



TRUST, TURKEY AND THE ROAD TO VISA LIBERALISATION

Brussels, 1 February 2013

Gerald Knaus



1. First: saving the EU's visa liberalisation policy

2. Lack of trust: genesis of the Turkey roadmap (2008 – 2012)

3. Reading the roadmap - readmission concerns

4. Can Turkey trust the process? Can it get to 229 votes?

Success depends on trust – but for trust to be built, the process must start

1. First: save the EU's visa liberalisation policy



December 2009

2012 surprise: asylum claims from Western Balkans in the EU

	2009	2010	2011	2012
Serbia	5,290	17,715	13,980	18,290
Macedonia	940	7,550	5,540	9,330
Albania	2,060	1,905	3,075	6,145
Bosnia	1,320	2,105	2,595	5,420
Montenegro	250	405	630	1,195
Total	9,860	29,680	25,820	40,380
All asylum seekers	266,395	260,835	303,105	-

The policy question in 2013: Could visa be re-imposed in the Balkans?



Understanding the causes

	Asylum claims 2011	Share in EU total
Top three	19,430	75 %
<i>1. Germany</i>	9,360	36 %
<i>2. Belgium</i>	5,195	20 %
<i>3. Sweden</i>	4,875	18 %
Others	6,390	25 %
<i>4. France</i>	2,365	9 %
<i>5. Luxembourg</i>	1,585	6 %
<i>6. Netherlands</i>	520	2 %
<i>7. Italy</i>	375	2 %
<i>8. Austria</i>	350	1 %
<i>9. Greece</i>	285	1 %
<i>10. Denmark</i>	235	1 %
<i>Others</i>	675	3 %
TOTAL	25,820	100%

Why only certain countries?

	Claims by WB citizens in 2011	Duration of asylum procedures until first decision	Duration until final decision in cases of appeals
Germany	9,360	3 months	7 months
Belgium	5,195	4 months	7-8 months
Sweden	4,875	3 months	4-6 months
Luxembourg	1,585	3 months	4-6 months

Why does Austria not have this problem?

	Claims by WB citizens in 2011	Duration of asylum procedure until first decision	Duration until final decision in cases of appeals
Austria	350	1-3 weeks	An appeal does not suspend the obligation to leave and benefits cease
France	2,365*	2-3 weeks	Like Austria
Netherlands	520	2-3.5 weeks	An appeal is handled within the 4-week deadline to leave

* Same as before visa liberalisation



The Western Balkan asylum seekers target EU countries with long asylum procedures.

Looking to Switzerland after introduction of “48-hour procedure” in August 2012

No of claims from:	Aug. 2012	Sept. 2012	Oct. 2012	Nov. 2012	Dec. 2012
Serbia	410	200	60	35	30
Macedonia	260	45	20	10	10
Bosnia	95	80	20	35	15
Albania	15	5	5	10	10
Montenegro	0	5	0	5	0
Total of the 5 WB countries	780	335	105	95	65

Looking to Germany after launch of short procedure of 9 days in Oct. 2012 (temporary)

No of claims from:	Oct. 2012	Nov. 2012	Dec. 2012
Serbia	3,875	1,780	570
Macedonia	1,880	695	185
Bosnia	730	785	190
Albania	30	55	25
Montenegro	100	60	30
Total of the 5 WB countries	6,615	3,375	1,000

Long procedures do not mean that asylum is granted more often.

First-instance decision on Western Balkan claims – 2009-2011

	Decisions	Refugee status granted	Subsidiary protection granted	Recognition rate
Germany	17,240	20	15	0.2%
Sweden	9,980	10	10	0.2%
Luxembourg	825	10	0	1.2%
TOTAL	28,045	40	15	0.2%
France	2,155	90	70	7.4%
Austria	4,630	200	75	5.9%
TOTAL	6,785	290	145	6.4%

ESI's proposal

To include in the Asylum Procedures Directive:

“Countries that have successfully completed a visa liberalisation dialogue with the European Commission, having met all the requirements and benchmarks under such a dialogue including those related to fundamental rights under Block 4, shall be regarded as constituting safe countries of origin for the purposes of this Directive.”

Safe country of origin:

- Member States may provide that an examination procedure in accordance with the basic principles and guarantees of Chapter II be accelerated
- Member States shall lay down reasonable time limits for the adoption of a decision
- EU member states already regard each other as safe countries of origin (Lisbon Protocol No 24)
- Bulgaria and Romania were declared safe countries of origin in 2005, two years before accession (APD)

Implications for Turkey and others



Human rights become central to the roadmap process

Is Turkey a safe country of origin like Macedonia?

2. Understanding the roadmap process

ESI Grade Report Bosnia and Herzegovina

	ESI
I. Visa Facilitation and Readmission	
Readmission agreement	1
Visa facilitation agreement	no info
II. Document Security, Illegal Migration, Public Order and Security, and External Relations	
Block 1: Document security	
<i>Commission: does not yet fully meet all the benchmarks specified in Block 1* (3+)</i>	
1.1 Issue biometric passports in line with ICAO and EC standards	3+
1.2 Ensure integrity and security of the personalisation & distribution process	3+
1.3 Establish anti-corruption training & ethical codes for officials (passports, visas)	3
1.4 Report lost and stolen passports to Interpol/LASP database	3+
1.5 Ensure a high level of security of breeder documents and ID cards, incl. issuance procedures	3
Block 2: Illegal Migration including Readmission	
<i>Commission: does not yet fully meet all the benchmarks specified in Block 2* (3+)</i>	
2.1.1 Adopt and implement Nat. Integrated Border Management Strategy and Action Plan	3+
2.1.2 Adopt and implement legislation on movement of persons at the external borders, legislation on border authorities	2-
2.1.3 Take budgetary and other measures ensuring infrastructure, equipment, IT at external borders	3
2.1.4 Establish anti-corruption training & ethical codes for officials (border management)	2+
2.1.5 Conclude working arrangement with FRONTEX	1
2.2.1 Implement carrier's responsibility (in the Law on Movements and Stay of Aliens and Asylum)	1
2.3.1 Implement asylum legislation (in the Law on Movements and Stay of Aliens and Asylum)	2+
2.3.2 Provide adequate infrastructure (reception centres for asylum seekers) & strengthen bodies responsible for asylum procedures	1-
2.4.1 Mechanism to monitor migration flows (incl. migration profile), set up responsible bodies	2-
2.4.2 Adopt and implement national returnee reintegration strategy	3+
2.4.3 Conduct inland detection, investigations of org. facilitated illegal migration	3+
2.4.4 Implement the Law on Movement and Stay of Aliens and Asylum	1-
2.4.5 Ensure expulsion of illegally residing third-country nationals	1-
Block 3: Public order and security	
<i>Commission: does not yet fully meet the benchmarks under block 3* (3+)</i>	
3.1.1 Implement 2006 strategy to fight organised crime and corruption (in particular cross-border aspects) by adopting & implementing the foreseen action plans	3+
3.1.2 Adopt and implement strategy and action plan to fight trafficking in human beings	1-
3.1.3 Adopt and implement strategy to fight money laundering and financing of terrorism, implement legislation on confiscation of assets of criminals	3+
3.1.4 Adopt and implement strategy and action plan to fight drug trafficking, info at border crossing points about drug seizures and persons involved, internat. cooperation	3+
3.1.5 Implement National Anti-Corruption Strategy and action plan, take additional measures	3+
3.1.6 Implement relevant UN and CoE conventions as well as GRECO recommendations in the areas listed above and the fight against terrorism	3+
3.2.1 Implement internat. conventions on judicial cooperation in criminal matters	2+
3.2.2 Improve judicial cooperation in criminal matters with EU MS and regional countries	3+
3.2.3 Develop working relations with Eurojust	1
3.3.1 Improve law enforcement co-operation among relevant national agencies	3+
3.3.2 Set up coordination mechanisms for information exchange between national agencies	3+
3.3.3 Improve law enforcement cooperation and info exchange regionally and with EU MS	2-
3.3.4 Improve operational and special investigative capacity of law enforcement services to tackle cross-border crime	3+
3.3.5 Prepare operational cooperation agreement with Europol	3+
3.4.1 Implement 2006 Law on Data Protection, set up supervisory authority	3+
3.4.2 Implement internat. conventions on personal data protection	unclear
Block 4: External Relations and Fundamental Rights	
<i>Commission: on the right track to meet the benchmarks under this block* (3+)</i>	
4.1.1 Ensure freedom of movement for citizens without discrimination	2-
4.2.1 Ensure access to travel and identity documents for all citizens	1-
4.2.2 Ensure access to identity documents for IDPs and refugees	2
4.3.1 Adopt and enforce legislation on anti-discrimination	3+
4.3.2 Implement law on citizenship	1-
4.3.3 Ensure investigation of ethnically motivated incidents in the area of freedom of movement	2-
4.3.4 Ensure respect for constitutional provisions on protection of minorities	2
4.3.5 Implement relevant policies regarding minorities, including Roma	1-
Final remark	
Visa refusal rate and entry refusal rate	no info
Implementation of EU joint actions on travel bans	no info



**Balkan strategy that failed:
1991-2008: we *deserve* it, it is *unfair*, etc.**

**A different approach was needed, and it
worked.**

Embrace conditions:

In 2008 the Commission offered roadmaps to all five Western Balkan countries.



Security partnership

An informed civil society pushed the process.

Scoring performance

1. Macedonia *meets the benchmarks* score: 1
2. Montenegro *meets most benchmarks* score: 1.75
Serbia *meets most benchmarks* score: 1.75
3. Albania *does not meet benchmarks* score: 3
Bosnia *does not meet benchmarks* score: 3
4. Kosovo *no evaluation* score: -

	Albania	Bosnia & Herzegovina	Macedonia	Montenegro	Serbia
Document security	3	3	1	1	1
Illegal migration incl. readmission	3	3	1	2	2
Public order & security	3	3	1	2	2
External relations & fundamental rights	3	3	1	2	2

EU-Turkey 2011: off to a wrong start

Starting point: Conclusions of the JHA Council 24-25 February 2011

“(The Council) takes note of the Commission's intention to initiate a dialogue on visa, mobility and migration with Turkey and invites the Commission to regularly report to the Council.”



Statement added by Cyprus to the Feb. 2011 Conclusions



“The joint declaration on the cooperation in the area of visa policy, **appears to establish a direct link** between the readmission agreement and a visa dialogue ... it has to be **clear that the readmission agreement and the joint declaration do not commit the EU** in a dialogue aiming towards a visa facilitation or liberalization”

The 2011 EU approach was discriminatory

The goal of visa liberalisation was mentioned in documents:



- for Ukraine and Moldova
- for all Eastern Partners
- even for Russia

Ahmet Davutoglu (25 February 2011)



“We want equal treatment like every civilised nation. Until the Council gives the Commission a mandate of visa exemption for Turkey, we will neither sign nor implement the readmission agreement.”

“Our approach is clear: promise for promise, verbal agreement for verbal agreement, written decision for written decision, implementation for implementation.”

Ministry of Foreign Affairs in 2011:



*“The conclusion and initialing of the Readmission Agreement should be carried out **in parallel to the initiation of the visa dialogue process** between Turkey and the EU Commission towards a visa free regime.”*

Ministry of Foreign Affairs, Ankara

Breakthrough June 2012:



Council offers Turkey a visa liberalisation process, readmission agreement is initialled.

Roadmap drafted by the Commission is now ready.

Next step: handing over the roadmap; Turkey and EU sign readmission agreement.

What things are *called*, matters:

A roadmap is *not* the same as a **visa dialogue** and is *not* the same as **an action plan** - a roadmap process has a track record

EU started a visa dialogue with Russia in **April 2007**, with Ukraine in **September 2008**, but *neither* got a **roadmap**

3. *Reading* the Turkish roadmap

The roadmap is a *Commission* document, based on Balkan precedents; a negotiating position.



The roadmap addresses the following four blocks:

- Documents security;
- Migration and border management;
- Public order & security;
- Fundamental rights.



Key condition: a visible change at the Greek-Turkish border

*Border checks and border surveillance to achieve “a **significant and sustained reduction** of the number of persons managing to illegally cross the Turkish borders”*



Detections at the Greek-Turkish borders

	2008	2009	2010	2011
Greek-Turkish land border	14,480	8,782	47,706	54,974
Greek-Turkish sea border	31,729	28,841	6,175	625
ALL detections EU external borders	159,092	104,599	104,049	140,980
Share of detections at Greek-Turkish borders*	38%	56%	77%	43%

* The percentage does not consider Greek-Albanian detections since this migration is circular, but the number of these detections is included in the overall total.

Resources at the border

*“[Turkey should] take the necessary budgetary and other administrative measures ensuring the deployment at the border crossing posts and along all the borders of the country, especially on the borders with the EU member states, of **well-trained and qualified border guards (in sufficient number)**, as well as the availability of efficient **infrastructure, equipment and IT technology ...**”*



Condition: Cooperation

“Ensuring and intensifying cooperation with the neighbouring EU Member States [...] by

- *the establishment of a trilateral common contact centre for police, border and customs cooperation between the Republic of Bulgaria, the Hellenic Republic and the Republic of Turkey in coordination with FRONTEX and EUROPOL within their respective mandates;*
- *and by finding arrangements for joint/mixed patrols along the border.”*

Condition: align the visa policy for *some* countries



*“Sharing information on the **most important countries of origin** concerning illegal migration to the EU and its Member States, in view of fostering the alignment of Turkey to the EU legislation in the area of visas;”*

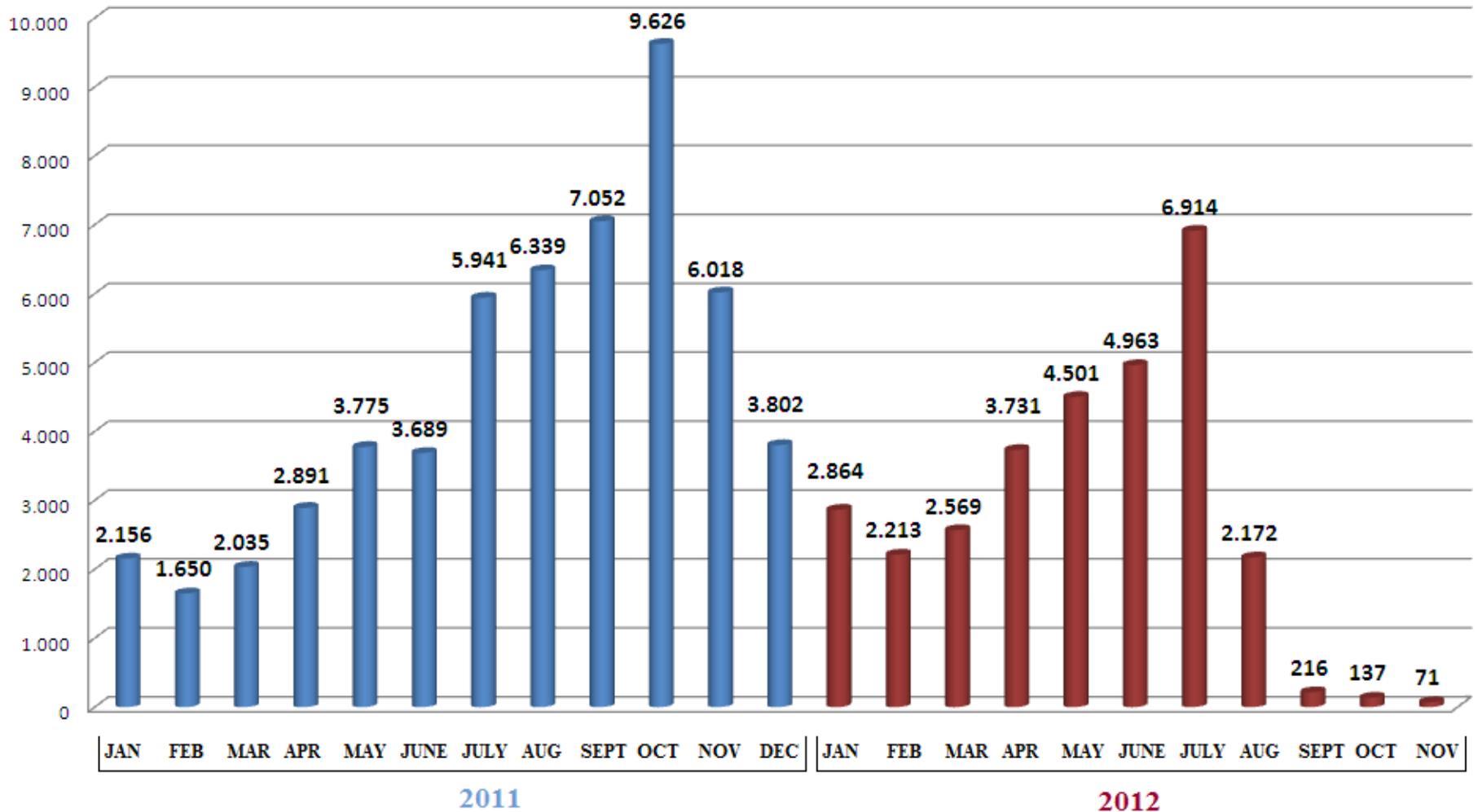
Condition: Limit easy access for *some* countries

*“Abolish issuance of visas at the borders as an ordinary procedure **for the nationals of certain non-EU countries**, and especially for countries representing a **high migratory and security risk** to the EU;”*



How hard is all this?

Apprehensions of illegal Immigrants at Greek-Turkish land border, per month, for 2011-12



And: how hard is it to implement a readmission agreement?

*“The pace of movement towards visa liberalisation will depend on Turkey’s progress in adopting and implementing the measures and fulfilling the requirements set out in this Roadmap, including full and **effective implementation of the readmission agreement** and effective cooperation vis-à-vis all EU Member States on JHA issues as these issues are outlined in the present roadmap.”*

Condition: Reform Turkey's asylum system

“Provide adequate infrastructures and sufficient human resources and funds ensuring a **decent reception and protection of the rights of asylum seekers and refugees**”

Actually in Turkey's interest



Turkish asylum claims in the EU (2011)

1. Afghanistan	28 015
2. Russia	18 330
3. Pakistan	15 700
4. Iraq	15 170
5. Serbia	13 980
6. Somalia	12 195
7. Iran	11 865
8. Nigeria	11 470
9. Kosovo	9 870
10. Bangladesh	8 290
12. Sri Lanka	7 375
13. Armenia	7 105

14. Georgia	7 060
15. Turkey	6 455
16. Tunisia	6 335
17. DR Congo	6 285
18. Guinea	6 245
TOTAL	303 105

Trend: Turkish asylum claims in the EU

2008	2009	2010	2011
7,115	7,030	6,350	6,455



Recognition rates* for asylum in EU - Decisions at first instance in 2011 -

Somalia	62 percent
Iraq	50 percent
Afghanistan	33 percent
Russia (Chechnya)	17 percent
Azerbaijan	15 percent
Turkey	10 percent
Pakistan	9 percent
Ukraine	4 percent
Georgia	2 percent
Serbia	1.5 percent
Macedonia	0.8 percent

*Refugee status and subsidiary protection

Condition: respect human rights

*“**Revise** - in line with the ECHR and with the European Court of Human Rights (ECtHR) case law, the EU acquis and EU Member States practices - the **legal framework as regards organised crime and terrorism, as well as its interpretation** by the courts and by the security forces and the law enforcement agencies, so as to ensure the **right to liberty and security, the right to a fair trial and freedom of expression, of assembly and association in practice.**”*

Condition: Roma rights

“Develop and implement policies addressing effectively the condition of the Roma social exclusion, marginalisation and discrimination in access to education and health services, as well as its difficulty to access to identity cards, housing, employment and participation in public life.”



How costly is readmission?



The Ukrainian experience: big fears, little cost

The Turkey- Greek experience

KEY: it all depends on the rest of roadmap implementation – and on TRUST

3. Is this process for real? **Getting to 229 votes**

		No of votes
Friends	Italy (29 votes), Spain (27), Poland (27), Romania (14) and Sweden (10)	107
Smaller MS, likely to be supportive	Czech Republic (12), Hungary (12), Portugal (12), Bulgaria (10), Denmark (7), Lithuania (7), Slovakia (7), Finland (7), Estonia (4), Latvia (4), Slovenia (4) and Malta (3)	89
Germany	29 votes	29
TOTAL		225
One of those:	France (29) or Netherlands (13) or Belgium (12) or Greece (12) or Austria (10) or Luxembourg (4) or Cyprus (4)	229 or more

What EU member states can do now to build trust

EU Council document:

*“fully exploiting **all possibilities provided by the EU Visa Code** and other legal instruments to further facilitating the access of Turkish citizens to the EU”*



All multiple-entry visas? (2011)

	Visas	MEVs	Percentage
Germany	141,114	18,863	13
France	113,913	20,467	18
Italy	99,032	90,763	92
Greece	62,039	n.a.	n.a.
Netherlands	38,601	30,629	79
Spain	31,828	1,861	6
Czech	16,728	4,647	28
Hungary	14,116	5,106	36
Austria	11,961	11,680	98
Belgium	10,631	3,504	33
Sweden	6,946	2,251	32
Schengen	591,950	219,273	37

Messages

Italian foreign minister,
9 November 2010:



*“It is difficult to understand why Albania, Bosnia, Serbia, none of which are candidates, have seen their visas liberalised, Russia has begun its procedure to this end, but Turkey has not. Ankara's aspiration is a legitimate one ... **I am disappointed** over the double standard applied by European authorities.”*

Emigration risk? Turkey-Germany trend

	Registrations Turkish citizens in Germany	De-registrations Turkish citizens from Germany	Net migration
2002	58,128	36,750	+21,378
2003	49,774	36,863	+12,911
2004	42,644	38,005	+4,639
2005	36,019	34,466	+1,553
2006	30,720	32,424	-1,704
2007	27,599	29,879	-2,280
2008	26,653	34,843	-8,190
2009	27,212	35,410	-8,198
2010	27,564	31,754	-4,190

The legal argument

Turkey-EU Association Agreement (1963):

Goals include the free movement of workers (Article 12), freedom of establishment (Article 13) and freedom to provide services (Article 14)

**European Court of Justice:
Demirkan –
important decision in 2013**



Taking ECJ decisions seriously

Soysal 2009

Demirkan 2013





www.esiweb.org
www.esiweb.org/whitelistproject