



EU-TURKEY READMISSION AGREEMENT AND THE VISA LIBERALISATION DIALOGUE: REVEALING STRATEGIES AND MOTIVATIONS

MA Thesis in European Studies

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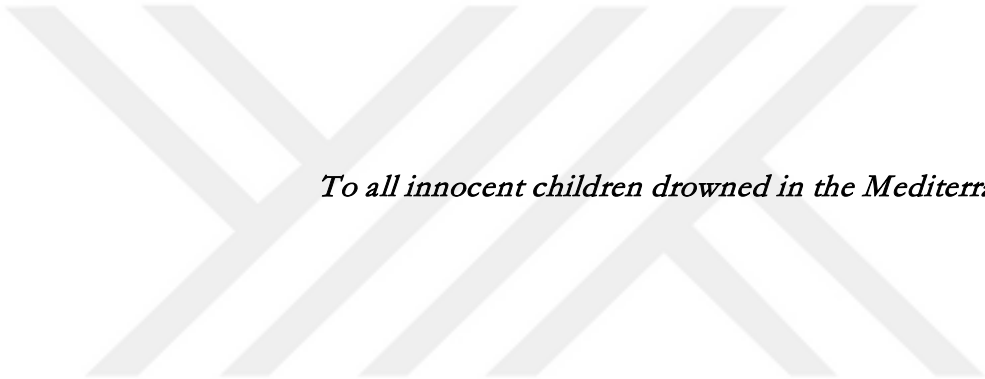
1 July 2016

Abstract

The aim of this thesis is to provide a critical analysis of the EU-Turkey Readmission Agreement and the Visa Liberalisation Dialogue between two sides. One of the primary objectives is to explain why the EU leaders and Turkish Government have adopted their particular political positions in the dialogue. Additionally, the thesis aims to understand how those motivations are translated into political strategies during the negotiations. Reflecting on the EU external governance theory by Lavenex, the securitization of migration approach by Paris School, and a selection of the literature on EU-Turkey relations; this thesis offers a detailed, theoretically grounded study of the negotiations between EU and Turkey in this area. Based on the interviews with key policy-makers and people from the civil society organizations, it suggests that the motivation of transferring EU rules to Turkey via EU external governance was significant but the external governance turned out to be ineffective, particularly after the refugee crisis emerged. Rather, the governmentality of unease caused by the securitization of migration became the dominant discourse in the EU-Turkey deal which affected the political positions of EU leaders. On the other hand, the approach of Turkey to the deal is primarily shaped by domestic factors thanks to the linkage between foreign policy and domestic politics. The hard bargainer position adopted by Turkey challenges the hierarchical structures in EU external governance and creates new political dynamics between Turkey and the EU based on shifts in power relations.

*“you have to understand,
that no one puts their children in a boat
unless the water is safer than the land”*

-Warsan Shire (from the poem “Home”)



To all innocent children drowned in the Mediterranean Sea...

Acknowledgements

The thesis you are about to read is more than just a fruit of my learnings and the research I conducted in the recent months. There is a story hidden between the lines: The story of rainy Amsterdam mornings, medium-roasted coffee beans, flat tires, earplugs, cancelled trains from Brussels, visitor cards, paper-jamming printers, noisy neighbours, and the squeaky chairs that you can only find in the university libraries. This story would be incomplete without giving credit to the people who inspired, guided and motivated me up until the very last moment.

First and foremost, I can never thank enough to my family for their endless love, support and trust in me. Knowing that they will always be there for me, even if I miserably fail, gave me courage to accept even the most difficult challenges in life.

Next, I would like to thank my ‘super’visor, Dr. Jamal Shahin for his invaluable guidance, trust in my research skills, but above all, his instant answers to my 1.00am e-mails. Every time we talked about my thesis, even when I thought I was completely lost, his input effectively kept me on track so that I was able to come up with this humble piece of research within a very limited time. I can never give him enough credit for pushing me further so that I can see the broader picture.

I would also like to thank the faculty members of the University of Amsterdam and my previous university; Middle East Technical University, for giving me the ability to always think critically and introducing me to the academic, social and professional networks where I discovered the evolution of mere theoretical ideas into praxis. Without the guidance and support of my lecturers in both universities, especially at the moments where I reached the limits of my cognitive capacity, this thesis would not be possible.

Friends are the real treasure of human beings. Without the *gezelligheid* of my friends, I would never survive the *sui generis* mental breakdowns and existential crises of being an MA candidate. That is why I would like to thank my friends in Amsterdam for making this year the best year of my life; my fellow classmates in the European Studies program for helping with my annoying questions about the life in Netherlands; and my friends from Turkey who always cheered me up with their text messages, video calls and visits.

Last, but definitely not least, I would like to thank the University of Amsterdam and the coordinators of the Amsterdam Excellence Scholarship program for giving me a generous scholarship so that I could afford living in the great city of Amsterdam and focus on my studies without worrying about any financial difficulties.

Table of Contents

List of Abbreviations.....	v
Note on the Pronunciation of Turkish Letters	vi
1 Introduction	1
2 Overview of the Actors Involved.....	3
2.1 Political Bodies and Actors	3
2.1.1 <i>Turkey</i>	3
2.1.2 <i>European Union</i>	6
2.2 Legislative Organs	14
2.2.1 <i>Grand National Assembly of Turkey</i>	14
2.2.2 <i>European Parliament</i>	15
2.3 Civil Society.....	15
2.3.1 <i>Think Tanks and Academia</i>	15
2.3.2 <i>Business Associations</i>	17
2.3.3 <i>Other Non-Governmental Organizations</i>	18
2.4 International Organizations	18
2.4.1 <i>NATO</i>	18
2.4.2 <i>International Organization for Migration (IOM)</i>	19
2.4.3 <i>Council of Europe</i>	19
3 Conceptual Framework and the Literature Review	20
3.1 EU External Governance.....	20
3.2 Governmentality of Unease: Securitization of Migration	24
3.3 Literature on Turkey-EU Relations and JHA	27
4 Description of the Case	30
4.1 The Legal Basis	30
4.2 Bilateral Negotiations	31
4.3 Domestic Developments in Turkey	36
4.3.1 <i>Elections</i>	36
4.3.2 <i>Economic Recession</i>	38
4.3.3 <i>Terrorist Attacks and the Kurdish Problem</i>	38
4.3.4 <i>Conflict of Interests in the Middle East and Turkish Foreign Policy</i>	39
4.4 Internal Developments of the EU	39
4.4.1 <i>Refugee Crisis</i>	39
4.4.2 <i>Terrorist Attacks</i>	40
4.4.3 <i>Rise of Intra-EU Borders</i>	41
4.4.4 <i>Brexit</i>	41
5 Revealing the Deal: Reflections in the light of theories.....	43
5.1 Motivations and Strategies of the European Union.....	43
5.2 Motivations and Strategies of Turkey.....	53
6 Conclusion.....	58
Annexes.....	64
Annex I: Interview Protocol I.....	64
Annex II: Interview Protocol II	66
References	67

List of Abbreviations

AFET	Foreign Affairs Committee of the European Parliament
AK Parti	Justice and Development Party – Adalet ve Kalkınma Partisi
CDU	Christian Democratic Union of Germany – Christlich Demokratische Union Deutschlands
CEPS	Centre for European Policy Studies
CoE	Council of Europe
CHP	Republican People's Party – Cumhuriyet Halk Partisi
CIDOB	Barcelona Centre for International Affairs
CJEU	Court of Justice of the European Union
DG	Directorate-General
DG HOME	European Commission Directorate-General Migration and Home Affairs
EC	European Communities
EEAS	European External Action Service
EPC	European Policy Centre
EPP	European People's Party
ESI	European Stability Initiative
EU	European Union
EURA	European Union Readmission Agreement
FAC	Foreign Affairs Council
GAC	General Affairs Council
HDP	Peoples' Democratic Party – Halkların Demokratik Partisi
HR	High Representative
İKV	Economic Development Foundation – İktisadi Kalkınma Vakfı
IOM	International Organization for Migration
ISIL	Islamic State of Iraq and the Levant
JHA	Justice and Home Affairs
LIBE	Civil Liberties, Justice and Home Affairs Committee of the European Parliament
MEP	Member of the European Parliament
MFA	Ministry of Foreign Affairs
MHP	Nationalist Movement Party – Milliyetçi Hareket Partisi
NATO	North Atlantic Treaty Organization
PM	Prime Minister
S&D	Group of the Progressive Alliance of Socialists and Democrats
SPD	Social Democratic Party of Germany – Sozialdemokratische Partei Deutschlands
TEPAV	The Economic Policy Research Foundation of Turkey – Türkiye Ekonomi Politikaları Araştırma Vakfı
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TOBB	The Union of Chambers and Commodity Exchanges of Turkey – Türkiye Odalar ve Borsalar Birliği
TÜSİAD	Turkish Industrialists' and Businessmen's Association – Türk Sanayicileri ve İşadamları Derneği
TUSKON	Turkish Confederation of Businessmen and Industrialists – Türkiye İş Adamları ve Sanayiciler Konfederasyonu
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
U.S.	United States of America
VP	Vice-President

Note on the Pronunciation of Turkish Letters

İ, i	as ee in <u>cheese</u>
I, ı	a schwa sound; <u>uh</u> or the <u>u</u> in <u>syllabus</u>
Ö, ö	same as in German <u>schön</u> , or like British <u>ur</u> , as in <u>further</u>
U, u	<u>oo</u> sound as in <u>moon</u>
Ü, ü	same as in German <u>fünf</u> , or Dutch <u>u</u> in <u>dus</u>
C, c	pronounced like English <u>j</u> as in <u>jingle</u>
Ç, ç	<u>ch</u> as in <u>match</u>
Ğ, ğ	not pronounced; lengthens preceding vowel
J, j	like French <u>j</u> in <u>Jacques</u>
Ş, ş	<u>sh</u> as in <u>sheet</u>

I Introduction

“The coastline of Bodrum was like a children’s graveyard on that day” says Nilüfer Demir, the news photographer who took the photo of the drowned body of Alan Kurdi (Walsh, 2015). The 3-year-old Syrian boy, only one of the thousands of people drowned in the Mediterranean, became a symbol of the defected management of irregular migration between Middle East and Europe. The problems of the EU migration regime were already known and the “refugee crisis” was already the hottest topic on the agenda. However, after the shocking photo went viral, EU leaders realized that they have to take immediate action to stop more people from drowning in the Mediterranean. A shift in discourses on migration became significant among the EU leaders, particularly after Angela Merkel declared the temporary suspension of the Dublin system and opened the door for hundreds of thousands of refugees. Her policy divided European leaders regarding the approach to be taken against irregular migration. While more humanitarian voices praised her attitude, Eurosceptics criticized Merkel for allowing the penetration of such a huge Muslim population into the European Union territory.

Against such a divided European public opinion regarding the Syrian refugees, a cooperation between EU and Turkey for controlling irregular migration came to the fore. An intense high-level political dialogue between Turkey and EU and a new round of negotiations regarding the EU Readmission Agreement started following the visit of Turkish President Recep Tayyip Erdoğan to Brussels in October 2015. European Union offered Turkey speeding up the Visa Liberalisation Dialogue, originally dating back to 2013, and providing a substantial financial support for refugees; in exchange for applying the provisions of the Readmission Agreement concerning the third country nationals immediately instead of October 2017 and complying with the 72 conditions outlined in the Visa Liberalisation Roadmap. The intensity of negotiations between parties and the quick escalation of the dialogue also spurred some criticisms against the European Union for its attitude towards Turkey. Still, the European Commission decided that Turkey successfully fulfilled 65 of the 72 criteria and proposed an amendment to the EU law on 4 May 2016 to revoke the requirement for short-stay visas for Turkish passports (European Commission, 2016a).

Neither the Readmission Agreement, nor the visa liberalisation process are actually new in Turkey-EU relations. However, the revitalization of the Turkey-EU relations against the background of the refugee crisis, which led to a deepening cooperation and new arrangements concerning the control of migration, is a new and interesting phenomenon. There are obviously both open and obscure concerns of both sides, causing them to adopt various political strategies during the negotiations based on different motivations. The so-called EU-Turkey deal; thus, is a perfect case study for understanding the implications and problems of the EU migration regime, wider power

relations between two parties, the future course of the European integration in JHA and the dynamics within the bigger framework of the accession of Turkey to the EU. However, understanding this specific deal clearly is an important first step, which will open further possibilities for critical investigation of such subjects in the future. The actuality and urgency of the subject contributes to the need for theoretically grounded empirical research on the EU-Turkey Readmission Agreement and the Visa Liberalisation Dialogue associated with it.

Motivated by such a contemporary, important and unique political debate, this research aims to make a contribution to the literature by providing answers to two questions based on a conceptual framework: Why have the EU leaders and Turkish Government adopted their particular political positions in the dialogue that concerns EU-Turkey Readmission Agreement and visa liberalisation for Turkish citizens? How the motivations of different actors are reflected in their strategies in foreign and domestic policy during the negotiations of the deal? For practical purposes, since the negotiations for the deal and the high-level dialogue are ongoing processes, the analysis provided in this study is limited with the developments up until 4 May 2016, the date European Commission made a proposal for revoking visa requirement for Turkish citizens.

In order to answer the abovementioned questions, the Chapter 2 of the study, which follows this introduction, provides an overview of the actors involved in the dialogue. This overview is followed by the Chapter 3 which reviews the relevant literature and provides the conceptual framework of the thesis. The conceptual framework is based on the wider theories of *EU external governance* and *governmentality of unease* as well as some specific theoretical approaches to migration management and EU-Turkey relations. The Chapter 4 provides a detailed description of the EU-Turkey deal and its negotiations, whereas Chapter 5 provides an analysis of the case based on the theories and literature summarized in Chapter 3. Finally, the Chapter 6 summarizes the conclusions of the study.

Methodologically, this qualitative study is based on original empirical data collected through semi-structured interviews with experts and policy-makers working for key institutions which are either directly involved or interested in the EU-Turkey Readmission Agreement and the visa liberalisation process. 7 in-depth interviews were conducted between January and June 2016 in different locations, specifically for the purpose of this research. Furthermore, the official documents published by the EU institutions and the Turkish Government, statements by the political leaders and secondary reports and analyses are used to enrich the theoretically justified analysis of the case.

2 Overview of the Actors Involved

In the negotiations for an EU readmission agreement with Turkey, extremely politicised debates on essentially technical subjects such as the 72 Roadmap conditions contributed to the escalation of the negotiations to the highest possible level of political dialogue; the high-level dialogue between head of state or government of Turkey, heads of Member State governments, and presidents of the EU institutions. This kind of a politicisation is not unique to this case, as confirmed by Kabaalioglu (2012) who accurately infers about the nature of Turkey-EU relations that “despite setbacks and delays caused by economic and political turbulences in Turkey and the EU, relations survived, each crisis being averted by carrying the process to a higher level” (p. 11). Although it is now the political elite of both sides who actually carry the process forward; different levels of Turkish bureaucracy, various EU institutions, legislatures, civil society and international organizations are involved in different aspects of the EU-Turkey deal. This chapter aims to provide an overview of the positions and contributions of different actors, in order to lay the ground for a theory-based exploration of their motivations and the political strategies in action.

2.1 Political Bodies and Actors

2.1.1 Turkey

International developments and foreign policy issues primarily affected Turkey’s motivation in the negotiations for the Readmission Agreement and the Visa Liberalization Dialogue. First and foremost, the accession negotiations have a huge impact on the course of the dialogue. The relations between Turkey and EU have been in decline after the first decade following the opening of membership negotiations. The reasons for such a decline are numerous: Lack of mutual trust between the EU and Turkey, prolonged candidacy of Turkey coupled with the reform fatigue¹, fall of popular support for EU membership, political deadlocks emerged due to the problems between individual Member States and Turkey are the most notables (Öniş, 2008). In such an atmosphere, the cooperation for tackling illegal migration is seen by both sides as a new window of opportunity for reenergizing the relations between Turkey and the EU. This perspective was confirmed by the leaders of the EU and Turkey in October 2015 via establishment of a new high-level dialogue between sides and an agreement on joint action plan against illegal migration (European Commission, 2015b).

On the other hand, getting a visa-waiver is one of the most prominent objectives of the Turkish Government because it also means better integration with Europe for Turkey. A visa waiver will bring Turkish society and economy closer to the Schengen Area. It will be a significant step

¹ The *reform fatigue* in this context can be defined as the hesitation to push hard for reforms concerning EU integration. For a detailed analysis of the reform fatigue in contemporary Turkey-EU relations, see Patton (2007).

towards Turkey's participation to the EU-wide free movement of goods, services, capital and persons. So far, all candidate countries that have been negotiating accession for a while were granted a visa waiver, except Turkey. This situation is despite its longest accession negotiations among candidates. This was one of the most widely used arguments by the Turkish side of the negotiations (Republic of Turkey Ministry of Foreign Affairs, n.d.; Erdenir, 2013, p. 474; European Parliament, 2006). Yet, it will be beneficial for Turkish citizens, regardless of the flow of membership negotiations. At the same time, those negotiations are windows of opportunity for the current Turkish Government to reaffirm its will for further integration with the European Union.

Another important motivation for Turkey has been the need for a new migration regime. Especially after the massive influx of refugees from the conflict zones in the Middle East, the legal and operational capacity of the existing migration control mechanisms in Turkey have been seriously challenged. Particularly, the protection and settlement of the Syrians who fled from the hostile situation in the country became an urgent topic. The EU's expectations from Turkey and response of Turkey to those expectations also confirm the need for a modern migration regime for one of the most important transit hubs between Europe and the Middle East. At the core of EU's such expectations, there is the desire for cutting the flow of irregular migration towards the Schengen Area via strengthening the migration regime of Turkey. Although this request of the EU is not always welcomed by Turkey, it was effective in pointing out the deficiencies in the Turkish migration regime, thus initiating some reforms by the government in this policy area.

The Turkish foreign policy on Syria is also an important element of the international dimension of the Turkish motivations for a migration deal with the EU. Turkey wants to be an influential power in the Middle East and North Africa by playing a leading role in solving the Syrian conflict. Furthermore, it seeks empowering its alliances in foreign policy. For this purpose, cooperation with the EU in migration is seen as an important step.

One of the milestone events strengthening the Turkish position was the 2009 ruling by the Court of Justice of the European Union (CJEU) on *Soysal-Savatli*² case. The Court of Justice ruled that

“Article 41(1) of the Additional Protocol to the EEC-Turkey Association Agreement, which provides that the Contracting Parties are to refrain from introducing between themselves any new restrictions on the freedom of establishment and the freedom to provide services, is to be interpreted as meaning that it precludes the introduction, as from the entry into force of that protocol, of a requirement that Turkish nationals such as the appellants in the main proceedings 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.” (*Mehmet Soysal, Ibrahim Savatli v. Bundesrepublik Deutschland*, 2009)

² Case C-228/06

The Turkish side argued that the court ruling prohibited introduction of a visa requirement for Turkish citizens after year 1973 when the Additional Protocol entered into force. This decision encouraged Turkish Government and citizens to rearticulate their demands for visa-free travel to EU countries. One of the interviewees noted that the case had been a milestone in bringing forward the idea of visa-free travel to Europe for the Turkish citizens (H. Nuray, interview, 2 June 2016). Yet, another ruling³ in 2013 by the Court of Justice stated that the earlier *Soysal-Savath* decision only included providers of services but not the recipients. Hence, the prohibition of visa requirement did not include visits by Turkish citizens for tourism purposes (*Leyla Ecem Demirkan v Bundesrepublik Deutschland*, 2013).

There are also some significant factors in domestic politics that are influential in Turkey's negotiations with the EU. First of all, the open door policy of Turkey towards Syria and the increasing number of Syrians in the Turkish territory causes social and economic problems in Turkey. The flexible border regime in the Southeast of Turkey was exploited by the terrorist groups in Iraq and Syria, causing many terrorists to enter Turkey by identifying themselves as refugees. Several bombed attacks in Turkish cities were carried out by Islamic fundamentalists and Kurdish separatist groups in 2015 and 2016. Almost all of those suicide bombers entered Turkey from the Syrian border. In addition to the terrorist activities; the rise in crime rates, emergence of smugglers, and the legal status of refugees caused discontent in Turkey. On the economic side; the burden of refugees on Turkish economy, the participation of refugees in the illegal labour market and the increased price of accommodation especially in the southern cities of Turkey due to high demand can be considered as important economic problems. The Commission stated in October 2015 that Turkey had spent €7 billion of its own resources for the Syrians under temporary protection (European Commission, 2015b). It is obvious that Turkey needs substantial financial and operational support from international actors such as the EU to provide protection to the Syrians in its territory.

2.1.1.1 Turkish Government

Since the accession negotiations were opened in 2005, the Turkey-EU relations have been singlehandedly operated by the successive governments formed by Justice and Development Party (AK Parti). Bureaucrats and diplomats are also involved wherever necessary. However, most of the critical steps were taken by the government. The Prime Minister, Minister for EU Affairs, and the Minister of Foreign Affairs stand as important political figures who are in close contact with Brussels and their counterparts in the Member States.

³ Case C-221/11

2.1.1.2 Turkish Bureaucracy

The link between readmission agreement and the visa liberalisation process created differing views among the Turkish bureaucrats in different posts. For example, while bureaucrats dealing with migration issue at the Ministry of Interior were reluctant towards the readmission agreement, the bureaucrats and diplomats of Ministry of Foreign Affairs promoted the agreement, mostly focusing on the benefits it will bring when visa liberalisation takes place (İçduygu & Aksel, 2014).

2.1.2 European Union

The European Union's motivations in the dialogue can be categorized into four broad categories: preventing irregular migration, supporting Syrian refugees under temporary protection, addressing the problems in the region that create new waves of refugees, and exporting EU norms and values. Those are all expressed in the EU reports and press releases following the regular talks between Turkey and the EU, as well as the talks within the EU.

Firstly, prevention of irregular migration constituted an important portion of the EU intentions while seeking to conclude a readmission agreement with Turkey. This concern especially gained significance after the influx of illegal immigrants from the Middle East took place during the post-Arab Spring political chaos in the region. The rise of ISIL and the multidimensional civil war in Syria contributed to the displacement of population. However, it should be noted that the Readmission Agreement between Turkey and EU had already been signed when the "refugee crisis" became a critical issue to be intensely debated in the European circles by 2015.

On one hand, the EU tries to deal with the transnational criminal networks that conduct illegal human trafficking towards the Schengen Area. The unsafe illegal routes utilized by those people not only endanger the lives of the refugees, but also cause an uncontrollable influx of immigrants particularly in the Southeast European Member States. Strategically, the EU seeks conducting readmission agreements with the neighbouring countries that may be transit routes from developing countries to the developed ones. On the other hand, by adopting stricter measures against illegal migration, the EU aims to send a signal to the potential refugees that a permanent residence in the EU is very difficult to get.

Readmission agreements with the EU, especially the provisions regarding readmission of the third country nationals, are not very favourable for the transit countries such as Turkey because they bring an additional economic and bureaucratic burden, as well as new responsibilities such as the relocation and protection of readmitted illegal immigrants mostly coming from developing countries. To counterbalance the political and economic costs of signing a readmission agreement, it has become a common practice for the EU to offer visa facilitation to the third country (Charlie,

interview, 28 January 2016). Such a practice aims to make signing a readmission agreement with the EU an appealing option.

The second objective of the EU in the dialogue is to support Syrian refugees under temporary protection. The EU's involvement is mostly either through financial or operational support. As for the financial support, the €3 billion given to Turkey for basic needs of Syrians; notably food, shelter, health services and education, is one of the most significant actions by the European Union. A similar amount is expected to be made available by year 2018, according to the consensus between Turkey and the EU in March 2016 (European Council, 2016b).

The third important motive of the EU is finding a solution to the political problems in Syria. The EU seeks ways to deescalate the violence in the region and achieve political stability. It is expected that once the political stability is achieved in the region, the irregular flow of immigrants will eventually stop.

Finally, exporting EU norms and values appears as one of the outstanding motivations of the EU when making a deal with Turkey. The EU demands, as preconditions to visa liberalisation, are listed in the “Roadmap towards visa-free regime with Turkey” (European Commission, 2013). Those demands can be seen as an alternative form of EU conditionality on Turkey which is different from the membership conditions by nature. However, they are also important determinants of the future course of membership talks. For example, the EU demands from Turkey to align its visa regime for third countries –especially the ones which may be source for new refugees– with the EU Visa Code. Additionally; reforms in the asylum procedures in line with the EU norms, removal of the geographical reservation of Turkey to the Geneva Convention, and ratification of the additional protocols to the European Convention on Human Rights stand as the important political demands of the EU from Turkey in order the visa-waiver to be realized (European Commission, 2013).

2.1.2.1 European Commission

European Commission has the right of initiative in the European Union. In other words, the Commission is the only EU institution that may propose new EU laws or amendments to the existing ones. Allowing Turkish citizens to travel to the Schengen area without a visa necessitates an amendment to the Council Regulation (EC) No 539/2001, which will move Turkey from Annex I to Annex II of the regulation. Therefore, it is European Commission's responsibility to propose such an amendment, which will trigger the further decision-making process. The Commission sent such a proposal to the co-legislators of the EU on 4 May 2016.

The European Commission also leads the visa liberalisation negotiations. The Commission actively participates in the dialogue on visa liberalisation as well as the readmission agreement. It is the Commission who drafts the roadmaps for visa liberalisation, receives and analyses country reports, sends assessment missions to countries during the process, and produces and publishes progress reports. In the newly established dialogue between Turkey and EU, a variety of Commissioners and DGs are involved. According to an officer from the EEAS, First Vice-President of the European Commission Frans Timmermans leads the process on behalf of the Juncker Commission. High Representative for Foreign Affairs and Security Policy and Vice-President Federica Mogherini brings the issue into a broader foreign policy perspective. EU Commissioner for Migration, Home Affairs and Citizenship Dimitris Avramopoulos and Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn are involved because it is their technical field (Bravo, interview, 1 June 2016). The main role of the Commission can be seen as providing a technical approach to the negotiations through defining the legal and institutional aspects of the deal. Other EU institutions, such as the European Parliament depends on the technical input and assessment of the European Commission when making political decisions (Delta, interview, 14 June 2016). This implies that the perspective of the Commission concerning the EU-Turkey deal has wider implications within the EU decision-making system.

Working as the executive of the EU, the European Commission also has the leading role in putting forward EU priorities and strategies to manage irregular migration. This includes building certain mechanisms to prevent irregular migration. Visa policy is an instrument aimed at this purpose. On the other hand, return of the illegal immigrants to the countries of origin or of transit also is a part of the EU efforts for migration management. Readmission agreements done with third countries mostly serve such a purpose. For those reasons, importance of cooperation with the third countries in tackling irregular migration was underlined several times by the European Commission (2015a, p. 8).

2.1.2.2 European External Action Service (EEAS)

The relatively young diplomatic service of the EU led by the HR/VP Federica Mogherini asserted its influence and became a prominent actor in the bilateral talks between the EU and Turkey. Following the deadly incidents at the Mediterranean, migration is claimed to be a key domain of intervention for Mogherini (Carrera, Blockmans, Gros & Guild, 2015).

The dual role of Mogherini as a Vice President of the Commission and a High Representative was also helpful in bringing sides of the EU-Turkey visa talks to the same table. By conducting shuttle diplomacy, regularly visiting Turkey and coordinating other European Commissioners, Mogherini was

successful in establishing a diplomatic channel between the sides with the aim of addressing the root causes of the crisis, in addition to the existing high-level political dialogue between leaders.

EEAS coordinates the foreign policy of the EU in different policy areas, including migration. Consistency in foreign policy is seen as a key element for achieving long-term strategic goals of the EU. An officer from EEAS described the role of Mogherini and the External Action Service in the EU-Turkey dialogue as placing the cooperation between EU and Turkey regarding migration in a broader foreign policy perspective and ensuring consistency in EU foreign policy. This broader perspective involves the search for progressive international cooperation concerning the wide-ranging crisis of migration which is not only limited to Syrians, high-level dialogue for counter-terrorism, security and foreign policy, economic and technical cooperation (e.g. high-level economic dialogue), accession process. It was also underlined that EEAS mainly focuses on addressing the root causes of the migration, i.e. the violence and radicalism in the Middle East (Bravo, interview, 1 June 2016).

2.1.2.3 The Council and the Presidency of the Council

The most important responsibility of the Justice and Home Affairs configuration of the Council regarding the visa liberalisation for Turkey is to decide on amending the Regulation 539/2001, together with the European Parliament under the ordinary legislative procedure. A qualified majority is needed in the Council to pass an amendment to the regulation.

Other aspects of the visa policy are discussed in different council configurations. For example, the Foreign Affairs Council (FAC) is also involved because of the relevance of visa policy for the foreign policy of the European Union towards Turkey and the Middle East. Additionally, General Affairs Council (GAC) is involved because of the close relationship between the accession of Turkey and the JHA matters in question.

When the involvement of the Council in the negotiations is discussed, the contribution of the Dutch Presidency of the Council of the EU must be given due. The Dutch Presidency listed migration as one of its top priorities at the beginning of its term and actively sought solutions in cooperation with EU leaders (Bravo, interview, 1 June 2016). The Dutch PM Mark Rutte underlined clearly that the deal with Turkey is needed. On the other hand, position of the Dutch Presidency regarding the accession negotiations was more cautious. The Presidency underlined the separation between the refugee talks and the accession negotiations of Turkey (Peeperkorn, 2016). As it is also noted in the one of the interviews for this research, Mark Rutte was very influential in shaping the 7 March 2016 meeting of EU leaders with Turkey where very important decisions such as *one in, one out*

*principle*⁴ and the acceleration of the visa liberalisation process, with the aim of lifting visa requirements by June 2016, were taken. Turkish PM Davutoğlu, German Chancellor Merkel and Dutch PM Rutte conducted a critical late-night meeting on 6 March 2016 which was extremely influential on the 7 March decisions (H. Nuray, interview, 2 June 2016).

2.1.2.4 European Council

The President of the European Council, Donald Tusk, plays an active role in the visa dialogue. Tusk can be considered as the architect of the whole high-level dialogue between Turkey and the EU leaders. Tusk started underlining the importance of reenergizing relations with Turkey in September 2015, and visited Turkey several times to establish a dialogue. Following his meeting with President Erdoğan in September in Turkey, the dialogue between Turkey and EU gained momentum. The invitation of Tusk to EU leaders which calls for a Turkey-EU Summit in November with the purpose of reenergizing relations and stemming the migration flow was a milestone in the overall process.

The commitment of the President Tusk was important also in the sense that it helped finding a common position among EU leaders for the cooperation with Turkey in tackling the refugee crisis. Within the European Council, German Chancellor Merkel and President Tusk have put forward significant effort to keep the talks going and to keep the rest of the EU members and institutions in the same direction.

2.1.2.5 EU Member States

2.1.2.5.1 Germany and the “Merkel Camp”

German Government led by Chancellor Angela Merkel is among the dedicated supporters of a pan-European solution to the problem of illegal immigration. In her speeches, Merkel underlines need for a European response and effective burden sharing between Member States of the European Union.

The bilateral talks on migration between Turkey and Germany gained momentum especially after late 2015 Joint Action Plan between Turkey and the EU. After the action plan, the German Chancellor visited Turkey a few times. In her visits, Merkel praised the efforts by Turkey in management of Syrian refugees and reaffirmed that Turkey is an important partner for Germany and the EU in this issue area (Bundesregierung, 2016).

All of the interviews conducted for this study, in one way or another, indicate Chancellor Merkel as the most influential figure among national politicians in the Turkey-EU negotiations. Her direct and frequent dialogue with the Turkish Government and President Erdoğan, her direct

⁴ The EU-Turkey agreement on 18 March 2016 established a system, according to which “for every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU” (European Council, 2016b). This system is popularly called “one in, one out” or “one-for-one” principle.

influence on the Council and indirect influence on the Commission and the Parliament backs this view. Some of the interviews also reveal that the Visa Liberalization Roadmap adopted in 2013 is also seen as a product of Angela Merkel, even among different circles involved in the process (Bravo, interview, 1 June 2016; B. Kaleağası, interview, 31 May 2016; Delta, interview, 14 July 2016).

Besides the personal influence of Angela Merkel, the effects and leverages of German politics on different institutions of the EU cannot be disregarded. The two coalition partners of the German Government, CDU and SPD are associates and very influential members of the two biggest political groups in the European Parliament; European People's Party (EPP) and Socialists & Democrats (S&D) respectively. Furthermore, the President of the EP Martin Schulz is also German and he is a respected member of SPD, the coalition partner of Merkel's CDU in the grand coalition that has been in power in Germany since 2013.

Those leverages of Germany and Angela Merkel on the European-level of policy making put Merkel and her government among the most influential actors in EU-Turkey deal. In that regard, the EU and Member State leaders who seek an EU solution to the refugee crisis are united under the so-called "Merkel camp" against Eurosceptics.

2.1.2.5.2 France

France is one of the Member States that have serious problems with management of irregular migration. Most recently, the problems in Calais involving France and the United Kingdom were debated heavily in European spheres. The problems in France regarding the immigrants undeniably contributed to the rise of far-right nationalist wing of the political spectrum.

On the other hand, President François Hollande and the Prime Minister Manuel Valls remain sceptical towards an EU initiative that would require France to take in large numbers of refugees. Hollande also publicly criticized the human rights regime in Turkey. "There cannot be any concessions on the matter of human rights or the criteria for visa liberalisation" noted the French President in March 2016 (Shams, 2016).

2.1.2.5.3 Cyprus⁵

The political deadlock in the island plays a substantive role in shaping the Turkey-EU relations. Since opening of new negotiation chapters for the membership and also the final saying on the EU membership of Turkey depends on unanimity of the all Member States, Cyprus has been able to

⁵ "Cyprus" is used in this thesis, without any prejudice, to refer to the Greek Cypriot Administration of Southern Cyprus in the form it is represented in the European Union as a Member State. The author of this study is aware of the fact that there is no single authority in the island which represents both Turkish and Greek Cypriot people.

block Turkey's membership negotiations with political arguments. Without a solution in the island, Cypriot government is not willing to lift its veto on Turkey's negotiation chapters.

On the other hand, it is important to underline that a decision for a visa-waiver for Turkey depends on a qualified majority voting in the Council. Thus, Cyprus cannot actually veto or block the visa liberalisation for Turkey by itself.

2.1.2.5.4 *United Kingdom*

The United Kingdom, one of the key allies of Turkey in NATO and a considerably pro-Turkey Member of the EU since the application of Turkey for full membership, is not very much involved in the high-level dialogue regarding the Readmission Agreement and the visa liberalisation process. On one hand, the UK is not in the Schengen Area of free movement, therefore the visa liberalisation does not concern the UK; but most importantly, the domestic politics in the UK ignited a bigger scale debate about the relations of the UK with the EU. The referendum for the exit of the UK (abbreviated popularly as Brexit) from the EU escalated into an emergency both in British politics and in the EU circles and contributed to the contemporary debates about the success of European integration. The implications of Brexit will be elaborated further in the upcoming Chapter 4 of this work.

2.1.2.5.5 *The Orbán Camp – Visegrád Group and Austria*

The current government of Hungary led by the Prime Minister Viktor Orbán is one of the most critical opponents of the EU migration policy and the Turkey-EU deal. The relocation scheme of the refugees, and the Germany's refugee policy are among the main targets of Orbán's criticism. In April 2016, Orbán proposed a ten-point action plan against the refugee crisis. The plan, aimed at limiting the powers of Brussels regarding immigration and holding Greece and Italy responsible for their inability to fulfil their Schengen duties, proposes nationally formulated solutions with reduced EU influence (Cabinet Office of the Prime Minister of Hungary, 2016). Orbán's action plan was circulated and promoted by himself among EU Member States. However, the support it found outside the Visegrád Group of Czech Republic, Poland, Hungary and Slovakia is very limited.

2.1.2.5.6 *Austria*

The Austrian Government has also been critical of the EU policies regarding migration, claiming that the EU failed to provide a sustainable European response to the immigration crisis. Particularly, the ineffectiveness of the burden sharing mechanism among EU Member States is criticized by the Austrian chancellor. Located on the route between Western Balkans and Germany, Austria is one of the Member States with the highest number of arrivals. This criticism of Austria is also used by the government to rationalize the national measures taken by the country which do not fit well with the

European Union policies. In 2016, the Austrian Government started imposing daily quotas for the number of immigrants it will accept. By diverging from the EU policies and implementing such national measures, Austrian Government especially aims to limit the migration flow from Italian and Slovenian borders. Also, Austria has concerns over the visa liberalisation for Turkey and the minister of interior expressed this openly. In a talk, the minister pointed out the human rights violations in Turkey and underlined the importance of European values and expressed that no exceptions should be made for Turkey (“Austria ‘extremely critical’ of EU-Turkey migrant deal”, 2016).

2.1.2.5.7 The Recipient Countries – Greece, Italy, Spain and Bulgaria

The refugee problem, especially the accumulation of refugees in the Greek territory due to dysfunctional burden sharing mechanism of the EU is the main concern of the Greece in recent years. The refugee problem also caused a huge burden on Greek economy which was already devastated by the Economic and Financial Crisis of 2008-2009.

Greek government consistently demands support from the EU Member States because the current situation is seen as a failure of the EU migration policy. Also, the cooperation and coordination between Greece and Turkey is very important in the sense that most of the refugees enter the Schengen Zone from Greek islands, illegally traveling from Turkey.

Before the EU Readmission Agreement started to be fully implemented, Greece and Turkey already had a bilateral readmission agreement in force, signed in 2001 and entered into force the next year. From a technical standpoint, this implies that illegal immigrants could already been sent back to Turkey. In that regard, Turkey-EU readmission agreement is not itself a game changer. The implementation of the bilateral agreement was not very effective due to political and logistical reasons, so the number of actual readmissions to Turkey from Greece remained negligible. However, proper implementation of this bilateral agreement until the EU Readmission Agreement is fully in effect was the interim solution agreed by the leaders with the EU-Turkey agreement in March 2016.

Italy is also in a similar position to Greece due to the excessive number of sea arrivals. As for the EU-Turkey deal, there are two major concerns of Italy. Firstly, the financial aid to be provided to Turkey was blocked by Italy, but later the Italian government dropped their objection. This move was mostly aimed at increasing the bargaining power of Italy against the rest of the EU as the country is in a financial turmoil and seeking solutions to its economic problems at the EU-level. The resources spent on irregular migration are also seen as an important component of the Italy’s budget deficit. Secondly, although the demography and source of arrivals are very different from the case of Greece, Italy also seeks a comprehensive and inclusive solution to the migration flow in the Mediterranean. Italy reports that the EU-Turkey deal is insufficient in this manner.

Current Spanish government also expressed their concerns over the possible human rights violations that may follow the EU-Turkey migration deal and the visa liberalisation process. On the other hand, the Spanish foreign minister underlined the incompatibilities in the Turkey-EU agreement with regard to the international law (Oliveira & von der Burchard, 2016).

The main concern of Bulgaria regarding the migration deal between EU and Turkey is that if the plan succeeds in closing the illegal migration route between Turkey and Greece, the land border between Turkey and Bulgaria and the Bulgarian shores of Black Sea will be the new destination for immigrants. As the focus of the current dialogue between EU and Turkey is solely on closing the migration route over the Aegean Sea, Bulgaria is not satisfied with the deal.

2.2 Legislative Organs

2.2.1 Grand National Assembly of Turkey

Role of the legislative branch is very limited when it comes to the relations with European Union. Although the Grand National Assembly is the institution that ratifies international agreements and conducts the required legislative tasks, the majority rule of the AK Parti in the parliament and the intra-party cohesion creates a resonance between the legislative and executive branches. Therefore, the Government has almost never faced any resistance from the legislature when it proposed new laws along the lines of the EU *acquis*. The performance of the Turkish legislature especially in passing laws between November 2015 and May 2016 to comply with the Visa Liberalisation Roadmap was remarkable. On the other hand, whether those legislative efforts are able to actually bring successful implementation or not remains as a question as also underlined by the interviews (H. Nuray, interview, 2 June 2016).

At the moment, there are four political parties represented in the Turkish parliament. There is no significant opposition against the EU, although the expectations of the different political parties from the EU vary. AK Parti, the biggest political group in the parliament, is considerably pro-European. There are many scholarly works on the rising scepticism and indifference towards the EU and the ruling AK Parti is also associated with those negative views of the EU (Aydın-Düzgüt & Kaliber, 2016). However, both in their electoral manifesto for the 2015 elections, and their dialogue with the EU, AK Parti (2015) remains committed, yet at the same time critical to the EU. Republican People's Party (CHP) and Peoples' Democratic Party (HDP) in the opposition publicly support EU accession process and Europeanization of Turkey. Nationalist Movement Party (MHP), although not opposing the Europeanization process, underlines that Turkey is not dependent only on EU for modernization and there are alternative national options for social and economic progress.

2.2.2 European Parliament

European Parliament is also one of the co-legislators of the European Union and shares this duty with the Council. Therefore, an amendment to the Regulation 539/2001 that will grant visa waiver to Turkey requires a simple majority in the plenary session of the Parliament.

At the European Parliament, two committees are actively engaged in the visa policy. Those are; Committee of Civil Liberties, Justice and Home Affairs (LIBE) and Foreign Affairs Committee (AFET). As the main parliamentary committee in charge of legislation and democratic inspection regarding the issues concerning migration, LIBE Committee takes the leading role while AFET provides input from a foreign policy perspective.

There is also an informal group called “Friends of Turkey” in the European Parliament. The group was formed in 2010 by mostly pro-Turkey members of the European Parliament. In 2014, the group was re-established for the new parliamentary term. Friends of Turkey group defines itself as “a platform for discussion where MEPs can contribute to the improvement of EU-Turkey relations” (Friends of Turkey, n.d.). The group monitors Turkey-EU relations closely and participates in high-level discussions and lobbying activities in Brussels and Turkey.

In the process, the position of the European Parliament can be the key to get visa freedom for Turkey. Besides the strong political influence of EP President Martin Schulz, there is also a discomfort among the MEPs about Turkey (Delta, interview, 14 June 2016). Although interviews conducted for this research shortly after the November 2015 revitalization of the process indicate no expectation for a delay in the Parliament (A. Stiglmeier, interview, 28 January 2016), more recent accounts underline that one of the biggest challenges may come from the European Parliament since the MEPs are uncomfortable with cooperating with the AK Parti due to the concerns about rights and freedoms in Turkey (Delta, interview, 14 June 2016; Paul & Seyrek, 2016; Pierini, 2016).

2.3 Civil Society

There are several non-profit organizations and think tanks directly or indirectly involved in the EU-Turkey visa talks. They conduct lobbying activities, do policy advocacy, conduct independent research and publish reports. Some of them even intervene the Visa Liberalisation Dialogue whenever they see necessary through direct relations with the leaders from EU and Turkey.

2.3.1 Think Tanks and Academia

European Policy Centre (EPC), Centre for European Policy Studies (CEPS), Carnegie Europe, and European Stability Initiative (ESI), Visa-Free Europe, Friends of Europe, The German Marshall Fund of the United States, Barcelona Centre for International Affairs (CIDOB), and Stiftung

Mercador are among the important international organizations that conduct work on Turkey-EU visa liberalisation process. Particularly the European Stability Initiative conducts day-to-day research and lobbying activities in Turkey and Europe. Among Turkish think-tanks, especially two of the well-established think-tanks; İKV and TEPAV closely monitor the negotiations.

2.3.1.1 European Stability Initiative (ESI)

ESI is a transnational think-tank which has offices in Berlin, Istanbul and Brussels. The visa liberalisation process of Turkey is one of the main focal areas of the policy research and lobbying activities conducted by ESI. ESI produces regular reports on the process, particularly analyses on the fulfilment of the Roadmap criteria by Turkey. The organization generally has a pro-Turkey perspective and they openly support the visa liberalisation for Turkish citizens.

A representative from the ESI stated that ESI was influential in the visa facilitation processes regarding Western Balkans and Turkey. In Balkans, the whole visa facilitation dialogue was followed by ESI, and the organization intervened in crucial moments. For the Turkish case, ESI formed fact finding missions on the ground, produced regular visa liberalisation scorecards, obtained (sometimes confidential) reports and reacted on them. ESI conducted lobbying activities such as roundtables with important actors in Turkey and in Europe, and wrote letters to the European Parliament, European Commission and some MEPs (A. Stiglmeier, interview, 28 January 2016).

2.3.1.2 Economic Development Foundation (IKV)

İKV defines itself as a “nongovernmental research organization specialized on EU and Turkey-EU relations” (İKV, n.d.). İKV is one of the most well-established non-governmental organizations that are specialized on European Union politics and Turkey-EU relations. It works as a think-tank as it is composed of academics and researchers specialized in different aspects of EU policy and Turkey-EU relations. İKV closely observes every single development in Ankara-Brussels line and publishes reports and briefs on developments.

Between 2009-2010, İKV conducted the *Visa Hotline Project* to identify the problems that are encountered by Turkish citizens when they apply for a Schengen visa. For two months, the input from the visa applicants was collected. Additionally, the requested documents by the EU Member States were classified and analysed (Nuray, Özler, Özsöz & Yeltin, 2010). According to a representative from İKV, the visa hotline project revealed the most important problems regarding the Schengen visa processes for Turkish citizens. Those problems include but are not limited to length of the visa application and evaluation process which sometimes takes months, amount of related or unrelated documents requested, the uncertainty regarding the result of the application, unfavourable treatment by the officers in consulates and/or intermediaries, and the amount of money required for

covering direct expenses such as the application fees and indirect expenses such as travel and accommodation costs for Turkish citizens living in cities other than the ones where consulates are located. İKV predicts that collectively around 75 million euros are spent each year by Turkish citizens, only for the official fees associated with the Schengen visa (H. Nuray, interview, 2 June 2016).

Regarding the visa liberalisation process, the representative of İKV states that civil society and particularly their institution were heavily involved in raising awareness about the visa problem of Turkish citizens. He noted that the visa liberalisation was not a demand coming from the public until recently, but such a demand slowly emerged after such efforts by the civil society and business world. On the other hand, İKV also notes that the political dialogue started towards the end of 2015 was a very self-enclosed and high-level one; thus, civil society was not in any way involved in the process. No consultation took place and the deal was only discussed by the top political leaders of Turkey, EU Member States and the EU (H. Nuray, interview, 2 June 2016).

2.3.1.3 The Economic Policy Research Foundation of Turkey (TEPAV)

The Economic Policy Research Foundation of Turkey, is another Turkish think-tank which covers a wide range of issues in Turkish foreign policy and economics. TEPAV closely monitors the ongoing processes in Turkey-EU relations, particularly with regard to the upgrading of the Customs Union and the visa liberalisation.

With regard to the visa liberalisation process, TEPAV works in close cooperation with ESI. Two think-tanks organized joint meetings in Turkey to discuss recent developments. In those meetings, especially the cooperation between Turkey and Germany regarding the refugee crisis was underlined as a key to save the “liberal Europe” (TEPAV, 2016). Although the general attitude of TEPAV researchers are positive towards the revitalization of Turkey-EU relations, they remain cautious about the implications for the full membership. According to a recent commentary by TEPAV, Turkey-EU relations are at the moment based on “a partnership cemented by partly converging interests - not values”. Therefore, TEPAV underlines the importance of avoiding a counter-productive raise of expectations especially in Turkish public opinion (Arısan-Eralp, 2016).

2.3.2 Business Associations

The business circles in Turkey generally see the accession of Turkey to the EU, as well as the Visa Liberalisation Dialogue and the upgrade of the customs union as opportunities for furthering the trade relations and boosting economic benefits. Two biggest businessmen associations in Turkey, TÜSİAD and MÜSİAD⁶ both support the EU membership of Turkey and removal of non-tariff

⁶ For a detailed analysis of MÜSİAD's transforming vision on EU, see Yankaya (2009).

barriers in trade. Other national organizations such as TUSKON⁷ and TOBB⁸ also share this vision. Among the organizations mentioned, TÜSİAD is the most active one regarding the Visa Liberalisation Dialogue.

TÜSİAD

Turkish Industry & Business Association (TÜSİAD) is a business association in Turkey which consists of CEOs and executives of the most important companies in Turkish business life. The members of TÜSİAD conduct 80% of the Turkey's total foreign trade.

TÜSİAD actively supports Turkey's EU membership and integration of Turkey to the single market. TÜSİAD also supports the visa liberalisation process to full extent, seeing the possible visa-waiver as a win-win situation for Turkey and the European Union, especially because of the mutual benefits to be generated through easier access of Turkish businesses to the single market, exchange of knowledge and expertise, and better collaboration between sectors (B. Kaleağası, interview, 1 June 2016). Actively monitoring the Visa Liberalisation Dialogue, the representation of TÜSİAD in Brussels regularly reports on the progress towards visa liberalisation and the conducts lobbying activities in Turkey and Brussels on behalf of the Turkish businessmen.

2.3.3 Other Non-Governmental Organizations

Amnesty International

Amnesty International is one of the most critical organizations towards the migration policies of the Turkish Government and the EU. Amnesty International criticizes the situation of human rights and democracy in Turkey very often.

Amnesty International argued that Turkey is sending Syrian refugees back to Syria despite the international refugee protection norms that prohibit such a policy. Turkey is also criticized for lack of transparency in the asylum processes. On the other hand, Amnesty International criticizes the EU for turning a blind eye on the human rights violations in Turkey (Amnesty International, 2016).

2.4 International Organizations

2.4.1 NATO

Based on a request from Germany, Greece and Turkey, NATO defence ministers agreed in February 2016 to help Turkey and the EU with the refugee crisis, particularly through their support in the

⁷ The Confederation of Businessmen and Industrialists of Turkey (TUSKON) is an umbrella organization of business federations and associations in Turkey. Regarding the Turkey-EU relations, TUSKON is in favor of strengthening the dialogue between EU and Turkey. It organizes events such as panels, visits and roundtables besides conducting lobbying activities.

⁸ The Union of Chambers and Commodity Exchanges of Turkey (TOBB) represents the Turkish private sector. TOBB is a confederation of chambers of commerce, industry and maritime in addition to commodity exchanges. TOBB represents Turkey in the Association of European Chambers of Commerce and Industry (EUROCHAMBRES).

Aegean Sea. NATO deployed the Standing NATO Maritime Group 2 (SNMG2) to the area for the purposes of reconnaissance, monitoring and surveillance of illegal migration. NATO collaborates with the national authorities of Turkey and Greece as well as Frontex. In addition to the assistance in Aegean Sea, NATO also provided Turkey support in intelligence, surveillance and reconnaissance at the Syrian border.

Following the February 2016 decision to help the EU, NATO Secretary General Jens Stoltenberg also participated in high-level discussions with Donald Tusk, Jean-Claude Juncker, Federica Mogherini, and Dimitris Avramopoulos.

2.4.2 International Organization for Migration (IOM)

IOM primarily provides logistical and operational support for the refugees and asylum seekers in Turkey and Greece. IOM is also involved in the legislative procedures as an adviser to the Turkish legislature. The political involvement of IOM is very limited in the EU-Turkey deal. However, the operational services provided through IOM are essential. Especially after the entry into force of the EU Readmission Agreement, IOM started playing a crucial role in the resettlement of the asylum applicants under the one in, one out scheme amongst EU and Turkey.

2.4.3 Council of Europe

Council of Europe is particularly concerned about the human rights aspect of the refugee crisis. Nils Muižnieks, CoE Commissioner for Human Rights criticized EU-Turkey deal on the grounds that “the automatic forced return that the deal allows is illegal and will be ineffective”. According to the Commissioner, the agreement violates the European Convention on Human Rights in which the collective expulsion of aliens is prohibited. Furthermore, Muižnieks argued that the right to seek asylum, as granted by the Universal Declaration on Human Rights is violated (Muižnieks, 2016).

3 Conceptual Framework and the Literature Review

The multiplicity of actors, and the variety in their approaches to the EU-Turkey deal makes it impossible to come up with an explanation of the motivations and strategies depending on a single theoretical approach. Furthermore, the longstanding love-hate relationship between Turkey and the EU, changes in their internal power dynamics, new institutional arrangements, and the changing international environment cause oscillations in the overall interaction and communication between two sides. In that regard, employing a conceptual framework which depends on multiple theories becomes a necessity. This chapter aims to provide such a conceptual framework by synthesizing the wider theories of EU external governance and securitization of migration as well as more focused scholarly literature on Turkey-EU relations.

3.1 EU External Governance

It is a characteristic of 21st century politics that the problems concerning domestic politics have implications that go beyond national or territorial borders. This is also the case for historically domestic policy areas such as immigration, organized crime and terrorism. The increasing globalization of those problems require global scale responses and better cooperation among diverse state actors. In order to address those globalized problems via the EU methods, European Union has developed its particular ways to extend its policies and governance into a wider geography than its own borders.

To analyse the diffusion of EU norms and values into what is called “wider Europe” a conceptualization of EU *external governance* was developed and also applied to various policy areas by Sandra Lavenex. In a very simplistic manner, external governance is defined as the “expansion of EU rules beyond EU borders” (Lavenex & Schimmelfennig, 2009, p. 807). In other words, it is the extension of the EU rules and policies beyond EU Member States through different modes of governance. Actorness of the EU in international politics is the key to understand EU external governance as it is based on a strong institutionalist view of the EU policy. EU is an important actor in international relations as it is able to set the international norms and standards in a huge variety of policy areas. Internationalization of the EU rules and norms takes place through their diffusion to third countries and international organizations. EU *acquis communautaire* is the primary instrument of such a diffusion. It is different from the EU integration in the sense that it is not the EU Member States but the non-members who import the *acquis communautaire* into their own legal system, although the expectation for full membership can be a motivation for adopting the EU norms as in the case of Turkey. Lavenex notes that “external governance takes place when parts of the *acquis communautaire* are extended to non-member states” (Lavenex, 2004, p. 683). This approach aims to

understand the underlying mechanisms and the limits of the ability of EU to integrate its external environment into its own system of rules and norms.

The theoretical foundations of external governance are clarified by Schimmelfennig and Lavenex (2009) in their work titled *EU rules beyond EU borders: theorizing external governance in European politics*. External governance differs from the classical forms of foreign policy analysis that analyse EU with the instruments of classical IR theories as if it was a unitary state in the international politics. The main distinction is the strict institutionalist approach. The external governance framework is an institutional and structural perspective rather than an agency-oriented theory. It is based on the application of the governance perspective to EU external relations, which “implies a high degree of institutionalization and the existence of a common system of rules beyond the borders of the EU and its formal, legal authority” (Lavenex & Schimmelfennig, 2009, p. 795). The *new governance* perspective inherent to the external governance approach favours more horizontal forms of network governance, communication and participation rather than a hierarchical and linear form.

Schimmelfennig and Lavenex (2009, p. 792) define two particular interest of external governance research: Identifying the differences in application, and exploring the effectiveness under different conditions. As for the difference in applications, their particular emphasis is on the differences between countries and between various policy areas. To explore the differences and degrees of effectiveness, scholars focus on three sets of factors, namely institutions, power and domestic structure. They mostly find the institutionalist explanation relevant in their own analysis, yet they also underline that there might be an interplay between different explanations of the effectiveness. According the institutionalist view that they endorsed, the questions regarding the difference and effectiveness of external governance can be answered through focusing on “the modes and effects of the external governance are shaped by internal EU modes of governance and rules”. In other words, the effectiveness of the external governance depends on the quality of the rules to be transferred to third countries. The power explanation depends on the bargaining power of the EU and the third approach, the explanation of effectiveness based on the domestic factors, argues that the effectiveness depends on the capacity of the receiving country based on the logic of appropriateness.

Schimmelfennig and Lavenex (2009) identify three institutional modes through which external governance takes place. Those are hierarchical, network, and market modes of external governance. The hierarchical mode depends on the formalized relationship between the ruler and the ruled, and realized through binding, top-down regulation by the supranational institutions. It is based on the asymmetry of power between two sides. On the other hand, the network mode assumes that

the actors are equal and there is an interaction based on mutual agreement of the parties. No party can force the other one to accept the norms without consent. The conflicts are solved through bargaining and negotiation. The market mode depends on the competition between autonomous actors. Direct interaction between sides is limited or non-existent while due to the competition, the parties tend to replicate the norms and practices of the other side. The EU external governance relies more on the network mode especially when policy transfer takes place in relation to the enlargement (p. 807).

Another important feature of the EU external governance for the purpose of this research is its policy-specific logic. The contribution of Lavenex and Schimmelfennig (2009) suggests that external governance takes place in an issue-specific manner rather than aiming a complete export of the EU norms in all fields. This is why it follows different modes and patterns across different sectors and issues where EU norms are diffused into third countries (p. 807).

Lavenex not only championed external governance approach, but also got involved in studying EU rule transfer in different sectors, under different conditions. For example, the work she co-authored with Uçarer (2004), focuses on the EU external governance, with a focus on immigration policies. They describe different modes of policy transfer, some of which coincide with the ones explained above. In terms of the immigration policy, they identify institutional affiliation as the determinant of the shape of policy transfer and they categorize differing degrees of institutional affiliation of non-EU countries into five types: *close association*, *accession association*, *pre-accession association* which involves candidates such as Turkey and Balkan countries, *neighborhood association*, and *loose association*. The *pre-accession association* mode which concerns Turkey is mostly shaped by privileges and promises given to Turkey with regard to its full membership prospects. EU conditionality, i.e. demand for a tougher Turkish stance against irregular migration in exchange for relatively liberal visa policy or leverage of a promise of membership, is also considered as a determinant of the rate of policy transfer in this area (Lavenex & Uçarer, 2004).

In another study, Lavenex and Wichmann (2009) focus on the external dimension of internal security of the EU, based on the blurring distinction between internal and external security. Their most significant finding in this work is the increasing role of the “extended network governance” as a means for policy transfer. They argue that by utilizing the external influence of the internal transgovernmental networks, EU conducts a new form of policy transfer by what they call “softer means”. This form is especially significant for the ENP countries because of the ineffectiveness of policy transfer via conditionality. Yet, this approach can also be significant in candidate countries such

as Turkey due to the weakening conditionality bond because of the despair over full membership in a foreseeable future.

The path of *governance* as followed by Lavenex was also taken as a basis for other scholars in developing policy-specific case studies and also the investigation of different modes of EU external governance. One of the relevant variations for this research is the work by Schimmelfennig and Sedelmeier (2004) on *Governance by Conditionality* which focuses on the expansion of the EU rules to the candidate countries through membership conditionality. This mode of external governance may not be the dominant one as it has its inherent limits parallel to the geographical limits of EU enlargement. However, the perspective it provides is essential for analysing EU-Turkey relations and the policy transfer taking place in-between. Schimmelfennig and Sedelmeier focus on the candidate countries of Central and Eastern Europe because this work was written in 2004 within the atmosphere of the “big bang” enlargement of the EU. However, the argumentation is also applicable to the case of Turkey. The authors outline and promote the *external incentives model* to explain the rule transfer from the EU to the candidate countries. According to this model, EU external governance pushes its rules to the candidate countries through membership conditionality and provide rewards in exchange. This is exactly how the *carrot and stick* approach of the EU towards Turkey works. Those rewards are various including assistance, new institutional ties, facilitations and co-operation agreements. The level of compliance by the candidate country depends on the credibility of the EU, domestic costs of rule adoption, and attractiveness of full membership (Schimmelfennig & Sedelmeier, 2004).

The external aspect of the EU migration and asylum policy is also analysed by other scholars in the literature. One of the scholars that extensively studied the subject is Florian Trauner. For example, Trauner (2013) focuses on the EU’s potential for policy export in the field of migration vis-à-vis UNHCR as another norm setter. The study concludes that while EU was weak in vertically influencing UNHCR norms, it was relatively stronger in diffusing its norms on migration towards wider Europe which includes third countries that are in direct relation with the EU.

Trauner also authored other studies that focus on readmission agreements of the EU with third countries, especially in Western Balkans and South Eastern Europe. Those studies are important as examples to see how external governance as an analytical framework is adopted when analysing readmission agreements of the EU. A comparative study of the Croatian and Macedonian cases focuses on the effect of the membership prospect on the compliance of Western Balkan countries with the EU conditionality. He concludes that, in Croatia full membership prospect played an important role in rule adoption while in the case of Macedonia a liberalized visa regime became the

core motive (Trauner, 2009). In another work on Eastern European countries, Trauner and Kruse (2008) argue that EU utilizes visa facilitation instrument not only because of its role as a source of motivation for signing of a readmission agreement; but also as a means for dealing with the discontent of the new Eastern neighbours of the EU after Eastern Enlargement who are discontented with stricter border measures imposed to the new members due to Schengen norms. Finally, an article by Trauner and Wolff (2014) focuses on the methodologies of analysing negotiation of EU policy instruments. They suggest that the policy instrument approach to EU migration policy is a viable method for “dealing with non-hierarchical, soft and informal modes of policy-making” (p. 8).

The conceptualization of the EU external governance provides a viable theoretical lens to understand and analyse the complex relationship between EU and Turkey which depends on the accession process, bilateral agreements, and formal and informal channels of dialogue between EU Member States and Turkey. As a country negotiating EU membership, Turkey is one of the most significant recipients of the EU norms through external governance. Not only the membership negotiations, but also the geographical proximity, bilateral arrangements such as the Customs Union and common participation in other international forums such as NATO makes Turkey even more open to EU external governance. Regarding the EU-Turkey deal, the Visa Liberalisation Roadmap which is directly linked to the Readmission Agreement establishes a new, systematic form of EU rule transfer besides the EU conditionality for accession. However, this relatively new relation also has its limits due to the unique nature of JHA which is located between domestic and international affairs and the high level of politicization of the agreement with Turkey due to the extraordinary dynamics of the refugee crisis. This study tests the applicability of the external governance approach to understand the orientation and objectives of the EU within the dialogue and aims to find the limits of its effectiveness. It also elaborates on alternative discourses, such as the governmentality of unease in the next section, which may take over the deal when external governance reaches its limits.

3.2 Governmentality of Unease: Securitization of Migration

Some theoretical approaches to the management of migration by states and international actors criticize the *securitization* of migration (Bigo, 2002; Huysmans, 2006). Securitization as used here is a concept which is first coined by Ole Wæver of Copenhagen School. It refers to a search for legitimacy for certain policies in national and international politics, which would not be justified using the discourses of ordinary politics. Putting the issues in a security discourse grants the policy-makers new policy alternatives which are only acceptable if there is a security threat. According to Wæver (1995), when declared as a security threat by the political elite, a problem escalates into a different

level and certain special privileges are granted to the policy-makers. They use this kind of an authorization to justify previously unacceptable policies to regain control over an issue (p. 54).

Securitization of migration is a relatively new discussion, particularly emerged after the 9/11 terrorist attacks in the United States. The global atmosphere of insecurity following the attacks contributed to the securitization of migration predominantly in the West and raised the level of alertness against immigrants particularly coming from the Muslim countries in the Middle East. The rise of radical Islam in Europe contributed to the new discourse on migration.

The analysis by Didier Bigo (2002), the leading member of the critical security studies tradition of Paris School, provides a critical account of the understanding of migration as a security problem based on the criticism of what he calls “Governmentality of Unease”. Developing on the conceptualization of Copenhagen School, he puts the securitization into a Foucauldian framework of governmentality. Bigo (2002) argues that the policy-makers gain legitimacy through the securitization of migration by emphasizing the struggles against terrorism, transnational crime, spies, and counterfeiters and use the power they gained through securitization to control transnational political activism, daily border crossings, and citizens with a family history of immigration (p. 63). Bigo’s revised version of securitization refers to convincing people that they are in danger to be able to get political gain (p. 65). Bigo notes that the immigrant is the perfect object for securitization practices because it satisfies the need for an enemy both as a domestic threat and an external one (p. 77).

The main target of Bigo’s criticism towards the securitization of migration is the conception of state as a container of national territory, sovereignty, society, and social order. Securitization is seen as a tool for the justification of state as the only possible political order. He argues that many social scientists, including the critical scholars, develop their theories based on this fallacy; by taking the state as given, unable to challenge the conceptualization of the state itself. Rather, he supports analysing sovereignty and security as the objects of research, following the Foucault’s path and analysing power relations at the instances where “it is in direct relationship with its targets” (p. 68).

Although Bigo targets the modern understanding of state as his *problématique*, his account is relevant for analysing the EU approach to JHA. Considering the contemporary discussions that revolve around considering the EU as a state, an international organization, or a *sui generis* entity; it is a pleasing theoretical experiment, as well. His theory is useful in analysing the EU policy of migration management in particular, for several reasons. First of all, Bigo suggests that the securitization of migration is a “transversal political technology” (p. 65): It is a mode of governmentality used by different actors who mingle with the unease so as to gain legitimacy as the providers of protection and security, and to cover their past policy mistakes. Considering the increasing role of the EU as the

supranational manager of security and justice, and the criticisms directed towards the EU for its migration policy, testing such a theoretical approach may be critical. Secondly, Bigo points out that the management of the unease towards immigrants is organized more and more transnationally (p. 75). He notes that “the Europeanization and the Westernization of the logics of control and surveillance of people beyond national polices is driven by the creation of a transnational field of professionals in the management of unease” (p. 64). He also underlines the convergence between national bureaucracies in formulation of common threats or risks. He gives the EU as an example of international forum and network where this governmentality takes place at the international level, sometimes even against the will of national states. It should be noted that his work is from 1998 and it was translated into English in 2002 which is shortly after the *communitarisation* of immigration with the Treaty of Amsterdam⁹. Considering today’s level of EU integration in this domain and the dynamics of EU-wide cooperation and coordination of immigration policy, his argument becomes even more relevant.

For the purposes of this research, maybe the most important part of Bigo’s analysis is his views on how the securitization is generated. Bigo (2002) notes:

Securitization, then, is generated through a confrontation between the strategies of political actors [...], in the national political field, the security professionals at the transnational level (public and private bureaucracies managing the fear), and the global social transformations affecting the possibilities of reshaping political boundaries [...]. The security process is thus the result of a field effect in which no actor can be the master of the game but in which everyone's knowledge and technological resources produce a hierarchy of threats. Securitization is then the conversion operator by which the struggle of political discourses [...] is validated as a truth process by professionals of threat management, according to the violent transformations they observe and their interests as institutions. (pp. 75-76)

The passage underlines the role of national and international actors in the process of securitization. Their institutional interests are the determinants of the political discourse created through securitization. On the other hand, Bigo also underlines that this process takes place as a response to “global social transformations affecting the possibilities of reshaping political boundaries”. Civil wars, political vacuums, social and economic crises, and the contemporary pressures for the European disintegration can be considered as such transformations.

The approach by Bigo and the Paris School to the border security is an important critical perspective. Especially considering the security environment under which the EU-Turkey deal is concluded, the securitization of migration and governmentality of unease may reflect the concerns of Member States regarding the national security based on irregular migration. How and to what extent

⁹ With the Treaty of Amsterdam, several policy areas under justice and home affairs such as visa policy, immigration, and asylum were transferred from the third pillar of the EU to the first pillar. Therefore, most of the decisions in JHA started to be taken using the Community method instead of the intergovernmental method. *Communitarisation* here refers to this transfer from the intergovernmental domain to the community domain. The three pillar structure was eventually abandoned with the Treaty of Lisbon.

those concerns are articulated in the EU level remains as a question to be answered in the upcoming parts of the study in the light of empirical findings from the interviews. The governmentality of unease perspective of Bigo is considered as a potential explanation to the new power relations after the refugee problem escalated into a “crisis” in the EU discourse and the new direction of EU that became clear after the revitalization of EU-Turkey relations in November 2015 and the March 2016 agreement between EU and Turkey for the readmission of refugees.

3.3 Literature on Turkey-EU Relations and JHA

There are also some case studies and scholarly analyses on Turkey particularly focusing on its relations with the EU regarding JHA, especially the visa liberalisation process and the Readmission Agreement.

Wolff (2014) discusses the negotiation of readmission agreements with Morocco and Turkey. Wolff underlines that EU revised the design of the readmission agreements according to domestic and regional factors. Wolff attributes position of *hard bargainers* to both Turkey and Morocco. Underlining the fact that EU provided incentives to two countries different ways; a Mobility Partnership for Morocco and visa liberalisation for Turkey, Wolff argues that these incentives were constrained by domestic factors in Turkey and Morocco. She also suggests that the migration control practices of Morocco and Turkey are shaped by the EU migration governance exported through a readmission agreement as a policy instrument.

Another work by İçduygu and Aksel (2014) focus on the negotiations regarding the readmission agreement between EU and Turkey from a Turkish perspective. It is underlined that Turkey is a “unique and anomaly case” due to its long membership process dating back to 1963. Also, urgency of the issue is underlined because of the recent developments regarding irregular transit migration between Turkey and EU. One of the critical suggestions of the article is the role of domestic politics and concerns about influencing public opinion in Turkey. They suggest that such concerns matter significantly especially in times of elections. The authors also underline the “highly political character” of the Readmission Agreement within the context of Turkey’s EU membership process. The negotiation process is, according to the authors, was not smooth. It involved ups and downs and occasional refusals to comply from negotiating partners. İçduygu and Aksel (2014) also conceive of the agreement as where international and domestic politics converge. They argue that both international relations and domestic politics are effective in determining the motivations and concerns of the Turkish Government in the process. The scholars consider the interaction and convergence between international and domestic factors as an example of *linkage politics*, a term coined by Rosenau (1969). Furthermore, regarding the EU candidacy and the readmission negotiations, they point out the negative consequences of those negotiations on one another. However, they also stress

that the urgency of the migration management created a “reciprocal and inevitable tie between Turkey and the EU” (p. 361).

One of the most outstanding arguments of İçduygu and Aksel (2014) is that influencing public opinion for the elections is of significant concern for the Turkish officials and politicians as they conduct the Visa Liberalisation Dialogue with the EU. Authors stress that the negotiations for the readmission agreement started just before 2011 general election and the agreement was signed by the end of 2013 prior to the 2014 local elections. Similarly, the agreement on a Turkey-EU Joint Action Plan and the start of a new series of high-level talks between EU and Turkey took place just a few days before the November 2015 general elections in Turkey. Consequently, it might be viable to argue that concrete steps towards getting a visa-waiver from the EU is expected to create a positive public opinion in favour of the government in the elections.

Alexander Bürgin is another scholar who works extensively on the Turkey-EU relations within the Readmission Agreement and Visa Facilitation Dialogue. Bürgin (2013) argues that favourable conditions in problem, politics and policy opened a window of opportunity for policy change for EU and Turkey. The Commission offered Turkey a Visa Liberalisation Dialogue following its own footsteps in Balkan countries. Also, it was not defensible for the Commission to not start a visa liberalisation process with Turkey after granting visa-waiver to Balkan countries and opening talks with Ukraine and Russia for visa liberalisation. The salience of the refugee problem contributed to Commission’s argumentation. Bürgin also perceives the synergy between the Danish Presidency of the Council and the Commission as a favourable condition which increased the effectiveness of the Commission’s pressure on Member States to open a Visa Liberalisation Dialogue with Turkey. Like İçduygu and Aksel (2014), Bürgin also underlines the importance of the talks for reenergizing Turkey’s EU accession talks. A more recent article by Bürgin (2016) focuses on why EU still matters in Turkish politics, based on his analysis of the reforms in migration policy. According to the author, despite losing popularity in Turkey, EU is relevant for Turkish politics as it is still able to set incentives for compliance, such as opening new negotiation chapters for membership and offering a visa-waiver, and because of the impact of the restrictions and regulations regarding the financial resources provided through the pre-accession assistance.

There are also other relevant scholarly works especially from Turkey which contribute to the different aspects of the subject matter. For example; Vollmer, Sert and İçduygu (2015) emphasize the need in the migration literature “to rethink the concepts in order to move beyond the Western Eurocentric perspectives” (p. 233). Kaiser and Kaya (2016) provide a detailed overview of Turkey’s legal reforms in migration and asylum policies, mostly in line with the EU *acquis communautaire*,

while Jørgensen (2016) does the same from a foreign and security policy perspective. Aydın-Düzgit and Kaliber (2016) open so-called *de-Europeanization* of Turkey to discussion.



4 Description of the Case

The EU-Turkey deal is not a process where the variety of actors described previously simply take part in clear-cut political negotiations and straightforward technical processes. It is a fragile, and highly politicised process which has legal, political, social and humanitarian dimensions. The legal aspect of the issue is based on EU *acquis communautaire*, the international agreements, and special arrangements between EU and Turkey based on the consensus reached by parties on joint actions. The social, political and humanitarian dimensions of the issue, on the other hand, are affected by domestic developments in Turkey and also the developments in the international domain, especially in Europe. In that regard, this chapter aims to describe the ongoing process within such an international environment while also providing an overview of the domestic events that are influential in changing the course of negotiations. Providing an outlook of the important building blocks and key moments in negotiations is necessary before moving to an analysis of the case based on the conceptual framework explained in the previous chapter.

4.1 The Legal Basis

The migration, visa and asylum policy was transferred to the Community pillar with the Treaty of Amsterdam signed in 1997. With this transfer it was decided that new instruments in those policy areas would be managed at the EU level. With the entry into force of the Treaty of Amsterdam in 1999, the Union was authorized for the first time to conclude readmission agreements with non-Member States. Readmission agreements with relevant countries were encouraged in the subsequent meetings of the European Council (European Council, 1999). With the Treaty of Lisbon, a constitutional basis is established for cooperation with third countries in matters regarding migration¹⁰. Furthermore, the Article 216 of the Treaty of Lisbon provided EU the right to conclude international agreements which will be binding on its Member States.

Article 79 of the Treaty on the Functioning of the European Union (TFEU) envisions a common immigration policy for the EU Member States. It also defines that the decisions in this policy area are to be made by the Council and the Parliament, acting in accordance with the ordinary legislative procedure. Furthermore, paragraph 3 of the Article 79 gives specific permission to the EU conclude bilateral readmission agreements with third countries¹¹.

¹⁰ See TFEU Article 78 2(g)

¹¹ See TFEU Article 79

Visa regime of the European Union towards third countries is governed by the Council Regulation 539/2001. Visa policy is an EU competence; it is not a shared competence. Article 77, paragraph 2 of TFEU defines the EU competence on the visa policy.

4.2 Bilateral Negotiations

The Council requested a readmission agreement with Turkey for the first time in April 2002. The Seville European Council in June 2002 endorsed this request. The Council granted the Commission a mandate to negotiate a readmission agreement on 28 November 2002. The first informal talks regarding a possible readmission agreement between EU and Turkey started following the December 2002 European Council in Copenhagen. In March 2003, opening of the negotiations for a readmission agreement between EU and Turkey was officially requested by the EU. In the 2003 Regular Report on Turkey's progress towards accession, European Commission (2004) stated that such an agreement is a matter of utmost importance. On the other hand, Turkey saw no urgent need to conclude a readmission agreement with the EU as it was already readmitting its own citizens in line with its obligations under international law. The fact that there were no other readmission agreements under negotiation with the candidate countries was also underlined by Turkey (European Parliament, 2006) who wants to avoid other forms of partnership as a substitute for full membership.

In May 2005, Turkey agreed to open negotiations on the readmission agreement. The readmission talks were backed with a visa facilitation discussion. However, the negotiations between Turkey and EU stopped after four rounds. The accession negotiations of Turkey, started in October 2005, can be considered as the reason for the discontinuation of the readmission talks. Turkey, committed to full membership at the time, wanted to focus on accession negotiations and, again, avoid alternatives to full membership which may delay or replace membership in the long run. Back then, the expectation in Turkey was to become a full member soon. In that case, visa liberalisation would be meaningless. In the revision of Accession Partnership with Turkey¹² in 2006, EU called Turkey to conclude urgently a readmission agreement with the EU (Council of the European Union, 2006). This call is important in the sense that it directly links the readmission agreement with the accession of Turkey by mentioning the agreement in a document directly related to the membership negotiations.

The years between 2005-2010 were not very positive in Turkey-EU relations and this negative atmosphere also influenced the negotiation of the readmission agreement. Harsh stance of France against Turkey's membership under the leadership of Nicolas Sarkozy and the accession of Cyprus to

¹² The accession partnership is an EU instrument which aims to provide guidance to candidate countries in their preparations for accession. The first accession partnership for Turkey was adopted in March 2001 by the Council. It was revised three times in 2003, 2006 and 2008.

the EU without an agreed solution to the political problem in the island caused a distrust on the Turkish side (A. Stiglmeier, interview, 28 January 2016). There were also political and policy-wise consequences: The Council decided to freeze membership negotiations in 2006 because of Turkey's rejection to open its ports and airports to trade with Cyprus. This decision was followed by French and Cypriot decisions to block the opening of some other chapters. Consequently, the public in Turkey lost its hope for EU membership. Interviewees from academic and business circles in Turkey argue that this period is characterized by the "ignorance of the EU towards Turkey" (H. Nuray, interview, 2 June 2016; B. Kaleağası, interview, 31 May 2016). A representative from the European Union also confirmed this attitude of the EU, and noted that EU neglected Turkey for a while and did not seek ways to enhance cooperation with Turkey. According to the representative, especially newly elected governments in France and Germany, led by Nicolas Sarkozy and Angela Merkel respectively, adopted and promoted a more reluctant attitude towards Turkey as they wanted to ensure the stability in the newly enlarged EU before negotiating a further enlargement. This attitude was influential until the refugee crisis emerged and the need for deepening cooperation with Turkey became clear (Bravo, interview, 1 July 2016). Simultaneously, raising hopelessness about the EU membership and reform fatigue in Turkey also influenced the EU position and caused EU to distrust Turkey's willingness and openness to cooperation. During this era, the idea of a privileged partnership, as an alternative to full membership, became more vocal than ever in the EU circles.

As the accession negotiations of Turkey lost momentum and almost stopped due to political reasons, the readmission agreement and visa facilitation came to the fore again. Both sides realized that the full membership of the Turkey is not happening in a foreseeable future, so the other channels of bilateral cooperation started to be discussed. On the other hand, the political instability in the Middle East following the United States intervention in Afghanistan and Iraq; the Arab Spring; and the rise of ISIL initiated a mass displacement in the Middle East, creating the biggest flow of migration since the World War II. The geopolitical position of Turkey as the most important transit route between its politically instable neighbours in the Middle East and the Schengen Area contributed to the urgency of a cooperation between EU and Turkey regarding the control of irregular migration.

A new round of negotiations for a readmission agreement started in December 2009. Turkey was already in favour of readmitting its own citizens and residents. The main problematic aspect of the Readmission Agreement for Turkey was the readmission of third country nationals who illegally

crossed borders. The discussion on third country nationals is not unique to the Turkish case¹³; as an interviewee who works for the DG HOME confirmed: The most debated aspect of the readmission agreements is the readmission of third country nationals. Such is a general characteristic of the readmission agreements between non-Member States and the EU, as the transit countries tend to avoid responsibility for the citizens of third countries. To overcome this challenge, it became a common practice for the EU to offer certain initiatives to the non-Member States in exchange for accepting to readmit third country nationals (Charlie, interview, 28 January 2016). Visa facilitation and visa liberalisation are among the most preferred instruments for this purpose as visa-free travel to the Schengen Area is also very attractive for non-Member States.

As the new round of negotiations started, Turkish government made it clear that visa liberalisation is an indispensable part of the deal. Different from the other countries who agreed on signing readmission agreements with the EU, Turkey demanded visa liberalisation, not facilitation¹⁴. In other cases, such as Moldova, visa liberalisation was granted only after an interim period of visa facilitation. Although visa facilitation was already offered to Turkey, the Turkish Government demanded full liberalisation as a part of its political strategy towards the EU, as noted by an officer from DG HOME (Charlie, interview, 28 January 2016).

After almost 2 years of negotiations, chief negotiators of the European Commission and Turkey agreed on a draft EU Readmission Agreement with Turkey in January 2011 and concluded the negotiations. The draft text was shared with the public and then it was initialled on 21 June 2012. Following this, the Council invited the Commission to “take steps towards visa liberalisation with Turkey as a gradual and long-term perspective” (Council of the European Union, 2012). This view was also endorsed by the European Parliament in its resolution on 18 April 2013 (European Parliament, 2013).

Finally, the EU-Turkey Readmission Agreement was signed on 16 December 2013. The agreement entered into force on 1 October 2014, except the provisions regarding third-country nationals. It was agreed that the “third country nationals” clause would be effective after 3 years, on 1 October 2017. Simultaneously with the signature of the agreement, the Visa Liberalisation Dialogue with Turkey started based on the “Roadmap towards visa-free regime with Turkey”. The Roadmap, which consisted of 72 criteria Turkey has to align itself with in order to get visa liberalisation, was produced by the Commission in consultation with experts from Member States. Commission made

¹³ For example, Scheieffer (2003, p. 355) underlines the difficulty of including third country nationals and Stateless persons in EU readmission agreements. He notes that even during the successful negotiations with Hong Kong, Macao and Sri Lanka, a significant amount of time was spent discussing obligations concerning those persons.

¹⁴ Visa facilitation involves faster and easier issuing of Schengen visas for certain categories of applicants while visa liberalization completely revokes the need for a Schengen visa for short stays.

in the Roadmap clear that once it considers all the requirements in the Roadmap fulfilled, it would present to the European Parliament and the Council a proposal to amend the Council Regulation (EC) 539/2001 to lift the visa requirement for the short stays of Turkish citizens. The 72 criteria in the Visa Liberalisation Roadmap are organized in five thematic groups – also called blocks: (1) document security, (2) migration management, (3) public order and security, (4) fundamental rights, and (5) readmission of irregular migrants (European Commission, 2013).

As the Visa Liberalisation Dialogue officially started, Turkish Government submitted an “Annotated Roadmap” prepared by its Ministry for EU Affairs, Ministry of Foreign Affairs and Ministry of Interior. This document contains the comments and concerns of the Turkish side regarding the 72 roadmap conditions, and it was presented to the Commission in the first meeting of the Visa Liberalisation Dialogue by then-Minister of Foreign Affairs Davutoğlu. The annotated version of the Visa Liberalisation Roadmap was included as an annex to the agreed minutes of the first meeting of the Turkey-EU Visa Liberalisation Dialogue. The agreed minutes, which are co-signed by Ahmet Davutoğlu and Cecilia Malmström, then-Commissioner for Home Affairs has a noteworthy clause which is important for the purpose of this work: The clause 2 of the agreed minutes states that “the two sides agreed that the Visa Liberalisation Dialogue would be conducted on the basis of the *annotated* Roadmap” (European Commission & Government of the Republic of Turkey [Turkey], 2013, p. 1; emphasis added). In other words, the Roadmap as it is amended—in practice—according to Turkey’s wishes was accepted as the basis for the negotiations instead of the original Roadmap prepared by the Commission. Also signed by the Commissioner Malmström, the agreed minutes of the meeting can be considered as an official recognition of the Turkish demands from the EU as well as its criticisms towards the several roadmap conditions. For example, in the very first annotation about the overall process, Turkey noted;

“Turkey looks forward [...] to discuss the contents of the Roadmap, by demonstrating that some of the problems feared by the European Union are exaggerated, not relevant for the visa liberalization, are no longer justified, or can adequately be prevented or addressed through measures alternative to those suggested in the Roadmap.” (European Commission & Turkey, 2013, p. 3)

Above annotation carries a clear message to the EU that although Turkey does not agree with all of the provisions in the Roadmap, it is willing to continue the dialogue and cooperation aiming to convince the EU during the negotiations that some of the rules put forward by the Commission are irrelevant or can be solved through other policy alternatives than those suggested by the EU. Yet, it is still committed to negotiate and get visa liberalisation. In sum, Turkey signalled that it is willing to cooperate but only if it is allowed to modify the rules of the cooperation according to its own wishes.

Some other notes in Turkey’s Annotated Roadmap are also significant to understand the motivations and strategies of Turkey. For example, it is noted that

“In case the foregoing amendment [by the Commission to lift visa restrictions] is not realized at the same time of the entry into force of the Readmission Agreement for third country nationals, Turkey will consider to take the necessary steps according to Paragraph 5 of Article 24 of the Readmission Agreement.” (European Commission & Turkey, 2013, p. 4)

The quote above clearly shows that the Turkish Government perceives the visa liberalisation as an inseparable part of the readmission agreement and it is not going to compromise on that point. The article mentioned in the quote entitles Turkey –or EU– to denounce the Readmission Agreement with prior official notification (EU-Turkey Readmission Agreement, Article 24). By attaching such a note to the Roadmap, Turkey emphasized that it will not refrain from using this measure in case its demands for visa-free travel to the EU are not realized. As a matter of fact, in April 2015, approximately half a year after the signature of the EU-Turkey Readmission Agreement and the simultaneous start of the Visa Liberalisation Dialogue, the Turkey’s Minister for EU Affairs and Chief Negotiator Volkan Bozkır noted that Turkey would terminate the Readmission Agreement if the EU does not keep its promise and lift the visa requirement for Turkish citizens (“Bakan Bozkır’dan AB’ye vize resti”, 2015).

Apart from the process itself, Turkey also put several annotations regarding the content of the Roadmap. Particularly, Turkey stressed that it has already fulfilled several criteria with its new *Law on Foreigners and International Protection* (Turkey: Law No. 6458). It was also mentioned that some of the benchmarks such as alignment of the Turkish visa policy with the EU visa policy, and the abolishment of the visa requirement for all EU citizens can only be possible upon Turkey’s accession and implementation of visa liberalisation respectively. Among the 4 blocks of the Roadmap, the most severe criticism posed by Turkey is towards the fourth one, the block on fundamental rights. It was noted that “Turkey has sufficiently fulfilled the political criteria and started the accession negotiations with the EU. Turkey considers therefore that this title is not directly related with the visa dialogue”. Thus, Turkey reaffirmed its critical attitude towards the non-technical, political conditions associated with the visa liberalisation process by the EU; such as citizen rights, protection of minorities, and freedom of movement.

On 29 November 2015 a high-level EU-Turkey Summit took place. At this summit, sides agreed to activate the provisions regarding the third-country nationals on 1 June 2016 instead of 1 October 2017. This agreement can be considered as a response to the growing urgency of the refugee crisis in Europe which will be elaborated in detail.

On 7 March 2016, following the meeting with the Turkish PM Ahmet Davutoğlu, the EU heads of state or government agreed to “accelerate the implementation of the Visa Liberalization Roadmap with all Member States with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016” (European Council, 2016a).

On 18 March 2016, Turkey and Members of the European Council agreed on new action points. According to the new arrangement, parties agreed that new irregular migrants crossing from Turkey to Greece from 20 March 2016 would be returned to Turkey. Furthermore, for every Syrian returned to Turkey, another Syrian in Turkey will be resettled in the EU in accordance with the EU and international norms (European Council, 2016b).

On 4 May 2016, European Commission published its third report on Turkey's progress on the Visa Liberalization Roadmap and sent a proposal to the Parliament and the Council to empower them to revoke visa requirements for Turkish passport holders for their short stays in the Schengen Area. According to the progress report, Turkey has fulfilled 65 out of 72 criteria described in the Visa Liberalisation Roadmap. Further work is needed on issuing of biometric passports¹⁵, improvement of Turkish laws against corruption¹⁶, improvement of effective judicial cooperation in criminal matters with the EU Member States, conclusion of an Operational Cooperation Agreement with EUROPOL, adoption and implementation of the legislation on the protection of personal data based on the EU norms, revision of the definition of terrorism in Turkish law¹⁷, and implement the EU-Turkey readmission agreement with a solid track record (European Commission, 2016b).

4.3 Domestic Developments in Turkey

4.3.1 Elections

In the short period between the reactivation of readmission negotiations in 2009 and the Commission's proposal to lift visa requirement, 5 elections took place in Turkey. Four of these elections happened in 2014 and 2015 and had important consequences concerning the domestic actors and power relations within the country. At the same time, such changes in domestic politics inevitably influenced the foreign policy and the rhetoric about the relations with the EU.

First of those elections was the general election that took place in 12 June 2011. The ruling AK Parti won the parliamentary majority again and Recep Tayyip Erdoğan was elected as the Prime Minister for his third and last term. Following this election, the Ministry for EU Affairs was officially established and the former state minister and chief negotiator Egemen Bağış was appointed as the minister¹⁸. The 2011 General Elections marked a continuation of the foreign and domestic policies of the successive AK Parti governments.

¹⁵ in compliance with ICAO and EU standards

¹⁶ by adopting legislation based on the recommendations by the Council of Europe Group of States against Corruption (GRECO)

¹⁷ in order to narrow the scope

¹⁸ Before 2011, the negotiations with the EU had been coordinated by the General Secretariat of EU Affairs working under the office of the Prime Minister. The chief negotiator with the EU was a *minister of state*. In Turkish bureaucracy, a Minister of State used to be a minister without portfolio who only has political authority and duties and is not responsible for delivery of public services. State ministries were abolished in 2011 and the state ministers were replaced by either new ministers with specific portfolios or deputy prime ministers.

Second of the five elections took place on 30 March 2014. That was a local election although it was extremely politicised. It was politicised as such because it was the first nation-wide election since the Gezi Park protests, which was the biggest civil unrest against the ruling AK Parti. Also, the 2013 corruption investigation against the family members of the ministers of Erdoğan's cabinet; the voice recordings allegedly involving Erdoğan, members of the AK Parti, businessmen and other influential persons in Turkish politics; Erdoğan's declaration of war against the *parallel state*¹⁹; and criticisms of the foreign policy of Erdoğan in Syria and the Middle East caused him to raise his tone against the opposition, contributing to the already existing political polarisation in the country. This election was considered important both by the ruling party and the opposition to see the actual effect of the political tension in the country on the ballot box. AK Parti was successful in maintaining its strength in domestic politics. Local candidates from Erdoğan's party secured 19,5 million votes which corresponds to 42.9% of the valid votes.

In August 2014, election of the President of the Republic took place. Erdoğan was elected as the President of the Republic by securing 51% of the votes. After the elections, Erdoğan made it clear that he would be an "active" President of the Republic as he was elected by popular vote, unlike his predecessors²⁰. Erdoğan endorsed the Minister of Foreign Affairs Ahmet Davutoğlu as his successor for the leadership of the AK Parti. Davutoğlu entered the AK Parti congress as the sole candidate and he was elected as the new leader of the party, and he was appointed as the prime minister shortly afterwards.

In 7 June 2015, the parliamentary elections took place. The new leader of AK Parti, Ahmet Davutoğlu was not able to secure parliamentary majority required to form a single-party government in his first election. After the subsequent failure of the coalition talks with other parties, a re-election took place on 1 November 2015. This time, AK Parti secured the parliamentary majority and formed a single-party government under the leadership of Ahmet Davutoğlu.

The continuum of election periods in Turkey had important effects on the Turkey-EU relations and the visa liberalisation process. The instability in domestic politics, continuously politicised atmosphere of subsequent elections, frequent changes in the government and cabinet, adjustment period for the new power relations within the state prevented Turkish Government from focusing on the relations with the European Union. Maintaining stability and power in domestic politics became the main priority of the government. Between June 2011 and May 2016, the Minister

¹⁹ In 2013, President Erdoğan declared war against the so-called *parallel state* structure within the bureaucracy established by the followers Fethullah Gülen for gaining political control over the Turkish state.

²⁰ It was the first time the President of the Republic would be elected by popular vote. Before 2014, the President was elected by the Parliament.

for EU Affairs changed 7 times. 6 different people held the position. This kind of relocation of political elite, although most of them follow the same political tradition, caused a lack of focus and consistency in relations with the EU. The highly politicised rhetoric on the EU was also significant within the atmosphere of consecutive elections.

4.3.2 Economic Recession

Although the Global Economic and Financial Crisis did not affect Turkey as much as the economies of Europe, an economic recession took place in the years that followed. Turkish economy lost its momentum. Global negative trends in economy, coupled with instability in domestic politics of Turkey created the ongoing recession. The growth rate declined, Turkish lira lost value against foreign currencies, and the inflation rate significantly increased. Under these conditions, boosting trade relations with the biggest trade partner of Turkey, European Union, gained more importance. Also connected to the normalisation of relations with the EU following the *positive agenda* adopted in 2012, Turkey and EU decided to upgrade the customs union²¹. Improving trade relations is also important for the visa dialogue for two reasons: First, both the Customs Union and the visa liberalisation process can be seen as concrete steps towards better integration of the Turkey to the EU system considering the expectation of full membership in the future. Secondly, the visa requirement for Turkish citizens, as confirmed by the interviews, act as a non-tariff barrier to free trade between Turkey and EU by limiting the mobility and interaction of business people with their European counterparts, hence damages the essence of the Customs Union (B. Kaleağası, interview, 1 June 2016).

4.3.3 Terrorist Attacks and the Kurdish Problem

The open border policy of Turkey for the Syrians escaping war also resulted in uncontrolled entry of people associated with terrorist organizations. It is known that many PKK-affiliated militants and ISIL-affiliated warriors entered Turkish territory, disguised as Syrian refugees. Furthermore, the suspension of government's conciliatory Kurdish initiative following the break of ceasefire by PKK caused the armed Kurdish groups to reunite and organize armed and bombed attacks towards Turkish state, as well as civilians.

On one hand, Turkey underlines the need for cooperation with the EU for controlling irregular migration to prevent uncontrolled entry of terrorists from Syrian border into the Turkish territory. However, there is also an aggressive tone in the Turkish Government against European

²¹ The expectation from the upgrade is towards the inclusion of free movement of services in addition to the free movement of goods in the Customs Union. Also, several imbalances embedded in the current customs union and better integration of Turkey to the other trade agreements EU has concluded with third countries are on the agenda of the dialogue for the upgrade of Customs Union.

politicians who, according to the statements of the Turkish Government, support terrorist organizations and act hypocritical while dealing with the refugee crisis.

4.3.4 Conflict of Interests in the Middle East and Turkish Foreign Policy

Besides the relations with the EU, Turkish foreign policy is also having difficult times. In Syria, the strong anti-Assad rhetoric of the Turkish leadership could not find the desired support within the international community. On the contrary, Assad regime was able to reunite a considerable amount of forces and push some of the ISIL forces back. Relations with Russia escalated into a huge political crisis and conflict between two strong leaders after the shooting of a Russian plane violating the Turkish border. The regional leadership role among the Islamic countries of the Middle East associated with Erdoğan and his AK Parti also struggled due to the political instability in the region, especially in Egypt.

Under those conditions, it was inevitable for Turkey to seek empowering its already existing alliances in foreign policy via reenergizing its communication with the EU and NATO. The intensification of the communication with EU, the United States and Israel can be associated with such a search for strong alliances in foreign policy. Yet, the conflict of interests in the Middle East between different actors hampered the influence of such communication.

4.4 Internal Developments of the EU

4.4.1 Refugee Crisis

European Union is facing the most serious flow of irregular migrants in its history. According to UNHCR, there are more than 4.75 million registered Syrian refugees. Apart from the Syrians, there are also many people escaping from violence in Iraq and Afghanistan. Between 2011 and March 2016, over 685,000 asylum applications have been made to the EU countries²².

The irregular migration from Middle East to the EU was already taking place before it became the hottest topic in the European agenda. However, after the closure of the Balkan route due to the border fences built between Greece and Turkey followed by the ones between Bulgaria and Turkey, more and more refugees started using the dangerous Mediterranean route to reach Greek or Italian islands with the help of human traffickers. As the pictures of people drowning in the Aegean Sea became more visible on media, especially after the shocking photo of the drowned body of 3-year-old Alan Kurdi, the refugee crisis became the hottest issue.

The refugee crisis was an important case where the already criticized Dublin system was severely tested. Obviously, the EU policy failed the test. Particularly, unwillingness of the Member

²² Norway and Switzerland are also included in this data

States to accept asylum applicants created the uncontrollable accumulation of refugees in the Southeast Europe. Coupled with the already existing economic problems of those countries, the crisis caused deep domestic problems and gave birth to severe criticism of the dysfunctional burden-sharing mechanism of the EU (Pascouau, 2015).

In line with the political guidelines he declared, which include a new policy for migration among top priorities for the Commission, European Commission President Jean-Claude Juncker appointed Dimitris Avramopoulos as a commissioner with special responsibility for migration. Also VPs Frans Timmermans and Federica Mogherini have been deeply involved in the formulation of the new EU policy for migration. To address the refugee problem EU policy-makers agreed on a ten-point action plan on migration in April 2015. This immediate response is followed by a more comprehensive European Agenda on Migration adopted by the Commission in May 2015. The European Agenda on Migration underlined the effectiveness and importance of the cooperation between EU and Turkey in controlling irregular migration (European Commission, 2015a).

The most significant effect of the refugee crisis on EU-Turkey relations was initiating a new and intense dialogue between two sides. Both parties, which were reluctant and distrustful towards each other for the past years, realized that they had to reenergize the relations and deepen the cooperation to provide an effective response to the refugee crisis.

4.4.2 Terrorist Attacks

The uncontrolled flow of refugees originating from Middle East also made the EU territory attractive to terrorist organizations. Although terrorist cells in different parts of Europe already existed, the crisis facilitated the logistics especially for terrorist organizations originated from Middle East. Since the beginning of the political instability in the Middle East, many radicalized EU citizens also joined ISIL to fight for the Islamic caliphate. Some of them went to Syria or Iraq, received training and came back to Europe afterwards.

There were some smaller scale terrorist attacks in the EU territory, conducted by radical Islamist groups since the start of the civil war in Syria. However, two terrorist attacks in the European capitals of Paris and Brussels in 2015 and 2016 shook the European public the most. As both attacks had connections with ISIL, the anti-Islamic rhetoric in Europe, championed by the far-right populist parties, gained significance. The attacks caused all the refugees coming from Muslim countries to be promoted as potential terrorists. The high level of alertness against terrorism caused the security controls on regular migrants and tourists to be tightened.

4.4.3 Rise of Intra-EU Borders

Terrorized by the attacks in European capitals and alerted by the social problems caused by the irregular flow of immigrants, several Schengen countries introduced “temporary” border controls between each other. Germany, Austria, Slovenia, Hungary, Malta, Sweden, France, Norway and Denmark introduced temporary border controls in certain parts of their borders with other Schengen countries due to the big influx of irregular migrants.

The rise of intra-EU borders induced debates about the future of Schengen system, and also the European integration in general. The role of EU-Turkey deal was emphasized by several influential actors in EU politics as a means to manage irregular migration with the purpose of bringing Schengen back (Hokovský, 2016).

4.4.4 Brexit

Another important intra-EU dynamic which also influenced Turkey-EU relations was the British referendum on leaving the EU. David Cameron, the British Prime Minister, promised a referendum for leaving the EU in case he won the general elections of 2015. After his party was successful in the elections, it was decided that the UK will hold a referendum on 23 June 2016. This decision was especially welcomed by the Eurosceptic UK Independence Party (UKIP).

Possibility of the UK leaving the EU influenced the power balances within the Union which deals with many internal and external pressures at the same time. It also caused the EU politicians to approach the new EU actions in foreign policy such as the EU-Turkey deal more carefully also considering the consequences of a possible UK leave.

The most important implication of the Brexit debate on the Turkey-EU relations is the domestic debate in the UK about Turkey. One of the most popular arguments used by the Eurosceptical Brexit camp is that the normalization of Turkey-EU relations will lead to an eventual membership of the Turkey, which will be devastating for the EU and the UK. To counter those arguments and cool the public opinion down, the pro-EU camp argues that Turkish membership will not happen in a foreseeable future. While those populist arguments fight in the domestic politics for public support, the side effect of such a debate is the alienation of Turkey from the UK.

The leave campaign was able to secure the majority with 52% in the Brexit referendum held on 23 June 2016. This success of the Eurosceptics in the UK resulted in other Eurosceptical parties in Europe to voice their demands for EU referendums in the Member States such as the Netherlands, Denmark and France. As a reaction to the referendum results, Erdoğan also brought forward the idea of an EU referendum in Turkey, in order to decide whether or not to continue membership negotiations with the EU (Sheftalovich, 2016). On the other hand, exit of the UK from the EU also

means that Turkey lost a historical supporter of its EU membership. The accession negotiations of Turkey were started in October 2005 with the support and insistence of the UK, who was holding the Presidency of the Council at the time.



5 Revealing the Deal: Reflections in the light of theories

In this chapter, positions adopted by different actors at the different phases of the negotiation process will be elaborated with the corresponding theoretical lens. There are several reasons why an array of theories is utilized instead of one. First reason is the inherent limits of external governance. Although governance perspective to policy-making, in general terms, covers a broad range of policy areas in domestic and international politics where an interactive relation between the government and the governed, the EU external governance approach is a limited application of the principles of governance to explain the EU's role as an actor in international politics. Hence, it is only relevant when explaining the actions taken by the EU. Yet, it provides the theoretical instruments to especially see the dynamics of EU conditionality on Turkey in the early phases of negotiations. As this study aims to adopt a broader approach to the negotiations by also including the Turkish perspective, other theoretical approaches were needed to understand the position of Turkey, which is a sovereign unitary state that acts in compliance with its traditional role as a state actor in international politics, unlike the EU. Furthermore; the prolonged candidacy of Turkey, and its cultural, historical and contemporary socio-economic ties and conflicts with Europe make Turkey a unique case with a *sui generis* relation with the EU, especially concerning EU conditionality. This *sui generis* nature of relations makes theories about EU enlargement applied to other cases less useful. Therefore, in explaining the position of Turkey, the theories developed by the academic circles associated with Turkey are utilized. The second reason behind the theoretical diversity is the changes in motivations and strategies during the process. The EU external governance is able to explain the institutional motives of the EU to some extent but this study shows that after a certain point in negotiations, the institutional role of the EU as a norm setter becomes less important and Member States directly intervene into the process, driven through their security oriented concerns deepened by the refugee crisis. The dynamics and implications of such a shift will be elaborated upon in the upcoming sections.

5.1 Motivations and Strategies of the European Union

As briefly discussed above, the case of EU-Turkey relations is a laboratory *par excellence* for the purpose of understanding EU external governance at work. The visa deal is a useful case for tracing the route of EU rules and norms as they travel beyond EU borders. However, such an analysis also reveals the shortcomings of the external governance approach which is essentially based on an institutionalist analysis of the policy transfer. Describing the shortcomings of external governance and seeking alternative theoretical alternatives to fill the gaps in understanding the motivations and strategies is the primary purpose of this section.

As noted by Lavenex and Schimmelfennig (2009), the enlargement is the most prominent case of EU external action. It is also considered as the most successful foreign policy of the EU by European Commission, as noted by two scholars. This implies that enlargement is also the most prominent conveyer of the EU external governance. Therefore, the limits of enlargement also define the limits of certain forms in which external governance takes place. Membership conditionality is one of those forms. In that regard, the case of Turkey is very important as Turkey has been in the centre of debates concerning the limits of enlargement at least for the past two decades. For most of the European politicians who are against the membership of Turkey, European Union has already reached its eastern limits. There are both geographical and historical reflections embedded in such discourses²³. Besides the discussion about whether Turkey is in Europe or not, even if it is considered as a borderline case, Turkey being the easternmost candidate of the European Union is where EU external governance takes place on the basis of enlargement, thanks to the EU conditionality.

The membership conditionality is an overarching phenomenon which covers a wide range of policy areas. In its core, it describes the nature of the policy transfer from EU to Turkey. Accordingly, separating the visa liberalisation process from the EU accession of Turkey is not appropriate. The overall process is closely associated with the membership negotiations of Turkey by both sides. This was reaffirmed by both parties at the first meeting of the Visa Liberalisation Dialogue that took place in December 2013. The agreed minutes of the meeting, although not explicitly, reaffirm that the visa dialogue between EU and Turkey is not just a dialogue between EU and a third country but rather a dialogue between EU and a candidate country (European Commission & Turkey, 2013). Since then, outputs of almost every high-level meeting between EU and Turkey also referred to the candidacy of Turkey. For example, the joint action plan for the refugee crisis agreed on 15 October 2015 notes that “*Negotiating candidate country Turkey* and the EU are determined to confront and surmount the existing challenges in a concerted manner” (European Commission, 2015b, p. 1; emphasis added). Similarly, at the 29 November 2015 international summit between EU leaders and Turkey where this joint action plan was officially adopted and the direction of the cooperation between Turkey and the EU in response to the refugee crisis are outlined, the sides at the same time agreed to reenergize the accession process of Turkey and open a new chapter to negotiations.

The close connection between the membership negotiations of Turkey and the visa liberalisation process implies the existence of *governance by conditionality* in principle, because

²³ Depending on the history and geography of Turkey, the author of this study does not find such arguments convincing. The arguments emphasizing the geographical limits of the European continent depend more on ideological biases rather than the actual geography of Turkey. One of the primary arguments is that Turkey is not geographically or culturally in Europe, but even the area of Turkish territory in Thrace (which is unquestionably in the European continent) is larger than each of the territories of Slovenia, Cyprus, Malta and Luxembourg. On the other hand, historically speaking, there are strong political, economic and socio-cultural ties between European societies and Turkey. Those ties also define the framework of the contemporary relations of Turkey with EU and its Member States.

conditionality is the primary instrument of EU external governance by means of enlargement. Almost all of the interviews conducted for this study confirm that the Visa Liberalisation Roadmap conditions advance the alignment of Turkey with the EU norms and also contribute to the EU membership prospects of Turkey eventually. However, one of the respondents who was extremely critical about the deal argued that the Roadmap conditions are only lip service since most of the legal alignment with the roadmap conditions actually took place through an omnibus bill adopted by the Turkish legislature in one night. The respondent was especially sceptical about the implementation of the new legislation as he claimed that there was no substantial change in the asylum practices of the Turkish Government (H. Nuray, interview, 2 June 2016). Nevertheless, the shortcomings in implementation does not actually harm the motivation behind the Roadmap conditions associated with JHA matters. Even among the EU Member States which, in theory, incorporated overall EU *acquis communautaire* into their national legal system, there are significant differences in implementation. Such differences are the reason why *differentiated integration* has been discussed as a possible principle and instrument of the European Union at its numerous constitutional moments²⁴.

At this point, it is also important to note once again that in the external governance perspective there is an emphasis on the policy-specific logic of rule transfer. Within the framework of the Turkey-EU deal, such a policy-specific logic is materialized with the Roadmap. Although the policy-specific logic seems relevant at the first instance, there is also the problematic aspect of this Roadmap: Although the 72 criteria put forward by the European Commission mostly consist of the guidelines for aligning Turkish laws on visa regime, immigration and asylum with the EU *acquis communautaire*; there are some conditions regarding human rights and democracy which do not fit well into the policy-specific logic of external governance. The freedom of expression, protection of minorities and fight against corruption are also included among the criteria Turkey has to fulfil for the realization of visa liberalisation. As also made clear by the Turkish side in their annotations to the Roadmap, those criteria are mostly political and they are not directly connected with the establishment of a visa-free border regime between EU and Turkey. The political conditions contradict with the policy-specific logic of external governance and signal that there are different mechanisms than the EU external governance in action. Nevertheless, the overall intention of rule transfer is still visible.

The shortcomings of external governance at certain instances in explaining the EU position should not prevent us from employing the analytical instruments provided by this theory. For example, it should definitely be noted that among the three modes of external governance which are

²⁴ Such as the Intergovernmental Conference of 1996-1997 where the Treaty of Amsterdam is formulated

described in the earlier chapters of this study, the visa and readmission dialogue between Turkey and the EU should be in essence an example of hierarchical governance. The precise rules, formal procedures, monitoring and sanctioning are all clearly defined in the Visa Liberalization Roadmap with a direct link to the Readmission Agreement. The formal procedures for handling the asylum applications are established. Also, the policy instruments such as the one in, one out principle are created. The EU agencies closely monitor the implementation of EU-Turkey deal. Finally, the sanctions against failing to comply with the deal are obvious: If Turkey does not effectively implement the deal, it cannot get the visa-waiver. As all those policy instruments formulated at the beginning of the Dialogue show, the original purpose of the deal was to initiate a top-down policy transfer via EU conditionality, supported by an external initiative; the visa-free access for Turkish citizens to the Schengen Area. However, the actual course of events did not follow that logic.

The hierarchical mode of governance, which is also favoured by Lavenex and Schimmelfennig (2009), does not properly take place in the case of Turkey because the direction of hierarchy and conditionality between EU and Turkey is now significantly altered. Turkey is able to assert power as it has capacity to remove the barriers and release, if not facilitate, the flows of irregular migration into European territory. Lavenex (lecture in Amsterdam, 2016) argues that the current case is an example of “reverse conditionality” where the conditions of the deal are determined by Turkey instead of the EU. For example, according to the first version of the Visa Liberalisation Roadmap, the visa liberalisation for Turks would be considered only after Turkey successfully implemented the Readmission Agreement to full extent. However, Turkey was able to get a promise from the EU in March 2016 for a visa-waiver immediately after the entry into force of the third country nationals clause in May, without waiting for the reports on the effective implementation of the agreement. However, although Turkey started implementing the third-country nationals clause in May, the European Parliament delayed the amendment to the Regulation 539/2001 on the grounds that Turkey had not fulfilled the 72 Roadmap conditions. This example shows that the hierarchical governance is upside down at certain instances in this deal and a significant competition for power takes place between two sides. While it is mostly up to Turkey to prevent illegal entries to the Schengen Area and lessen the problems regarding irregular migration in the EU, the European Union co-legislatures still have the power to veto the visa-waiver and thus lay aside the cooperation with Turkey. However, unless the conflict in Syria and Iraq comes to an end, burning bridges with Turkey does not seem to be an affordable option for the European Union.

The existence of the preconditions of hierarchical governance in the EU-Turkey deal is apparent. However, the actual direction of the power relations makes it questionable as the dominant mode of governance taking place. In that regard, a re-evaluation of the case makes it clear that there

are also certain elements in action which resemble a “network mode of governance”. The network model argues that the parties are in institutional terms equal and the measures to be implemented are based on consent of the receiver. Turkey is a sovereign nation-state and the EU rules are not binding for Turkey yet. In that regard, Turkish Government made it clear when they signed the Readmission Agreement that they will not simply import the regulations as they are explained in the Roadmap. Instead, Turkey showed willingness to negotiate the criteria without discarding possibility of alternative reforms than the ones proposed by the EU. By doing so, Turkish side succeeded in opening itself room for manoeuvre²⁵. Approval of those alternative reforms as sufficient for the fulfilment of the Roadmap conditions indicates that this approach of Turkey is also welcomed by the Commission. Such flexibility of the Commission regarding the Roadmap conditions confirm the existence of certain elements from the network mode in addition to the hierarchical structures of policy transfer.

In the light of the analysis based on the modes of external governance provided above, it becomes clear that one of the original motivations of the European Union was to diffuse its norms to Turkey via a carrot and stick approach. The membership conditionality provided the channel of policy transfer and the policy specific sub-conditionality outlined in the Visa Liberalization Roadmap, although not always consistent with the basic presumptions of the external governance perspective, provided the institutional basis for the injection of JHA norms of the EU into the Turkish system. The structure is already there; however, effectiveness of EU external governance is still questionable. Especially during the negotiation process of the deal, EU has been severely criticized for not sticking to its own norms and values. Also, the leverage of the EU on Turkey has been on decline recently. The transfer of EU rules into Turkey was not as smooth as desired. Furthermore, especially since late 2015, the institutional role of the EU has also been challenged by the direct involvement of leaders of Member States including but not limited to Angela Merkel, Mark Rutte, and François Hollande. All those dynamics necessitate a deeper elaboration of the effectiveness of external governance.

The theoretical framework outlined by Lavenex and Schimmelfennig (2009) provide three perspectives in explaining the underlying mechanisms and degree of effectiveness of EU external governance. Those are the institutionalist explanation, power-based explanation, and the explanation based on domestic structure of the receiving party. In this case, all three explanations are useful as the

²⁵ A good example to this is the provisions in the Roadmap concerning the geographical reservation put on the Geneva Convention by Turkey. Although EU demanded Turkey to remove the geographical limitation to granting refugee status, Turkey found a middle-way solution through establishing a new protection regime via its new Law on Foreigners and International Protection. As the 4 May 2016 report on the Roadmap conditions indicate, it was found sufficient by the Commission.

variety in their perspectives and assumptions are helpful in understanding the factors which are influential in weakening EU external governance.

The assumption of the institutionalist approach to external governance was that the effectiveness of external governance depends on the legalization and/or legitimacy of the rules to be transferred (Lavenex, 2009, pp. 802-803). In its essence, the legitimacy argument stresses that the EU rules and institutions to be transferred should be credible and of high quality. This is obviously not true for the EU policies associated with the visa liberalisation process. The refugee crisis demonstrated the dysfunctional asylum regime and unsuccessful burden sharing between EU Member States. The already problematic Dublin Regulation, which was unable to prevent the accumulation of asylum seekers in Southeast Europe, is the migration regime that EU is attempting to transfer into Turkey via its external governance. At the same time, the Roadmap demands a complete adjustment of the Turkish visa policy with the EU norms based on the Schengen *acquis*. The Schengen regime is not in a better position than the Dublin regime in terms of its credibility. The rise of intra-EU borders shortly after the first serious flow of refugees shows that the Schengen regime is vulnerable and the Member States are only too pleased to give up on the core principle of “free movement of persons” in times of such crises. Also, the very complex and inconvenient processes that are required for getting a Schengen visa for third country nationals, disproportionate security checks that go as far as intruding the privacy of individuals, and the border practices of EU agencies such as Frontex are severely criticized (Bigo, 2006). In sum, there is a lack of credibility and legitimacy of the JHA policies and practices even within the EU. The lack of capacity of those policies in solving the refugee problem and other associated problems they create pave the way for the criticisms on the receiving side of the policy transfer. Erdoğan openly blames the EU for being hypocrite in dealing with the refugee problem (Danforth, 2016). Such a lack of credibility and quality significantly reduces the effectiveness of external governance, in line with the institutionalist perspective to external governance.

The second approach in testing the effectiveness of external governance is the *power-based explanation*. This approach emphasizes the bargaining power of the EU and the weight of the EU policies against their alternatives. Lavenex and Schimmelfennig (2009, p. 803) argue that accession process is an example to high bargaining power of the EU. The membership prospect is seen as an extremely strong incentive provided by the EU. However, in the case of Turkey, this incentive is not very strong. The inferences of this study from the interviews point out several reasons for the ineffectiveness of the incentives based on membership conditionality: First of all, the prolonged accession process of Turkey significantly reduced the hopes for full membership. According to a recent study, 66.7% of the population in Turkey believes that Turkey will never be a full member to

the EU (Kadir Has University, 2016). As the membership prospect declines, the accession process stops providing incentives that will contribute positively to the bargaining power of the EU. Secondly, there is a significant lack of trust between EU and Turkey. The same study mentioned above suggests that only 15.3% of the Turks find the attitude of the EU towards Turkey sincere and reliable. Such lack of trust is not only significant among the population, but also among the political leaders. The highly politicised nature of the accession talks, particularly the attitude of former French PM Sarkozy and other anti-Turkey politicians; accession of Cyprus without a solution to the political problem in the island; and the revival of discussions regarding the so-called Armenian Genocide every now and then in the European spheres contribute to this distrust on the side of Turkey. Thirdly, it is a widespread belief, especially among Eurosceptics, that EU is falling apart. Issues such as the economic and financial crisis of 2008, problems with the Schengen zone, and debates on Brexit are the foundations of such arguments. For the proponents of this third reason, EU membership is not as attractive as it used to be.

In addition to the reasons that reduce the bargaining power of the EU vis-à-vis Turkey, there are also some factors that increase the bargaining power of Turkey against the EU. The most important one is more than 3 million Syrian refugees currently accommodated by Turkey. One officer from the EU underlined that as long as Turkey keeps those large number of Syrian refugees in its territory, Turkish Government can easily dismiss all the criticisms regarding its asylum regime (Bravo, interview, 1 June 2016). The massive number of refugees are also used by the Turkish Government to pressure the EU. Erdoğan stated more than once that if EU does not provide visa liberalisation to Turkey, Turkey will open its Western borders and say “bon voyage” to refugees on their way to Europe. In a nutshell, the bargaining power of the EU in this deal is very limited as the only effective initiative it can provide is the visa liberalisation. Opening of new accession chapters can also be an initiative but due to the aforementioned public disbelief in full membership, accession does not serve as a strong initiative for Turkey as it should normally do. Turkey, on the other hand, has an extensive bargaining power due to the high number of refugees it hosts and the amount of money it spends on them.

The third approach to the effectiveness of external governance is based on the domestic structures in the recipient country. The domestic structure explanation emphasizes the domestic resonance of EU rules and the EU compatibility of domestic institutions as the positive factors that contribute to the effectiveness of external governance. Furthermore, the number of adversely affected veto players has a negative impact on the effectiveness (Lavenex and Schimmelfennig, 2009, p. 805). For the case of Turkey, the compatibility argument has implications both in favour and against the effectiveness of EU external governance. Due to its longstanding membership negotiations, Turkey

has already Europeanized a significant amount of its institutions and law. European Union has been the main source, and the main excuse for reform in Turkey in the past two decades. Also, as also confirmed by the interviews, there seems to be no problem with establishing new institutions based on the EU norms or Europeanizing certain policies. The problem is at the level of policy implementation (H. Nuray, interview, 2 June 2016). The structural problems of Turkish public administration and the politicization of the reform agenda prevent an effective implementation of new policies. There are also policies requested by the EU which are not welcomed by the Turkish elite. For example, the EU insists on Turkey to narrow down the definition of terrorism while the Turkish side finds this inappropriate and draws a red line. As for the number of veto players referred as a limit to external governance by the domestic structure explanation, it can be argued that there is almost no powerful veto player in Turkey other than the Government and the Presidency. However, both of them possess a very strong and effective veto power. Therefore, it is not the quantity but the quality of veto players that limits the effectiveness of the EU external governance.

To sum up the whole discussion on the presence of EU external governance in the Turkey-EU deal, the analysis provided above suggests that the EU external governance exists in structure but it is ineffective. Although the early phases of the deal satisfy the fundamental conditions to articulate a form of “governance by conditionality”, the long history of Turkish accession to the EU and the refugee crisis makes the Turkish case an anomaly. One would normally expect that the accession process of Turkey would be the main channel of EU external governance in the visa deal. However, due to the anomalies associated with Turkish case, it is hard to find one-to-one correspondence between the theoretical assumptions of external governance and the case of Turkey. Instead, the analysis provided by external governance provides a valid framework for explaining the EU foreign policy in the early phases of negotiations. The anomalies and the factors explained above severely limit the effectiveness of external governance in the recent deal. Among three different dynamics limiting the effectiveness of external governance, the institutionalist explanation is very significant considering the vulnerabilities of the EU policy in visa, asylum and migration. The limit imposed by the limited bargaining power of the EU vis-à-vis Turkey, and the problems regarding the domestic acquisition of the EU *acquis* contribute to the coming into existence an external governance which is structurally visible but ineffective in practice.

The identified ineffectiveness of the external governance in the negotiations necessitates further theoretical analysis to understand the driving logic behind the process. The theoretical analysis and the empirical findings of this research shows that after the external governance reaches its limits in the EU-Turkey deal, the securitization of migration takes place and the *governmentality of unease* becomes the main approach of the EU, also shaping the negotiations with Turkey.

It is not very clear where exactly the governmentality of unease starts taking place in the Turkey-EU negotiations. It does not necessarily start when the external governance reached its limits as JHA have always been a fertile habitat for securitization. That is mostly because of the fact that immigrant has been the perfect object for securitization, as underlined in the earlier parts of this work, by fulfilling the role of both a domestic and an external threat. There are strong indicators of a securitized EU discourse embedded in the refugee deal, dating back to the beginning of the negotiations for a readmission agreement between EU and Turkey around 2005. However, until late 2015 the governmentality of unease was able to keep a low profile. It reached its climax in the summer of 2015 when massive numbers of irregular migrants started to cross the external borders of the EU.

As mentioned before, the securitization of migration was already visible since the beginning of the refugee crisis. However, the interviews with EU officials indicate that security problems associated with migration are not the primary concern of the EU (Bravo, interview, 1 June 2016; Charlie, interview, 28 January 2016; Delta, interview, 14 June 2016). The two camps in the EU that were described in the earlier parts of this work, i.e. the Merkel camp and the Orbán camp, diverge from each other at this point. While the Orbán camp emphasizes the security threat posed by refugees, the Merkel camp perceives the situation as a problem of integration. Accordingly, the Eurosceptical camp of Orbán does promote nationally formulated solutions and restriction of the influence of Brussels in JHA matters whereas the pro-EU camp led by Angela Merkel support a European solution based on unity, solidarity and burden sharing to the refugee crisis.

The mentality of the pro-European camp is towards deeper EU integration and cooperation with the wider Europe. Their motivations which are previously described are as follows: Firstly, the EU leaders aim to find a humanitarian solution to the refugee crisis. They want to stop people from drowning in the Mediterranean. In that regard, they underline the humanitarian values of the EU. Secondly, they see the refugee problem as a problem of integration, rather than a problem of security. The interviews clearly showed that the EU policy-makers are aware of the fact that the threat of terrorism does not originate from the Syria (Bravo, interview, 1 June 2016; Charlie, interview, 28 January 2016; Delta, interview, 14 June 2016). The terrorist attacks in Paris and Brussels indeed contributed to the security concerns of the public regarding the people from the Middle East. However, the attacks also demonstrated that the terrorists who organize bombed attacks in European cities are mostly European citizens with a history of failed integration. In that regard, the EU leaders who support the European solution to the migration crisis problematize the uncontrolled flow of refugees as a problem of future integration rather than a problem of security. They see them as a threat to the social cohesion rather than a security threat. Thirdly, the pro-European camp tries to

avoid the European Union from falling apart. The European integration has already been badly damaged by the economic and financial crisis. The exit of Greece was seriously discussed although it is off the agenda now. The European integration is now further challenged by the diverging opinions of the EU leaders regarding the solution to the refugee crisis as well as the debates regarding the leave of the United Kingdom.

The Eurosceptical camp led by populist right-wing parties on the other hand is clearly guided by the securitization paradigm. They tend to see every immigrant as a potential threat to European security and they do not refrain from promoting such an idea at the European level. For example, Victor Orbán organized a European tour to promote his 10-point action plan. Those kind of activities confirm Bigo who argues that the transnational organizations such as the European Union act as forums where the nationally generated notion of threat is internationalized. Heavily influenced by the rhetoric of the Eurosceptics, other EU Member States also use this notion of threat to legitimize extraordinary policies such as enforcing intra-EU border controls, building fences and suspending the burden sharing mechanism created by the Dublin Regulation. There is a direct correspondence between the explanation provided by the securitization approach and the practices of politicians in the Eurosceptical camp. The fictional security threat voiced by the Eurosceptical far-right parties was so effective that it became a part of the mainstream political discourse. As one of the interviewees confirmed, “the far-right is able to set the discourse in European politics” (Delta, interview, 14 June 2016).

The widespread panic created in the European public against the refugees pushed the governments of EU Member States to diverge from the EU norms, for example, by reintroducing internal border controls. Such measures are only possible when a serious threat to public policy or internal security has been established according to the Schengen Borders Code (Article 23). As for the visa liberalisation deal, the “governmentality of unease” reduced the objections against giving visa-free access to Turkey, providing substantial financial support, and resettling refugees in the EU territory via the one in, one out system. EU was able to offer Turkey extraordinary incentives together with a fast-track access to the visa liberalisation as long as Turkey keeps the flow of irregular migrants (i.e. the security threat) under control. On the other hand, the same governmentality of unease enabled Member State governments (e.g. Germany) to step right into the negotiations with Turkey for the readmission agreement and to negotiate with Turkey on behalf of the EU, by-passing EU decision-making mechanisms. Those actions were accepted as legitimate simply because the refugee problem was framed as a security crisis that needs to be resolved as soon as possible, no matter what it takes.

To sum up, findings of this study, especially from the interviews, suggest that in the earlier phases of the Visa Liberalisation Dialogue, the intention of rule transfer via the EU external governance was more significant. Therefore, the European Commission was able to push for reforms in Turkey both via membership conditionality and the Visa Liberalisation Roadmap. However, as the refugee crisis started and the management of irregular migration became a serious problem for Member States, external governance lost its effectiveness and the securitized discourse championed by the right-wing Eurosceptical movements became dominant in Turkey-EU deal as well as the broader debate on migration in Europe. External governance became ineffective as the EU rules in this policy area were problematic, the bargaining power of EU vis-à-vis Turkey was in decline and the domestic appreciation of the EU rules in Turkey was not as desired. On the other hand, the atmosphere of insecurity created via the governmentality of unease pushed EU leaders to take the political positions explained above and promote the implementation of Readmission Agreement with Turkey as an urgent solution to the refugee crisis. The direct involvement of the Member State governments in the dialogue and the acceleration of the overall process in the Visa Liberalisation Dialogue with Turkey is an implication of such a securitized mentality.

5.2 Motivations and Strategies of Turkey

On an institutional basis, the relations between Turkey and EU are driven by the accession process. The Ankara Agreement of 1963 established the legal basis of the association between EU and Turkey by putting forward privileges granted to sides in bilateral matters and mutual objectives. Turkey also signed a Customs Union agreement with the EU in 1995. Those agreements created a unique linkage between two sides and also provided EU a leverage on Turkey before the actual membership procedure started. Following the recognition of Turkey as a candidate country in 1999 Helsinki Summit and start of accession negotiations in 2005, the leverage of the EU on Turkey became even stronger.

Despite the fact that a theoretical variety is needed for understanding and analysing the motivations and strategies of the EU in the deal, understanding Turkey's position is rather straightforward. There is almost a consensus in the literature on several instruments and practices of Turkish foreign policy utilized in the visa liberalisation negotiations with the EU. The empirical findings of this study are also parallel to the contributions of those analyses.

One of the most comprehensive accounts of Turkey's manoeuvres in the negotiation of the Readmission Agreement, by İçduygu and Aksel (2014), underlines that there is a strong connection between the position of Turkey in the readmission agreement negotiations and the developments in domestic politics, particularly the elections. As also mentioned earlier in the analysis of actors, the

relations of Turkey with the EU is an important part of the everyday domestic politics in Turkey, even when the relations with the EU are not very active. Every political party in Turkey dedicates a part of their election manifesto to the relations with the European Union and Europeanization of Turkey. This is also the case for the AK Parti which is in power since 2002. Relations of Turkey with the European Union, whether concerning trade, foreign policy and security, fundamental rights, free movement or something else, constitute a significant portion of the discourse of AK Parti in domestic politics. The attitude of AK Parti towards the EU varies from being an ideal to achieve to being the source of many problems in Turkey and in the world.

When the visa liberalisation process is more closely inspected, the significance of *linkage politics* which emphasizes the close association and two-way decisiveness between foreign policy and the domestic politics can be seen. The interviews conducted for this study indicate that getting visa liberalisation from the European Union is a matter of prestige for the Turkish Government (B. Kaleağası, interview, 1 June 2016; H. Nuray, interview, 2 June 2016; Alpha, interview, 29 January 2016). In line with the linkage between foreign affairs and domestic politics described above, this prestige is twofold: On one hand, moving from the *black list* of potential sources of threat²⁶ to the *white list* of trusted countries²⁷ within the Schengen system is a huge contribution to the prestige of Turkey in international relations, because besides the criticisms for being discriminatory against the peoples of the developing countries, the line between two lists is also considered as the line between the developing world and the developed countries from the perspective of the European Union (van Houtum, 2010, p. 964). On the other hand, visa liberalisation is seen as prestigious move for the AK Parti government from the perspective of their electorates. Although there are only 8 million passports in Turkey (Paul & Seyrek, 2016) and only less than 10% of the population can actually benefit from a visa-waiver, it still boosts the self-image of the population and the image of the government in the eye of the electorate. An interviewee described getting visa liberalisation from EU as a “sexy achievement” from the perspective of the voters in that country, regardless of the number of actual beneficiaries (H. Nuray, interview, 2 June 2016).

Considering the negotiations on a readmission agreement and the one in, one out regime as the basis of the management of irregular migration, it can be argued that EU and Turkey are not on the same page regarding their concerns. Turkey already hosts more than 3 million Syrian refugees and they are at the moment settled under minimal but viable conditions. Syrian refugees became a part of the everyday life in Turkey for the past few years unlike in Europe. Efforts have been put forward to

²⁶ Annex II of Council Regulation (EC) No 539/2001 which lists the countries of which nationals are exempt from the visa requirement

²⁷ Annex I of Council Regulation (EC) No 539/2001 which lists the countries of which nationals require a visa to enter the Schengen Area

legalize and regulate the participation of Syrians into the Turkish labour market, education, and social life. Those efforts, although far from reaching all refugees, already gave some positive outputs in a good direction. Maintaining the *status quo* regarding the Syrian refugees is not a serious problem for Turkish Government — unlike EU — as long as it is financially sustainable. Although the open border regime made Turkey vulnerable to terrorist entries from Syria and Iraq, Turkey aims to solve the security problem via addressing the root causes of the migration flow rather than preventing entries to its territory (Republic of Turkey Ministry of Foreign Affairs, n.d.). Thus, Turkey does not approach the issue from the same securitized perspective with the EU.

Positioning visa liberalisation vis-à-vis the greater framework of EU membership is also another concern of Turkey that is significantly different from the European Union. The Turkish Government and civil society emphasize in their statements that visa liberalisation is a step towards full membership which will contribute to the interaction between Turkish and European societies (Alpha, interview, 29 January 2016). This can also be inferred from the statements of the Turkish Government where it is argued that Turkey is the only candidate country to the EU of which citizens require visa to enter the EU territory (Republic of Turkey Ministry of Foreign Affairs, n.d.). Furthermore, the Turkish Government succeeded in using the newly emerged positive and cooperative dialogue with the EU to reenergize its accession negotiations. Two new negotiation chapters, Chapter 17 (Economic and monetary policy) and Chapter 33 (Financial and budgetary provisions), were opened in December 2015 and June 2016 respectively. That was a clear message to the European Union that Turkey has not given up on the ultimate objective of full membership and it will continue negotiations. At the same time, visa requirement is also seen as a non-tariff barrier within the framework of the customs union (B. Kaleağası, interview, 1 June 2016). It should be once again noted that neither the Customs Union nor the visa liberalisation are promoted as alternatives to full membership by Turkish Government, although they are sometimes considered as such among the European politicians. Such efforts to keep the public expectations for full membership alive are also in line with the search for consistency and legitimacy in domestic politics of Turkey regarding the European Union as described in the earlier parts.

Another important aspect of the Turkey's position in the negotiations of the refugee deal is its bargaining power against the EU. This was already explained to some extent in the previous section as a limit to the bargaining power of the EU. To further that perspective, this study suggests that Turkey, and particularly Erdoğan, wants to maintain their *hard bargainer position* as it was defined by Wolff (2014). Today, this position mostly depends on the number of refugees Turkey hosts and the amount of financial resources it is able to mobilize for their needs. An overview of the Turkish policy towards Syrian refugees (e.g. measures for social integration) shows that Turkey has no short-term

intention to send the refugees back to their country of origin even if the stability is achieved in Syria. Apart from the refugees, another factor that strengthens Erdoğan's position vis-à-vis the EU is the public support of his loyal electorate. The ability of Erdoğan to channel the public opinion towards a direction is already well-known. Erdoğan was able to secure 51% of the votes in the presidential election in 2014 where he became the first President of the Republic elected by the popular vote. At the same time, the AK Parti he founded succeeded in all consecutive elections between 2002 and 2016, even after he resigned from the party to be able to be elected as the President of the Republic. AK Parti and Erdoğan use their solid legitimacy in domestic politics to exert more power in relations with the EU. Such contribution of the domestic public support to Turkish Government's bargaining power in the visa liberalisation negotiations is another good example of the linkage between domestic politics and foreign policy.

Finally, a Turkey's reformulation of its alliances in foreign affairs can be considered as a motivation for Turkey to enhance the dialogue with the EU. Historically, the Turkish foreign policy depends on balancing major players in international politics against each other (Aydın, 2003, p. 312). Therefore, maintaining reliable alliances in foreign policy is vital for Turkey. The recent developments in foreign policy weakened the alliances of Turkey with major powers and its neighbourhood. The strong anti-Assad rhetoric of Erdoğan and the verbal support for rebel groups at the beginning of the civil war did not give the expected results. Now, most of the internationally discussed scenarios for the future of Syria include Assad as a part of the solution. The leadership role Turkey assumed in the post-Arab Spring North Africa and among the Islamic states was also ineffective due to the inability to achieve political stability in the region. On the other hand, after a Russian plane was shot down by the Turkish army for its border violation, the tension between Moscow and Ankara escalated to an alarming level. At the moment, some degree of a normalisation takes place but it will take time before the relations go back to their course before the incident. Additionally, the relations of Turkey with the United States are also not as strong as they used to be. Due to the conflict of perceptions between parties in the Middle East, the United States withdrew its existing unconditional support to Turkey in foreign policy. Against such a background, it is obvious that Turkey needs to empower its existing alliances in foreign policy. The revival of the relations with the EU serves as an opportunity for Turkey to strengthen its position in international relations. It is also linked to the domestic politics in Turkey because the relations with important international actors such as EU and its members, United States, Israel, and Russia define the discourse in various domestic policy areas such as the combat against terrorism, trade and economy.

When an overall account of the Turkish motivations and strategies is made, some fundamental features appear as the ground of different rationales behind the Turkish position in the

negotiations with the EU concerning the Readmission Agreement and the visa liberalisation process. First of them is the linkage between domestic and international politics. The domestic politics in Turkey have significant implications for the definition of reflexes in the negotiations with the EU, and vice versa. Furthermore, the large number of Syrian refugees in Turkey, and the popular support for the current AK Parti government and President Erdoğan is the foundation of the hard bargainer position of Turkey. The abovementioned factors enable Turkey to challenge the hierarchy of the EU conditionality and external governance. Finally, the Turkish Government's attempt to strengthening alliances in foreign policy played a significant role as a motivation for revitalizing relations with the EU.



6 Conclusion

One of the aims of this study was to get a general understanding the dynamics of negotiations between EU and Turkey regarding the Readmission Agreement and visa liberalisation process. The initial phases of the research revealed that in EU practice, those two processes often come as a package, although their policy implications are distinct from each other. Both the early phases of the empirical research conducted for this study, and the review of the existing literature showed that visa facilitation or liberalisation are used as incentives by the EU to encourage non-EU countries to conclude readmission agreements with the EU. A typical readmission agreement also covers the readmission of third country nationals, and it is not always a favourable choice for third countries as those agreements bring an extra financial and operational burden on third countries, especially on the ones who are on the transit routes to the European territory. Hence, the practice of offering a visa facilitation or liberalisation in exchange for a readmission agreement is adopted by the EU, as a result of the carrot and stick approach. In the case of Turkey, the carrot offered was direct visa liberalisation, not a visa facilitation although the common practice is a transformation from facilitation into liberalisation. It was as such due to the political decision of the Turkish Government (Charlie, interview, 28 January 2016).

The analysis of the actors involved in the process revealed that there is a wide array of institutional and individual actors who are influential in the negotiations. Even within a single institutional body of the EU such as the European Commission, more than one subdivision is involved in the process because of the multidimensional nature of the negotiations that consists of home affairs, enlargement, migration, foreign and security policy. The research also showed that the negotiations between EU and Turkey generally takes place at the highest possible level, i.e. between leaders. On the EU side of the deal, the European Commission, the Parliament, European External Action Service, the Council, European Council and the Member States take part in the negotiations each with a specific task. The European Commission handles the technical aspect of the deal by providing the Roadmap conditions and checking whether those conditions are met. It also monitors the implementation of the agreement. The co-legislatures of the Union provide a political evaluation of the process whereas the European Council (i.e. leaders of the Member States) and its President define the priorities and the overall direction of the EU in the negotiations. The diplomatic service of the EU, European External Action Service, provides a broader foreign policy perspective to the issue and mainly targets the root causes of the refugee crisis via representing the EU as an actor in international relations. However, it was also noted that, at the end of the day all of the EU institutions are involved in a diplomatic relation with Turkey based on a broad definition of diplomacy (Bravo, interview, 1 June 2016). On the Turkish side, there is a concentration of power and negotiation

capacity unlike the EU. President Recep Tayyip Erdoğan and the Justice and Development Party government, particularly the Prime Minister, the Minister for EU Affairs and the Minister of Foreign Affairs participate in the negotiations in a rather unidirectional way. The differences in view are mostly resolved through the intra-party cohesion and discipline of Justice and Development Party, also guided by the leverage of former party leader, now President Erdoğan. The influence of the domestic and international civil society on the political processes was very limited since the beginning of the Visa Liberalisation Dialogue since almost no public consultation took place during the negotiations (H. Nuray, interview, 2 June 2016).

Considering the high-level nature of the dialogue it is possible to identify the most influential actors in the EU who are able to assert successfully the position they represent into the negotiations. Among the leaders of the EU, Angela Merkel stands as the most important figure involved in the negotiations because of her various leverages on the EU decision-making, close relations with the Turkish leaders, the pioneering role of Germany among European states for the reception of asylum seekers, and historically strong political and economic influence of Germany within the European Union. After Merkel, the Presidency of the Council –particularly the Dutch Presidency that began in January 2016–, President of the European Council Donald Tusk, and on behalf of the European Commission the First Vice-President Frans Timmermans determine the flow of the negotiations. Although not directly involved in the negotiations, the Council and the Parliament stand as the veto players that contribute to the strength of the EU's position. However, as stated in multiple interviews, their final decision depends highly on the technical analysis provided by the Commission in the progress reports, and the political willingness of the heads of Member State governments.

The main purpose of this research was to explain the political approach and strategies of the actors towards the EU-Turkey deal and the broader motivations that give shape to them by defining their objectives in the negotiations. The theoretical analysis and the empirical findings described in the previous chapters suggest that in the earlier phases of the visa liberalisation talks, the objective of the EU was to convince Turkey to sign a readmission agreement and export the EU rules to Turkey from an alternative channel besides the membership conditionality. Those were the dominant motivations for the negotiations until the refugee crisis became a serious debate in Europe by the end of 2015. Until this point, EU institutions were able to act coherently and relatively self-competent in the dialogue with Turkey. The Member States gave the overall direction to the policy through the European Council and the Council of Ministers. However, there were no direct intervention of Member States in the negotiations.

The idealist approach of the EU to the deal was only effective until the limits of the EU external governance were reached, with the refugee crisis. Three interrelated factors that determine the limits of the external governance are described and tested based on the literature on the effectiveness of external governance. Firstly, the weakness of the legitimacy of EU rules concerning migration and visa policy within the EU damages the credibility of those rules and makes the transfer of those rules to third countries irrational. The EU rules concerning migration are in essence based on system established by the Dublin regulation and the refugee crisis proved that the Dublin system is not able to solve the problems with refugees. On the contrary, it was seen as the source of problems and suspended by Member States shortly after the massive flow of refugees started. The problems with the Schengen Area, on the other hand, damaged the credibility of the visa policy of the EU. Secondly, the weakness of the EU vis-à-vis Turkey in terms of bargaining power limits the external governance. On one hand, the incentives provided by the EU are not as strong in Turkey as they are with other accession countries because of the lack of trust and diminishing expectation for full membership in a foreseeable future. On the other hand, the bargaining power of Turkey against the EU is high because of the massive number of refugees it accommodates. The high bargaining power of Turkey against EU enables Turkey to be more assertive in negotiating the conditions of the deal and creates a situation of *reverse conditionality* where conditions are decided by the recipient country instead of the EU (Lavenex, 2016). This makes the hierarchical mode of governance dysfunctional. The third factor is the domestic applicability of the EU rules in Turkey. Some of the Roadmap conditions are not welcomed by Turkey from the first day they are proposed. Furthermore, President Erdoğan stands as a strong veto power in Turkey and he is not always willing to compromise with the EU. Considering all those three factors contributing to the ineffectiveness of EU external governance, this study argues that the limit of external governance is reached when the refugee crisis broke out in Europe and it almost stopped being effective after late 2015.

The refugee crisis paralysed the EU external governance. However, the EU wants to keep the dialogue open with Turkey to maintain its leverage on its Eastern neighbour and one of its biggest trade partners. Furthermore, EU still needs a solution to the problem of irregular migration and this is impossible without any cooperation with Turkey. Yet, what replaced the idealistic external governance was a more pragmatic approach to the EU-Turkey deal heavily influenced by the individual Member States. This became apparent after the EU leaders such as Merkel, Hollande, and Renzi started directly discussing the problem in Syria, readmission agreement and visa liberalisation with Turkey. Although the technical role of the Commission remained as such, the primary contents of the deal, such as the one in, one out arrangement or the EU financial support to Turkey, were primarily shaped by the negotiations between heads of government of Member States and the Turkish Government.

The new paradigm in the EU-Turkey deal, which is driven primarily by the Member States, caused the EU to be heavily criticized for making concessions to Turkey. New power relations were established after the external governance stopped being fruitful. The new approach reflects the “governmentality of unease” resulting from the securitization of migration. Securitization of migration was previously described as the exercise of power via putting forward extraordinary policies legitimized by a discourse that perceives the refugee as a potential security threat. The aim is to cover the past policy mistakes and keep the social forces under control. The interviews conducted for this research, particularly the ones with the interviewees that work for the EU institutions show that the European Union policy-makers and leaders do not actually see a real security threat coming from the refugees. They are rather concerned about the potentially difficult integration of those large number of refugees into the European societies. In other words, those refugees are not seen as a potential security threat but rather a potential problem of integration. It can also be argued that the national political leaders who opt for a European solution to the refugee problem, who are also heavily involved in the negotiations with Turkey, share a similar mind set with the EU institutions and EU leaders in that regard. They are more concerned about the social cohesion of Europe and the humanitarian aspect of the refugee crisis. In this sense, the “Merkel camp” cannot be seen as the original source of securitization of migration. However, as also confirmed by the empirical observations of this study, a discourse of insecurity was created across Europe by the far-right populist politicians, i.e. the “Orbán camp”. Although those movements do not find popular support everywhere in Europe, their discourse of insecurity which denounces all Muslim refugees as potential terrorists boosts the security concerns of the public. To be able to address the public concerns of security boosted by the Eurosceptic right-wing populists, the pro-EU governments also adopt the discourse created by them. The suspension of some EU norms and flexibility on Roadmap conditions granted to the Turkish Government during the negotiations is a result of this atmosphere of panic. If the EU cannot finalize the deal and show the public that it is taking concrete steps against irregular migration, both the national governments and the EU will lose legitimacy and power as they are already challenged by the national and international actors for their inability to solve the refugee problem and to prevent terrorist attacks in European capitals.

As mentioned in the detailed analysis, motivations and strategies of Turkey in the negotiations are rather straightforward since the beginning of the negotiations. First of all, Turkey shares the humanitarian vision of the EU and aims to prevent people from drowning in the Mediterranean. Yet, in that regards it seeks financial support from international actors. The financial arrangements under the agreement between Turkey and EU serve that purpose. Despite sharing the humanitarian concerns, Turkey does not share the security-based discourse which is effective in Europe. Refugees

are not seen as a potential threat to security, although it is accepted that the open-border policy made Turkish territory vulnerable to terrorist attacks. Instead of targeting the refugees, Turkey raises concern about the root causes of the irregular migration.

For the future of Turkey-EU relations, the Turkish Government wants to keep the newly energized dialogue open for ensuring further advancements in the accession negotiations. Readmission Agreement and the visa liberalisation process is seen as a step towards full membership. One of the interviews underlined that both in the European Parliament and in the Commission there is a tendency towards separating two processes from each other (Delta, interview, 14 June 2016). However, widely used references to the opening of new accession chapters in successive statements on Turkey, and emphasis in Commission reports on the fact that Turkey is a candidate country put the validity of such an argument in danger. Still, it is possible to argue that the strength of the link between the Visa Liberalisation Dialogue and the accession process is different in Turkish and European perspectives. Turkish authorities strictly underline that this dialogue is a step towards full accession. However, in the academic literature, the potential harm of two processes to each other is also underlined and it is an argument worth consideration (İçduygu & Aksel, 2014). Apart from the accession process, Turkey also wishes to enhance cooperation with the EU in order to strengthen its alliances in foreign policy.

Domestically, the deal serves the interest of Turkish Government as it provides credibility in the public opinion and brings more political power. The effect of the visa liberalisation in such a direction can be explained using the linkage politics which establishes a link between foreign policy issues and domestic politics. If realized, the successful conclusion of the Visa Liberalisation Dialogue without giving too many concessions to the European Union will be the most significant success of AK Parti and Erdoğan in foreign policy recently. This will inevitably contribute to the prestige of the AK Parti government in power. Furthermore, it will boost the prestige of Turkey among other countries because moving from the list of potential threats in the Regulation 539/2001 to the list of friendly countries also means that Turkey will be a member of club of developed countries from the perspective of the EU.

Regarding the translation of those motivations into political strategies, it is viable to argue that a hard bargainer position is adopted by Turkey in general, but President Erdoğan in particular. This argument also reaffirms the earlier analyses of readmission agreements in the literature. Of course, a hard bargainer position is only sustainable if the negotiating party is strong in terms of bargaining power. The bargaining power of Turkey in this deal is based on the high number refugees it

accommodates at the moment. In case the deal is broken, Turkish leaders have already expressed that they will not further try to prevent refugees from entering the EU territory.

The overall political discussion on the readmission agreement, and the visa liberalisation process associated with it reflects the complexity and uniqueness of the relations between EU and Turkey. Both sides essentially need each other for solving their problems in different domains but there is also a lack of trust and commitment between them, unless some developments that need an urgent coordinated response emerge. In this case, it was the refugee crisis and although it is a terrible humanitarian crisis, it brought two sides together, based on common humanitarian concerns. It is now up to both parties to turn this terrible situation into a chance for better dialogue and deeper integration to be able to tackle future challenges for Europe and Turkey in cooperation after successfully securing the lives of refugees.



Annexes

Annex I: Interview Protocol I

The interview protocol used in the early phases of the research particularly for discovering the overall dynamics of the deal.

Interview protocol: Policy strategies behind the visa policy of the EU towards third countries

Interviewer: Oğuzhan Öçbe
University of Amsterdam, MA European Studies

Date & Location:

Interviewee:

Introduction

Aims of the research:

1. Analyze the **relative influence and involvement of different actors**, such as the European Commission, Council of the European Union, national governments of Member States and civil society, in the formulation of the visa policy of the European Union towards third countries.
2. Identify the **key actors involved** in the visa facilitation and visa liberalization dialogues between the EU and third countries.
3. Clarify **the link between Readmission Agreements with third countries and the visa facilitation processes**.
4. Understand the use of policy instruments including but not limited to visa facilitation, visa liberalization and membership conditionality **as a means of providing incentives** for the successful conclusion of readmission agreements with third countries.
5. Identify the **similarities and differences** between third countries regarding the processes leading to readmission agreements and visa liberalization; particularly between Turkey and others.

Questions / checklist

1. What is your role in your organization? How long have you been in this position?
2. To what extent are your institution and your particular office involved in the policymaking process in the visa policy of the EU? What interactions between EU institutions take place in your policy area? Which EU institutions do you see more influential than the others in the formulation of common EU visa policy?
3. What are the guiding principles of the EU visa policy towards third countries? Are there any similarities between the countries whose nationals do not need a visa to enter the EU territory, for example in terms of identity, culture or level of development?

4. How do the national interests of Member States influence the visa and border policy of the EU? In case of a conflict of interests between the Union and of the individual member states, which one do you think prevails?
5. Is there a link between the Readmission Agreements with third countries and visa facilitation/visa liberalization processes? If so, what is the relationship between those policy instruments?
6. Is it possible to argue that prospects for visa-free travel or expectations for accession to the EU motivate the third countries to comply with the EU norms and demands regarding borders and immigration?
7. Do you see Readmission Agreements as reliable policy instruments for EU to control illegal immigration?
8. How do you see Turkey's relations with the EU in terms of border management after the massive inflow of refugees that started in 2012? Do you think such developments speeded up the conclusion of the Readmission Agreement after more than 10 years of negotiations?
9. Can you talk, in general terms, about how much cooperation and learning goes on between, for example, the processes in Turkey and the Western Balkans?

Annex II: Interview Protocol II

The interview protocol used in the later stages of research to reach an in-depth analysis of the subject

Interview protocol on MA research
**Turkey-EU Visa Dialogue and the Readmission Agreement:
Strategies and Motivations**

Interviewer: Oğuzhan Öçbe
University of Amsterdam, MA European Studies
Date & Location:
Interviewee:

About the Research

This interview is intended to be a part of the research conducted for the Master's thesis titled *Turkey-EU Visa Dialogue and the Readmission Agreement: Strategies and Motivations* supervised by Dr. Jamal Shahin (University of Amsterdam & Vrije Universiteit Brussel IES). The aims of the research are:

- Identifying the motivations and concerns of the actors in Turkey and the EU in the deal that concerns visa liberalization and readmission of the illegal immigrants
- Describing the strategies those actors employ during the negotiation of the deal
- Understanding the dynamics behind the compromises made by two sides of the deal
- Evaluating the deal within the broader contexts of the management of irregular migration, and the EU membership of Turkey

Questions

1. To what extent is your institution involved in the Turkey-EU visa liberalization and readmission agreement dialogue? What is the role of your institution vis-à-vis EU Member States for establishing a common position for the EU? What kind of an interaction and share of responsibilities take place between different institutions of the EU, such as the European Commission, EEAS, and the Council during the negotiations?
2. How do you relate the revival of Turkey-EU relations and the acceleration of the visa liberalization process with the problem of irregular immigration? To what extent does the agreement with Turkey aims to address the security concerns of the EU and its Member States regarding the irregular migrants? Does Turkey share the same concerns or motivations with the EU?
3. In what ways does the visa liberalization process and the readmission agreement are providing policy change and alignment with the EU norms regarding border security and migration in Turkey? Is it possible to locate this kind of an alignment within the broader framework of EU membership and Europeanization of Turkey? Is Turkey open to such changes coming from the EU?

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Charlie [Officer from the European Commission – DG HOME who is knowledgeable on visa policy & readmission agreements]. Interviewed on 28 January 2016 in Brussels.

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