extent that such attempts have attracted criticisms and have led to discussions about making of “Fortress Europe”. These developments are closely related to the development of the Schengen Area. Within the scope of the Schengen cooperation and framework, as the member states of the EU internally abolished border controls paving the way for free movement of goods, capital, services and persons, they opted to strengthen the rules for those outside the Schengen area. With the eventual development of the Schengen Agreement (1985) to Schengen Convention (1990) and with its incorporation into the EU legal framework with Amsterdam Treaty (1999), the Schengen Area has now its own acquis, namely a body of rules that govern this area. This is a clear indication of member states’ desire to retain and assert their authority over control of entry while they recognize by transferring some of their rights and pooling their resources at supra-national level can produce more effective policies in curbing illegal migration, which will benefit them in the end.

In the creation of an Area of Freedom, Security and Justice, the dividing line between a free, secure and just inside (internal space) was clearly drawn and safeguarded from the outside (external space). Since the inception of this idea with the Treaty of Amsterdam, whereby the obstacles to free movement of people across the borders would be kept at minimum, the EU’s cooperation and influence in the field of justice and home affairs gained new momentum, which turned its attention to a strict and effective control of external frontiers.

With Schengen rules and regulations incorporated in the EU acquis with the Amsterdam Treaty, the Central and Eastern European Countries (CEECs), subject to the first wave of enlargement after rules were set in motion, had to adopt and fully align with the Schengen acquis upon accession. This meant

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20 Collinson, “Visa requirements, carrier sanctions, safe third countries and readmission: the development of an asylum buffer zone in Europe”, Transactions of the British Institute of Geographers 21 76-90 pp.77
22 Ibid
that they not only had to import the border control policies of the Member States, which required costly legal and technical changes, but also had to give up the open-borders policy approach towards neighbouring countries and impose visas for states that are included in the EU’s blacklist. While the border controls meant making life harder between Poland and Ukraine, the latter resulted in compulsory visas for all Western Balkan countries (except Croatia) and Russia, Ukraine, Moldova etc.

In order to preserve the Schengen Area and to regulate mobility, the EU has devised its own visa policy. It constitutes an effective way of differentiating between “wanted” and “unwanted” travelers and is viewed as part and parcel of the border management strategy. For the EU, the first line of border control starts directly in third countries, whereas the second line is the border itself. Visas therefore play an important role in “policing at a distance”\(^{24}\) For outsiders, the entrance pass to this privileged area goes from obtaining a Schengen visa, which is valid for short-stays up to 90 days in 180 days in the territory of the concerned state and depending on the visa type (single or multiple) allows the holder entry into other Schengen countries. However, it should be noted that even if one possesses a valid visa, the final decision is taken by the border guard, in other words the visa doesn’t by itself guarantee entry into a foreign territory.

EU Visa Regulation of 539/2001 lists countries whose citizens need to be in possession of visas upon entry into the Union (the so-called Blacklist) as well as countries that the citizens of which are not required to obtain visas (Whitelist). This differentiation itself is a clear display of Union’s “threat” perception regarding some countries, while some others are prejudged to be “safe”. To dwell on that idea, in light with the competences gained in the visa by the Community, the world was perceived in terms of four categories of citizens. I. EU citizens, II. citizens of countries in the European Economic Area, III. favoured third countries (whitelist) and IV. third countries on the blacklist\(^{25}\).

Inevitably, as the EU enlarged, the Union externalised the security logic onto newcomers. With the fifth wave of enlargement, which resulted in the accession of Central and Eastern European Countries, stabilisation of the neighbourhood gained importance. As put forth in detail by Trauner & Kruse, “shifting of the EU’s border policies to the CEECs has created a need for a new security approach in the neighbourhood. This approach is defined as the explicit attempt of the EU to balance security concerns and external stabilisation needs. In offering more relaxed travel conditions in exchange for the signing of an EC readmission agreement and reforming domestic justice and home affairs, the EU found a new way to press for reforms in neighbouring countries.”

The first implementation of this policy on the ground was the exemplary case of Western Balkan countries. In return for visa facilitation, the individual Balkan countries signed EU readmission agreement and based on their performance on a case-by-case analysis of the comprehensive justice and home affairs reforms such as document security, migration and asylum management, fight with organised crime, trafficking and corruption, first Macedonia, Serbia and Macedonia (November 2009) and later Albania and Bosnia Herzegovina (December 2010) were granted the right to visa-free travel. Given the relative success of the package approach of the EU linking visa facilitation-readmission (despite the lack of direct link), EU continues to pursue this approach towards Eastern Partnership countries as well as Turkey.

The visa liberalization process has been successfully used as an influential foreign policy and integration tool which has helped the EU to increase its soft power and improve its international image.\(^{26}\) However, it is not a magical formula, which works smoothly in all cases. The outcome is highly contingent on the credibility of the conditionality policy of the EU and the perceived strength of benefits that are likely to be attained at the end weighed against the costs.


\(^{25}\) Ibid

However, the absence of clear and concise guidelines and lack of a visa roadmap hampers EU influence dramatically. The reforms that are underway are taking longer to be implemented than planned. In relation to critical reforms demanded by the EU such as lifting the geographical limitation on the Geneva Convention, Turkey is clearly reluctant to take further steps. The 2012 deadline has long been put aside and the deadline has been postponed to an unknown date “in line with the EU process and conclusion of accession negotiations.”

Furthermore, in the absence of clear and concise rules as how to obtain visa liberalization as well as mutual political will, and in an environment of mistrust and “accession fatigue” felt by Turkey due to the stalemate in negotiations and ambiguous messages from the EU, the “package approach” of the EU (visa facilitation in return for readmission) presents a rather perplexing picture.

Visa policy as a tool of “policing at a distance”\(^{27}\) is an effective way of drawing the lines between the “wanted” travelers and those who are perceived as a threat to security and could potentially destabilize the internal security and cohesion of the Schengen area. In addition, “unwanted travelers” are perceived as threats to the welfare state and labor market of the EU member states. Visa liberalization for Turkey has been labeled and presented by European officials as a threat to the EU’s internal security since it would increase the crime rates in the member states. It has also been perceived as a threat to “societal security”\(^{28}\), because a potential flux of Turkish immigrants—who would take advantage of the visa liberalization—would erode the member states’ national identity.

In order to address this negative development, Turkish officials, academics and NGOs have been using legal arguments. More specifically, they have been asking to be given the rights that have been envisaged in the Association Agreement (1963) and its Additional Protocol that went into force in 1973 and which were confirmed by numerous decisions of the European Court of Justice (ECJ), most notably the “Soysal” Case of February 2009\(^ {29}\). The Soysal judgment gives a personal right to any Turkish national who wishes to come to the EU to provide services, to enjoy access to the territory of any member state on the basis of the same conditions which applied either in 1973 or on the date when the relevant member state joined the EU. This includes the right not to have to obtain a visa to go to the Member State in question if such a requirement did not exist at the relevant time. In the aftermath of the Soysal ruling, only Germany and Denmark complied to the European Commission’s request, although the Soysal ruling is bound to have implications in nine other member states as well\(^ {30}\). However, even their response was inadequate in practice. The mere procedural change, namely the visa exemption document required by Germany for certain categories of visitors to enjoy visa exemption, was restrictive in scope (service recipients are not included) and in fact led to more confusion and paperwork, exacerbating complaints instead of addressing them. While administrative court rulings are ongoing in the Netherlands and Germany with no hint of supportive political will, some other member states like Belgium, France and Italy have done nothing so far. Although the rule of law is the backbone of the EU, the efforts of the European Commission to enact EU law have been rendered futile by the indifference and political resistance of some EU member states.

Despite the fact that Turkish citizens and especially some specific categories (Erasmus students, academics, civil society representatives etc.) have been adversely affected by the visa requirement, the Turkish business community is perhaps the most significantly and intensely affected category. The reforms that are underway are taking longer to be implemented than planned. In relation to critical reforms demanded by the EU such as lifting the geographical limitation on the Geneva Convention, Turkey is clearly reluctant to take further steps. The 2012 deadline has long been put aside and the deadline has been postponed to an unknown date “in line with the EU process and conclusion of accession negotiations.”

29 This judgment concerns two Turkish lorry drivers, who were refused visas in order to drive to Germany. The case law stipulates Article 41(1) of the Additional Protocol is to be interpreted as meaning that it precludes the introduction, as from the entry into force of that protocol must have a visa to enter the territory of a member state in order to provide services there on behalf of an undertaking established in Turkey, since, on that date, such a visa was not required. In this scope, Germany’s visa practice was deemed unlawful given that, starting from July 1980, Germany introduced a visa requirement for all Turkish nationals seeking entry into Germany.
requirement. Sometimes the visa application procedure takes so long that when the visa is finally issued it is of no use to the businessmen, because they have already missed an important business appointment. Also, the nature (violation of privacy and confidentiality) and number of the required documents (exceeding 20) have tremendously damaged Turkish businessmen who have lost many of their international professional contacts. These visa requirements create unfair competition, thus violating not only the provisions of the Customs Union but also of the Article 41(1) of the Additional Protocol of the Ankara Agreement.

On the contrary, their European counterparts are either exempt from the visa requirement or are able to acquire visas at the airport upon arrival by paying just a very small fee of 15 Euros. This in turn puts Turkish businessmen in a disadvantaged position and hampers arms-length bargaining. It becomes extremely difficult for them to conduct their regular business relations, let alone initiate new business deals. It should also be noted that Turkey is the only candidate country to be in the Customs Union prior to EU membership. This particular situation accompanied by the visa barrier has sparked debates about the need to re-evaluate and even to re-negotiate the Customs Union.

There are studies, which reveal the negative impacts of the visa requirement for Turkish nationals on trade, education and tourism. These point also to the widespread resentment among Turkish public, which, in some cases lead to reactive EU opposition. Turkey has had an association relation with the EU since 1963, is a party to the Customs Union since 1996 and a negotiating candidate since 2005. Therefore, it is important for both Turkey and the EU to establish sound relations and tackle deep-rooted prejudices and misperceptions in order both sides to be well-prepared for Turkey’s full membership. Lifting the obstacles hindering the free movement is an effective tool of “Europeanisation” and a significant step towards increased interaction at the civil society level. This would be in accordance with the strategy proposed31 by the European Commission whereby there would be three pillars with the third one concerning the creation and maintenance of political and cultural dialogue between both sides’ civil societies.

Although Turkey is neither the migrant-sending country of the 1960’s nor the political asylum-seeker country of the 1980’s, the strict visa policy for Turkish nationals –that has been initiated since the 1980s– has remained the same. Even the idea of lifting visa restrictions is met with severe criticism by some member states. The shadow of the past, where fears for a Turkish migration wave prevailed, still exists without taking into account Turkey’s new economic and political reality. Despite significant changes on the ground, such as the net return of Turkish immigrants from Germany and the legal implications of the recent case law by the ECJ to rule the visa requirement for Turkish citizens illegal, the visa application still exists.

Turkey’s transformation from a migrant-sending country to a significant hub and transit point for irregular migrants has been causing serious concerns to some EU member states and makes them hesitant to accept the lifting of visa restrictions. The volume of irregular crossings at the Turkey-Greece border and the high number of third country nationals crossing through Turkey are often cited as the most alarming developments. According to the Annual Risk Analysis Report of Frontex 2012, the border between Greece and Turkey is likely to remain one of the areas with the highest number of detections of illegal border crossing along the external border. According to Frontex, more and more migrants are expected to take advantage of Turkish visa policies and the expansion of Turkish airlines carrying more passengers to more destinations, to transit through Turkish air borders and subsequently attempt to enter the EU illegally32.

While the Greek-Turkey border is ascertained as a hot spot for irregular crossings and this is attributed largely to the liberal visa regime of Turkey, the situation at the Greece-Albania border points to a different reality. As pointed out in the same Frontex report, while the Greece-Albania border used to be one of the main entry points of irregular migration, the detections of illegal border

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crossing dropped from 35,300 to 5,270. This follows the introduction of a visa-free regime for Albanians as of 21 December 2010. In other words, the visa-free regime for Albanians has not led to more abuses or dramatic increases in irregular crossings.

It is true that Turkey is an important land route for migrants coming from Africa, the Middle East and Asia with the aim to go to the Schengen countries. However, it is apparent that neither the use of military/police forces nor the creation of fences will offer long-term solutions to the problem of irregular migration. The first ever deployment of RABITs and the announcement of building a wall by Greece 12.5 km near the Evros river are measures that intensify the feeling among Turks that Turkey is not perceived as a valuable partner but rather as the "other" that needs to be kept at the gate.

On the other hand, Twinning projects are in place to equip Turkey with mechanisms to control and manage influxes that are in line with the Community acquis. For example, the goal of one of the Twinning projects is to "set up a reception centre for sorting and providing accommodation to asylum seekers and refugees". For instance the centre in Van, the city closest to the Iranian border, whose construction began in 2011 will have a capacity of 750 people. For some, "Turkey's asylum system is in the process of changing from an out-camp system, the satellite city system, to an in-camp system, which involves the European style of camps, with an obligation for asylum seekers to live in a centre that is managed by the authorities." Also, "detention camps" are underway whose objective is to control illegal immigrants who must be expelled and to provide them accommodation during the readmission procedure towards their country of origin. In this way, Turkey is integrating more than ever into the "Europe of camps".

Among all the candidate and potential candidate countries, Turkey remains the only state without an official EU roadmap towards visa-free travel. After granting visa-freedom to the Western Balkan countries — initially Serbia, Macedonia and Montenegro and later Bosnia-Herzegovina and Albania while Kosovo is also on track — the EU has paved the way to visa-free travel for "Eastern Partnership" countries — initially Georgia, Moldova and Ukraine followed later by Armenia and Azerbaijan, with Belarus being the next to enhance business opportunities and to facilitate interpersonal contacts. Unfortunately, the same level of political support does not exist in the case of Turkey. The application of the Visa Code — dating back to 5 April 2010 — and European Commission's Decision of 13 October 2011 on a harmonized list of documents are far from being an effective panacea to the current problems voiced by different segments in Turkish society.

The European officials often use technical criteria for the resolution of the visa deadlock and assert that, unlike Western Balkans, Turkey has not fulfilled conditions ranging from readmission agreement to border management. The fact, however, that — despite inadequate financial assistance and little encouragement from the EU — Turkey is working hard to carry out major reforms in the field of justice and home affairs is often neglected. The introduction of biometric passports since June 2010, the drafting of a framework law on Foreigners and International Protection, by the Migration and Asylum Bureau of the Turkish Ministry of Interior — inspired by and going beyond EU standards— and the efforts in order to put forward an integrated border management strategy that will increase the number of readmissions and asylum capacity — during a critical point because of the turmoil in the Arab region and the refugee inflows from Syria — are significant measures that should not be overlooked. It can be argued that Turkey has still plenty of room for improvement but it is trying to put forward reforms despite the lack of significant incentives and much ambiguity from the EU.

The major obstacle towards a visa roadmap is the signing of an EU-Turkey Readmission Agreement. Talking in general terms, readmission agreements characterise "relations among unequals" that the obligations contained in readmission agreements are typically unequal, although framed in a reciprocal context. As argued very convincingly by Cassarino, inequality lies in the structural institutional and

33 European Commission's website www.ec.europa.eu
34 At the margins of Europe The externalisation of migration controls" migreurop 2010-2011 report p.28
35 "Ibid
legal capacity of the contracting parties to deal with the removal of aliens, whether citizens of the contracting parties or of third countries, but also in the asymmetrical impact of implementation of the agreement.

Although drawn up on a theoretically reciprocal basis, it is clear that in practice, readmission agreements largely work in the interest of the Community. Their conclusion therefore depends very much of the ‘leverage’ at the Commission’s disposal, i.e. of sufficiently strong incentives to obtain the cooperation of relevant third countries on readmission. Therefore, as is the case for all forms of cooperation in international relations, the costs and benefits of such a cooperation need to be evaluated. While signing a readmission agreement might bring tangible and intangible benefits to signatories of both sides, “the costs of a readmission agreement are borne predominantly by the solicited state” 

First and foremost the solicited state should undertake the substantial structural institutional and legal reforms required and additional costs may arise when the effects of the agreement are negatively perceived by the wider public.

One other problematic area is assessing the number of returnees to expect from EU Member States after the readmission agreement takes effect. Hence, it is almost impossible to foresee the “costs”, be it number of personnel and administrative capacities needed, as well as the detention centres and the extent of reintegration programmes deemed necessary. Also, if readmitted migrants do receive no support to reintegrate themselves in their home countries, there is nothing that prevents them from trying to enter a European Union Member State again.

For example, the number of people that will have to be returned by the EU to Turkey is unknown. Although a study is underway to assess the “impact” of a possible EU-Turkey Readmission Agreement, there is much speculation about numbers since reliable statistical data on returns is missing. For example, Eurostat reports about over 4,300 returns of Russians from member states but according to MS only 500 effective returns took place under the EURA with Russia. Just to give an idea, there were a total of 21,542 return order issued for Afghans in Greece, but only 745 effective returns due to the difficulties in implementing the return agreement with Turkey.

If the EU seeks to transfer rules, which do not entail any advantages for the respective non-Member State, cooperation will only be possible if she offers some sort of compensation which is high enough to change the cost-benefit analysis of negotiation partners by balancing out the negative consequences of cooperation. So commonsense dictates that benefits for solicited states which may include different compensatory measures such as special trade concessions, accession to a regional trading bloc, preferential cooperation, increased development aid, and entry visa facilitations should act as powerful incentives with a view to leading to signing readmission agreements. Also, gaining further international legitimacy might act as an additional factor in the decision-making. In the comprehensive evaluation of the Readmission Agreements put forth by the European Commission, the lack of incentives is stated as an important reason as to why the EU has been unable to start negotiations with some third countries, while it has failed to advance in others. Admitting that “these agreements have few benefits for third country concerned”, something in exchange should be offered. Of course, this differs from a third country to the other. While visa facilitation sufficed for Russia and Ukraine, Algeria, China, Morocco and Turkey asks for “visa measures”, to much of EU’s discontent. In the same report, it is stated that “another incentive with great potential is financial assistance for implementing the agreement”. “It could be quite efficient as leverage, provided the money offered is substantial and comes on top of what has already been programmed or promised under the relevant EU geographic programs”. Furthermore, it is acknowledged that a fundamental

32Ibid.
34 Ibid
35 “Evaluation of EU Readmission Agreements”, European Commission, 23.2.2011 p.1
38 “Evaluation of EU Readmission Agreements”, European Commission, 23.2.2011 p.8
shift is needed with respect to incentives. Visa related policy tools and financial assistance should be strengthened with Global Approach to Migration toolbox and opportunities in legal migration. The Commission recommends that readmission policy is revised and incentives at the EU’s disposal be developed into a coherent mobility package. Also, EU’s readmission policy should be firmly embedded in the external relations policies of the EU.

Turning back to the issue of EU-Turkey Readmission Agreement, the negotiations, which started in 2003, went into a deadlock for a long time because of major disagreements between the two sides. The Readmission Agreement, because of its asymmetrical nature, is clearly and disproportionately to the disadvantage of Turkey since it will have to carry most of the burdens associated with the readmission. However, since the reset of the negotiations, Turkish officials have worked in close cooperation and in a constructive manner with their European counterparts based on the principle of the “fair burden sharing”. After long negotiations which were held behind closed doors, the text was approved in the Justice and Home Affairs meeting of 24 February 2011. However, a vague mention of the “visa dialogue and mobility for Turkish citizens” was far from meeting Turkey’s expectations. Additionally, a last minute insertion of a new paragraph, which explicitly stated that this dialogue does not constitute a negotiating mandate, made valid the Turkish fears. Since then, Turkey’s official position is to sign the readmission agreement only when the EU explicitly commits itself to offering “visa liberalization” to Turkish nationals.

Turkish declaration is almost “breaking the routine” for the EU, which had established the pattern of granting visa facilitation to the Western Balkan countries in return for, among other criteria, readmission agreements ensuring third country nationals could be returned to the respective Balkan country they crossed to enter Schengen. For Turkey, visa facilitation by the EU is not a sufficient incentive. In fact, it is perceived as a step backwards because Turkish citizens already have the legal right to travel without a visa, even though Member States’ resist the practice of this right.

It is worth mentioning the results of a project regarding the implementation of the Visa Facilitation Agreements (VFA) in the Western Balkans. The project laid down, to put it bluntly, that the “visa facilitation does not really matter”. In the wake of visa facilitation, the desired positive effects seem have not come or have been offset by other delays and costs. Strikingly enough, with VFAs in force, it has become harder, not easier, to obtain visas compared with the past.

Turkish EU Minister and Chief Negotiator Egemen Bağış constantly highlights this point –for domestic as well as international consumption– when he advocates for visa liberalization. On the other hand, some EU member states have been claiming that Turkey already enjoys visa facilitation. This line of reasoning refers to the fragmented Turkish passport regime and specifically to the fact that special or green passport holders can already benefit from visa-free travel. Special passport is issued to former members of the National Assembly, former ministers, first, second or third grade public servants and pensioners, mayors as well as to the spouses and children (with limitations) of the special passport holders. Since 2007, more than 1 million green passports were issued, which constitutes 8 percent of the total number of passports. This fact had led many European officials to suggest to Turkey, as an alternative way for resolving the visa problem, namely to issue more green passports. In the same vein, it is also articulated that the widespread use of green passports is one of the reasons that the Turkish State did not focus enough or turned a blind eye on the visa problems and refrained from adopting a more pro-active stance on the issue when there were suitable opportunities – e.g. when the EU Visa Regulation of 539/2001 was amended in order to move the Western Balkan countries from Annex I to Annex II.

Going back to the link between visa facilitation and readmission, in order the EU to be able to effectively “sell” the readmission agreement to Turkey, it has to offer a set of well-defined rules.

46 Extracted from the author’s meeting notes with consulate officials working on the visa section.
leading to visa liberalization. An obscure mention of a “visa dialogue” is not enough to convince Turkish politicians and officials to carry out costly reforms. In the decision-making matrix of Turkey, in line with the ‘external incentives model’, the costs associated with readmission are regarded as higher than the benefits offered by visa facilitation. Only visa liberalization is viewed to offset the disadvantages of readmission, or put differently, visa facilitation does not suffice high as a benefit per se. In fact, Turkey seems to offer “reversed conditionality”49 arguing it will not sign the EU readmission agreement unless the EU resolves the visa problem. In this scope, the decline in credibility of EU’s conditionality is a critical factor. If we are to look beyond the visa politics, and into the course of Turkey’s EU accession negotiations, the EU’s leverage and her power to induce change in the desired direction is also weakening.

Furthermore, Turkey fears that even if all the reforms will be accomplished and the technical criteria will be met, the right to visa-free travel might still not be granted due to lack of political will of some member states. This can be best explained by the ‘Turkish dilemma’, which refers to the Turkish officials’ fear of a situation whereby cooperation with the EU in harmonizing immigration and asylum policies, does not lead to actual membership. Many officials believe that Turkey’s security would be fundamentally undermined if Turkey were to adopt the acquis without membership (Kirisci, 2003: 81).

That is of critical importance since Turkey’s level of alignment with the EU in the field of justice and home affairs is closely related to the EU membership perspective and the strength of the membership perspective as perceived by Turkey. In fact, the future of management of migration in Turkey is closely related to the pace and spirit of EU-Turkey relations, which swings between two scenarios, one in which the deadlock is resolved and EU-Turkey relations speed up leading to Turkey’s EU membership, whereas in the other scenario, Turkey’s accession process comes to a sudden halt for seen or unforeseen reasons and EU membership perspective and hence EU anchor is lost. So the route Turkey is likely to undertake is largely contingent on the perceived strength of the EU membership perspective and the outcome of the EU process. The reform of the Turkish migration-policy should be seen from this lens.

**Turkey’s Visa Policy**

In the recent period, Turkey has been pursuing a highly proactive policy with regards to neighbouring countries and leading or acting as facilitator concerning initiatives with a view to bringing peace and stability into the region. If and whether these policy moves contradict or fall at odds with the EU perspective is another point for consideration.

However, one thing is certain. Faced with “closed doors” in the European front, Turkey has turned to its long-neglected neighbors. In an attempt to revitalize trade relations and tourism as well to enhance good-neighborly relations, Turkey has lifted visas for third country nationals starting with Syria as well as Yemen, Libya, Jordan, Lebanon etc. Estimating the cost of “visa issue” to Turkish trade with the EU at $5billion and given the reluctance of the EU to revise its visa policy led business organizations to push for a liberalization of Turkey’s own visa policies toward these countries. 50 When announcing lifting of visas with Syria, Prime Minister Erdogan talked about their intention of creating “Scham-gen”, referring to the name of Damascus in Turkish (Scham) as opposed to EU’s Schengen.51

This development, however, has raised concerns and questions in European circles as to whether Turkey is drifting away from the EU norms since it has lifted visas for countries that belong to the EU’s “blacklist”. By granting visa to its neighbors, Turkey intends to intensify trade and tourism opportunities as well as to improve neighborly relations at a time when Europe is suffering from a severe economic crisis. In line with the slowing down of its accession process, Turkey can be seen as taking pragmatic steps to compensate for the lack of progress in its relations with the EU and the


51 Ibid
failure of the Union to initiate visa liberalization. However, of course, due to the recent developments in Syria, Turkey's efforts to open up to its non-European neighbors are also faltering.

Furthermore, Turkey's visa policy towards EU citizens is criticized as not being uniform, raising concerns among Commission officials.\footnote{European Commission, "Turkey 2011 Progress Report", European Commission's website, 12 October 2011, \url{http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/tr_rapport_2011_en.pdf}.} Currently 11 EU Member States must have a visa in order to enter Turkey, which can be obtained at the Turkish borders by paying 15 Euros. Citizens of 16 other Member States are exempted from the visa regulation for short stays. Furthermore, instead of taking steps in the direction of addressing EU's concerns, legislative change in the opposite direction is underway. Due to a recent legislative change, which aimed primarily to curb irregular migration and illegal residence in Turkey, foreigners can only stay 90 days in a period of six months. That is the equivalent of how much time a Turkish national holder of green-passport can spend in a European country, where he/she entered visa-free. Europeans now need to apply for a residence permit for stays exceeding three months. Also, criteria to obtain work permits are definitely not easy. These changes signal a tougher policy by Turkish officials or a tendency for more restrictive policies as a reaction for the EU's member states visa practices towards Turkish nationals. Whether these changes are the result of realistic calculations or are as retaliatory measures is debatable.

Turkish citizens’ disillusionment with the EU increased when the EU lifted visas for Serbia, Macedonia and Montenegro. Minister Egemen Bağış has emphasized in many instances that it is "nonsense" and "ridiculous” that “remote countries” such as Belize, Paraguay and Uruguay enjoy visa-free travel while negotiations are being conducted with Moldova, Russia and Ukraine, but not with Turkey. Talking to some European diplomats in Brussels he said that: "When our citizens are insulted on a daily basis in the consulates of EU states [when they apply for visas], one may ask the question as to why we should help the EU with their problems when we are treated this way."\footnote{Valentina Pop, “Turkey to EU: No visa-free, no clampdown on migrants”, Euobserver website, 27 January 2011, \url{http://euobserver.com/15/31708}.}

Public demands for Turkish authorities to implement the reciprocity principle –in other words, to impose a visa to EU nationals, has increased. This continuing frustration has made the visa problem the symbol of the deteriorating relations and slowing accession negotiations between Turkey and the EU. This has also adversely affected the integration efforts as well as the Europeanisation process, which reached its peak in the 2003-6 period. In the latest Transatlantic Trends report, the percentage of those who believe EU membership is a good thing has fallen from %73 in 2004 to %48 in 2011, while only %33 percent of the Turkish population believe EU membership is possible. Interestingly, the percentage of the population (%20) who believes Turkey should cooperate with EU countries is the same as those who believe Turkey should approach Middle East countries. Almost %32 of the population believe the biggest contribution of EU membership to Turkey is free movement, which is double the number of those, who claim benefitting from the EU budget would be the most positive thing (%16).\footnote{Prof. Faruk Sen, 2011}

Despite the rather bleak picture on the visa front against the background of a non-moving accession process, Turkey is engaged in a reform process and striving to fulfill the benchmarks needed for the opening of Chapter 24 and significant steps have been undertaken to establish a working readmission system and an asylum mechanism. Key pieces of legislation are being revised in line with EU and international norms. The draft law on International Protection and Foreigners is viewed as very liberal and progressive highlighting human rights issues without overlooking security concerns.

Also, the drafting process of the Law deserves particular attention, which indicates impact of Europeanisation. The new unit of Migration and Asylum Bureau established within the Ministry of Interior has sought to include academics and civil society institutions in the decision-making process through series of meetings. Whether the contributions by academics and NGOs will be reflected on the final version is yet unknown, however the process itself constitutes a radical shift in understanding of good governance in law-making and migration management. In line with the definition of Europeanisation as particularly “ways of doing things”, the migration law-making process in Turkey
seems to be in line with European norms especially as regards close cooperation with and involvement of stakeholders and a sound consultation process driven by consensus-building.

CONCLUSION

Despite contradicting messages by the EU politicians and an increasingly confrontational rhetoric by their Turkish counterparts, there is action on the ground. This is in line with the “Positive Agenda” proposed by the European Commission and launched officially on 17 May 2012 to inject dynamism into EU-Turkey relations and to record progress in certain areas, most notably in the Chapter 24 and the visa issue. To this end, working groups are formed to discuss how to proceed and achieve tangible progress with particular focus on fulfilling the opening benchmarks in order to prepare for the time when the political blockages are removed. In the recent meeting of the reform monitoring committee55, it was decided to accelerate the works regarding the draft law on combating human trafficking and protecting the victims as well as the draft law on “Border Protection Establishment”. Regarding integrated border management, the twinning project between Turkey and the United Kingdom and Hungary is progressing. Based on the Hungarian model, there will be a gradual transition to a civilian management of the Turkish borders, a controversial issue for Turkey given her geographical location and the security concerns arising from anti-terror measures. Also, a recent significant development is the signing of memoranda of understanding, which outlines the main areas of the practical cooperation to be developed in the field of preventing irregular migration, between Turkey and Frontex signed on 28 May 2012. It envisages to share experience and information with Frontex and to conduct joint assessment as well conduct projects concerning mixed migration flows, which shows “Turkey’s determination to combat irregular migration”56.

These developments lend evidence in favour of the “social learning model”. Despite lack of sufficient incentives and tangible rewards, Turkey as a result of regular contact with European counterparts, has internalized EU values and norms. Series of regular and ad-hoc meetings as well as Twinning projects aiming to increase alignment with legislation and institutional capacity has had a direct influence on the socialization of bureaucrats and policy-makers in Turkey.

This article by making use of the ‘external incentives model’ by rationalist institutionalism tried to show the ‘cost-benefit calculations’ of Turkey which may result either in compliance or non-compliance with the conditions laid down by the EU. The most common hypothesis of this model with respect to the reinforcement by reward strategy is stated as: ‘a government adopts EU rules if the benefits of EU rewards exceed the domestic adoption costs’. With regards to visa politics, given that the domestic adoption costs of readmission (financial, administrative, social and political) exceed the benefits of EU rewards (visa facilitation), we observe non-compliance with EU norms, i.e refusing to initial or sign the EU Readmission Agreement, in fact there is further moving away from EU norms by assuming policies in the opposite direction. On the other hand, the social learning model is visible in important legislative reforms in the area of migration and asylum and border management brought to life by Turkey and steps taken, which would have not been taken if only the ‘logic of appropriateness’ was in motion.