

Talking points Alexandra Stiglmeier: “The EU-Turkey refugee agreement”  
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## **CHECK AGAINST DELIVERY**

(On ESI:

ESI is an independent think-tank founded in 1999 in Sarajevo, Bosnia. We were a group of people working for international organisations in Bosnia after the war, and we felt there was a need for empirical field research and analysis that would inform international policy-making, so we created ESI, initially with 2 people working for it full-time and today with 15.

After Bosnia, we started dealing with other Western Balkan countries; then Turkey, a few of the EU’s neighbours in the East; and we tackled issues ranging from enlargement to EU visa liberalisation, which the EU offered, based on a set of conditions, to almost all the countries we cover.)

Our familiarity with Turkey, and with visa and migration issues, was useful when the Syrian refugee crisis reached the EU last year.

Already in September last year, we made a proposal for a deal between the EU, Germany and Turkey, whose main principles became official policy on 18 March with the EU-Turkey refugee agreement.

However, there are some differences, and we are not happy with implementation. But let us start with what the deal envisages.

## **THE IDEA**

The two central pillars of our proposal were readmission and resettlement, and they made it, with some changes, into the deal that Turkey and the EU agreed on 18 March.

**Readmission** means readmission to Turkey of the vast majority of migrants, including asylum seekers, who arrive on Greek islands after a certain date, which became the 20th of March. The goal of this is to close the illegal and dangerous migration route across the Aegean. If refugees and migrants see that

they are sent back to Turkey after a couple of weeks, they will obviously stop undertaking this journey after a while.

Readmission was and is the only legal way to reduce the numbers we saw last year. Greece cannot push back refugee boats – it is legally obliged to rescue refugees on sea if they are in distress (and most are in distress, travelling in hardly seaworthy boats). It is obliged to take in refugees who reach its shores, and to offer them an asylum procedure. If, however, Turkey is safe for refugees, then they can be sent back there after an individual assessment and ask for protection there.

**Resettlement** means resettlement of Syrian refugees from Turkey to the EU. In our original proposal, we suggested that this is done voluntarily and that Germany take the lead and commit to taking 500,000 refugees. In the final deal, the idea of resettlement has become more muddled, and I will discuss this later.

So, the idea was **to replace illegality with legality**. To stop illegal migration, replace it with legal migration through resettlement. As an idea, this made it into the EU-Turkey deal, which states at the beginning.

*“In order to break the business model of the smugglers and to offer migrants an alternative to putting their lives at risk...”*

Of course, there were a few other things to consider. Firstly, Turkey was already hosting 2.2 million Syrian refugees last year, so the EU had to offer Turkey not only relief by taking some of these refugees to the EU, but also other incentives.

One of them was **visa-free travel**. This was in fact a necessity because Turkey had said for years that in return for readmission, it wanted visa-free travel.

It had linked these two issues almost 7 years ago, when it started discussing visa-free travel with the EU.

Back in 2009, the EU wanted to condition the launch of a visa liberalisation process on the *prior* conclusion *and* implementation of an EU-Turkey readmission agreement. It had done that in the case of the Western Balkan countries when it started discussing visa liberalisation with them in 2007, it later insisted on this vis-à-vis the Eastern partner countries – Georgia, Ukraine, Moldova and a few others – and it wanted this from Turkey.

But Turkey said “No” – it simply said that it would readmit third-country nationals who had reached the EU via Turkish territory only once its citizens could travel visa-free to Turkey. It wanted not only a *process* with various

conditions that might lead to visa liberalisation (or not), but the real thing. The reason was simple: the Turkish government knew that Turkey had been a major transit country for irregular migrants for years, that tens of thousands of Afghans, Pakistanis and others had travelled through Turkey to the EU, and that readmission could mean that it would have to take back many of them. This fear was – and is – exaggerated because readmission is not an easy procedure, but the Turkish government says until this day that readmission with the EU will start only if and once the visa requirement is lifted.

So, in order to win Turkey's cooperation in closing the Aegean migration route, it was necessary for the EU to offer it visa-free travel. Now, the take-back agreement concerning refugees who reach Greek islands after 20 March is less threatening to Turkey than a full-blown readmission agreement with the EU that encompasses all EU countries and includes irregular migrants and rejected asylum seekers (not asylum seekers like in the case of the EU-Turkey deal!) who reached the EU at some point in the past. So, in the framework of the EU-Turkey refugee agreement, Turkey agreed to accept an *acceleration* of the existing visa liberalisation process, hoping that this meant visa-free travel at the end.

In the framework of the existing visa liberalisation process, Turkey has to meet 72 requirements. So far, it has met 65 of the 72 benchmarks. However, Turkish officials like to gloss over the open requirements, and they openly and loudly do insist on visa-free travel, which means that the EU cannot simply skip over this issue.

There was another crucially important issue to resolve to make the EU-Turkey cooperation in the Aegean work: it was the living conditions for refugees in Turkey. They had to be improved for Greece to be legally able to send back asylum seekers to Turkey – Turkey had to be safe for them, a so-called “safe third country”. And this required funding from the EU since, as we know, the processing, accommodation and integration of refugees cost money.

Now, what were the conditions for refugees like in Turkey? Since 2013, Turkey has had a new asylum law, the Law on Foreigners and International Protection, which is largely in line with EU and international standards. It has established an asylum authority, the Directorate-General for Migration Management, the DGMM. But this institution is still young and not yet processing many asylum claims. Syrians are under a special regime, a temporary protection regime, but the status of some 300,000 other non-Syrian refugees, of whom some 100,000 have asked DGMM for asylum, has not yet been decided.

And all these refugees, both the Syrians and the non-Syrians, those whose claims are still to be decided and those who have been granted protection, do not yet have access to all the rights that the law envisages for them, most importantly access to the labour market and to schooling. Only in January did Turkey introduce the right to work for Syrians, but very few have exercised it so far.

As regards schooling, today some 400,000 to 450,000 of the 900,000 Syrian kids of school age do not go to school. There is simply no space and no teachers – in some Turkish municipalities, there are more Syrian refugees than Turkish inhabitants, and they cannot cope with so many school children, there are no free buildings to hold classes, no teachers, and another problem is that they of course do not speak Turkish.

This is a tremendous challenge: if there are 450,000 children that need schooling and if one class has 30 children – this means that 15,000 classrooms and 15,000 teachers are needed.

So, to cut a long story short, for the deal to work, Turkey has to implement its law in full, strengthening the DGMM and giving access to all the rights the envisages, which requires the adoption of a few by-laws. But there is also a need for significant funding from the EU to improve the living conditions of the refugees. As you know, in the end the EU-Turkey deal envisages 3 billion Euro in aid this year and in 2017, and then another 3 billion in assistance for the refugees in Turkey.

This is, by the way, is not money that the Turkish government is supposed to get. It will be spent on projects run by independent organisations. E.g. among the first projects is a 37 million Euro schooling project with UNICEF.

Besides visa-free travel and money, Turkey also wanted some formal progress in the accession talks, meaning the opening of a few new chapters in the talks, but this is not important, just a show, and both sides know it.

## **THE CURRENT SITUATION**

So, the following is what the EU and Turkey agreed on 18 March. There is some more detail and a few safety catches, but overall it is:

- Readmission of people who reach Greek islands
- Resettlement of Syrian refugees from Turkey to EU countries
- 6 billion Euro in aid to improve the conditions for refugees in Turkey
- Visa-free travel

- The opening of a few chapters in the accession talks

One aspect works very well. The flow of refugees has subsided. The number of people arriving on Greek islands dropped to an average of 114 per day in April.

In comparison: in January, the daily average of arrivals was close to 2,000 (1,932), and in October 2015, the record month, it was 6,800.

The numbers for readmission have so far been modest: as of 29 April, 386 refugees have been returned under the EU-Turkey deal.

So, why have refugees stopped coming? Firstly, the news of the agreement appears to have had a strong psychological deterring effect. Then the refugees also see that it is no longer possible to move on from Greece – they remain stuck there. The Balkan route has been closed since 8 March, Idomeni has an effect.

Now, how is the situation with resettlement?

The EU has so far resettled: 135 Syrians, as of 3 May.

Resettlement has become a complicated issue under the deal. There are two mechanisms. One is the contentious 1:1 scheme. For each *Syrian* returned from Greece to Turkey, the EU is obliged to resettle a Syrian from Turkey to the EU. This is a safety net for both sides: it makes sure that the number of Syrian refugees remains the same in both territories (unless new Syrian refugees arrive in Turkey or the EU in other ways, of course).

Among the 386 people returned from Greece to Turkey so far, there were only 14 Syrians, so the EU has already resettled more than it is obliged to. It has resettled 135, which is almost 10 times more.

The second resettlement mechanism, which is much more important, is point 4 in the EU-Turkey agreement. It reads:

“Once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced, a Voluntary Humanitarian Admission Scheme will be activated. EU Member States will contribute on a voluntary basis to this scheme.”

Last year, ESI proposed that Germany alone take 500,000 refugees in a year and other EU member states then join in and take additional contingents. In the run-up to the deal, figures mentioned during the negotiations were 150,000 to 250,000 refugees to be resettled by the EU.

But my fear is that now, since there is no more pressure, member states would like to skip this. As far as we know, the countries that expressed a willingness to resettle (Germany, Netherlands) are not preparing for it. It's a voluntary scheme. Refugees are no longer coming illegally, so the pressure is off. The Turkish side mentions this commitment occasionally, but it is not as important an issue to Turkey as visa-free travel.

So, we are worried.

Our idea was and is not to deny refugees the possibility of asylum in the EU altogether. Our idea is that Turkey and the EU share this burden and that conditions for refugees in Turkey become such that it can offer refugees genuine protection and a longer-term perspective.

But we have wanted to make sure that there are legal pathways for refugees to reach the EU – through resettlement - and that they stop having to risk their lives to achieve this.

We saw the need to stop the massive, uncontrolled and illegal influx in the second half of 2015 because it overstretched the capacity of the asylum systems of some member states and led to a rise in popularity of right-wing, illiberal and EU-sceptical political forces. But we wanted to ensure that the UN Refugee Convention, which is increasingly being questioned, survives - because it is one of the basic human rights treaties of our time. It was drafted with Jews in mind who could not escape from the Third Reich because neighbouring countries, such as Switzerland, closed their borders.

The EU-Turkey deal must ensure substantial resettlement. UNHCR has pushed resettlement for decades, but it does not manage to resettle more than 100,000 per year – in the whole world, of whom the US always takes the lion's share, some 70,000. The EU has so far resettled a few thousand per year. If it resettled 100,000 from Turkey, the number of global resettlements would double and the EU would have shown moral leadership.

The EU-Turkey deal has the potential to show that border control and management of refugee flows can be combined with compassion and respect for human rights. If it does this, it will be truly ground-breaking.

But for this, implementation will have to improve. And we are not only worried about resettlement, but also other implementation issues.

## **OTHER IMPLEMENTATION PROBLEMS**

The European Commission is in charge of coordinating the implementation of the EU-Turkey agreement.

But it publishes very little about it. So far there has been one report, on 20 April, but it leaves more questions open than it answers. Which makes us suspicious whether the information exists at all, and whether the Commission is taking its job seriously.

We published a paper on this issue on Wednesday ([Navigating the Aegean – What the EU ought to know, and say, about refugees and the Greek islands](#)) and I have brought copies of it, so I will only briefly outline the problems.

Greece has to do a lot of work to make the agreement work. It needs to look at the asylum claim of each refugee who has arrived on its islands after 20 March and process it – decide who can be sent back to Turkey to ask for protection there – who might not qualify for protection at all and should be sent back to his home country – who is very vulnerable and should get protection in the EU.

The 386 people sent back to Turkey so far have not asked for asylum, they are voluntary returnees. Has the Greek Asylum Service decided any claims since 20 March? Nobody knows, this is not public information.

There are 8,200 people on the islands. And there are another 45,000 in Greece elsewhere, whose claims also need to be resolved. But the Greek Asylum Service is very small. 300 staff, 130 case workers. The Commission has called on EU member states to second asylum experts – 472 case workers and 400 interpreters. It seems that so far around 60-70 asylum experts and 60 interpreters have arrived. This is too few.

And what do they do? Why is there no information on how many claims they have resolved, and how they have resolved them? How do they cooperate with their Greek colleagues, are their operating procedures? Nothing is being made public.

This, in fact, should become a European Asylum Support Mission, with EU case workers that can take binding decisions and with a senior coordinator, for example a former EU foreign minister, who can make things happen and resolve problems in direct talks with Brussels, Athens and Ankara. We are worried that Greek authorities alone, even if they have some support from seconded EU colleagues, will not be able to run the large-scale operation that is required. But you can read more about this in our recent paper.