

## BERLIN INITIATIVE

### Resolving the Aegean refugee crisis in early 2016

ESI Background Paper  
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#### Summary

**If current trends continue**, the number of people who reach Germany from Turkey (via Greece) will not go down significantly in the first months of 2016. To change this, the EU expects Turkey to do three things which are all costly, difficult and unpopular:

- Prevent exits along its Western coast
- Readmit people from Greece in a timely and consistent manner
- Offer Syrian refugees in Turkey a perspective through opening the labour market and other significant investments (education, ...)

**Ankara does not trust** that the EU will deliver on its three key commitments in 2016:

- Lift the visa requirement for Turkish citizens with biometric passports
- Resettle significant numbers of Syrian refugees from Turkey to several EU member states that have expressed willingness to accept them
- Mobilise *and spend* new funds that will make a difference to the situation of refugees

**To change the current dynamic** in the Aegean it is essential to

- Show that the EU, and Germany in particular, can be trusted to deliver results
- Discuss, and address, with Turkey (and Greece) all practical/logistical issues concerning resettlement and readmission from Greece to Turkey now
- Show that Germany and the EU are serious about visa liberalisation *if Turkey meets its commitments*

**Detailed operational plans need to be developed** for the implementation of two programmes in the first four months of 2016:

- **Germany should commit to resettle 100,000 Syrians** from Turkey before 30 April in a pilot resettlement phase; other EU states commit to resettle proportionate numbers in the same period.

- **Turkey should commit to readmit**, without delay, anyone who reaches the Greek islands after 15 January 2016.

At the same time:

- **Turkey fully implements the 2013 Law** on Foreigners and International Protection, which establishes Turkey's domestic asylum system. The Turkish asylum authority, the Directorate General for Migration Management, issues decisions and grants international protection, having already conducted many interviews with asylum seekers; missing secondary legislation making access to rights operational is adopted. Then Greece can consider Turkey a safe third country (for refugees) by 15 January 2016.
- **The European Commission launches the process now to lift the visa requirement** for Turkish citizens. Conditional on Turkey implementing the readmission provisions of this plan with Greece fully before 30 April 2015, and meeting other key conditions, the visa requirement is lifted in May.

## ANNEXES

### *Table of contents*

ANNEX I: How early 2016 becomes a turning point .....	3
ANNEX II: UNHCR vs. German Pilot Resettlement Flow Chart .....	5
ANNEX III: Steps to get to visa free travel in 2016 .....	7
ANNEX IV: Visa roadmap conditions Turkey still has to meet.....	8
ANNEX V: EU-Turkey deal 29 November – why it is not enough.....	10

### **ANNEX I: How early 2016 becomes a turning point**

#### **Resettlement pilot**

Germany resettles 100,000 refugees from Turkey between 15 January and 30 April 2016.

Direct contacts between the German asylum authority BAMF (Bundesamt für Migration und Flüchtlinge) and its Turkish counterpart, the DGMM (Directorate-General for Migration Management) in Ankara. No need for intermediaries (UNHCR; European Commission). A simplified four-step resettlement process:

1. DGMM announcement: 100,000 Syrians under protection in Turkey can apply to resettle in Germany. Criteria for this pilot phase:
  - Syrian nationals, registered in a Turkish refugee camp before 31 December 2014
  - families with children preferred
2. Interested refugee families fill out simple application form
  - Only essential information: names of all family members, personal details and address, copies of passports, fingerprints
3. All applications are submitted to a joint unit staffed by DGMM and BAMF in Ankara
  - sent for security check (similar to those for visas)
  - if more than 100,000 persons pass the security check, there will be a lottery
4. BAMF gives *Aufnahmezusage* (agreement to grant protection) – families travel to Germany.

The European Commission and Turkey keep a joint database of everyone who is resettled. Member states work out their own criteria and modalities directly with DGMM in Ankara.

#### **Readmission from Greece**

Turkey, Greece and EU each appoint a **high level representative** with direct access to prime ministers to work out a strategy (and identify resources) needed to implement readmission from Greece of everyone who reaches Greek islands after 15 January 2016. The European

Commission (and/or EU member states) provides flexible funding for the necessary investments. Readmission begins from 1 February 2016.

### **Visa liberalisation**

The European Commission begins *right away* the process of lifting the Schengen visa requirement for Turkey. This legal process always lasts a few months. It should hold out a concrete promise to Turkish citizens:

“If Turkey implements the existing readmission agreements with Greece in full and agrees to take back all **new** arrivals from 15 January 2016, and implements a concrete set of other priority conditions from the roadmap until 30 April, Turkish citizens will be able to travel without a visa to the EU as of 1 June 2016.”

### **Principles to ensure efficiency and results**

Wherever possible member states (MS) should cut out intermediary institutions, unnecessary information requirements and coordination requirements that get in the way of reaching results.

#### Direct Cooperation

Direct cooperation of member state institutions with Turkish authorities, such as the Directorate-General for Migration Management (DGMM). The quickest way is to leave out all unnecessary intermediaries. It is the Turkish DGMM that has registered the Syrian refugees (as well as all asylum seekers) in Turkey and which has information on them. It makes sense to work with the DGMM directly.

#### Light common framework

EU MS should decide on the profiles of refugees they wish to take on their own, within a light common framework. During the pilot phase (January to April 2016), the only criterion should be residence in one of the refugee camps for Syrian refugees in Turkey and registration in Turkey before 31 December 2014 – this would avoid any pull factor drawing new Syrian refugees to Turkey. The EU should establish a light framework together with the EU MS willing to resettle refugees, settling questions such as how to avoid a pull factor. However, it should leave it to the EU MS to decide on the specific selection criteria, which should also be kept light. EU MS should decide on technicalities of resettlement (security checks, protection status) in line with existing legislation.

#### Results early on in 2016

The key is to have results from the beginning, and to learn while doing things during the pilot phase. Create a lessons learned unit that compares the experience made by different EU MS to ensure efficient mutual learning.

#### Strong communication

Coalition of willing member states to create a strong and professional communication strategy. Clarity in messaging to different audiences (EU publics, Turkish public, refugees).

## ANNEX II: UNHCR vs. German Pilot Resettlement Flow Chart

### UNHCR RESETTLEMENT FLOW CHART

The UNHCR resettlement process goes through many steps, and lasts for many months. This is how UNHCR describes it on its website:

“The preparation of each resettlement submission must pass through a set of common processing stages. A flowchart outlines these processing stages as set out in the [Baseline Standard Operating Procedures on Resettlement](#).

#### 1. Case identification

Registration data in proGres identifies needs  
Newly recognized cases screened  
Participatory assessments, or Heightened Risk Identification Tool identify needs  
Internal, external or self-referral

#### 2. Preliminary assessment of resettlement need

Review by supervising officer

#### 3. Preconditions for resettlement consideration met

Resettlement interview and assessment  
Accountable Officer review of submission recommendation, decision category and priority

#### 4. Recommended for submission

#### 5. Completion of Resettlement Registration Form

Review of RRF by Accountable Officer at field/ sub office and/or country office  
Submission approved pending available quota  
Review of RRF by HUB/ regional office and/or UNHCR HQ as applicable

#### 6. Submission to RST country

#### 7. Resettlement country interview

#### 8. Resettlement country decision

#### 9. Accepted

Pre-departure follow-up including exit permits, travel documents, visas  
Resettlement case closed”

However, to achieve results starting in early 2016 a different resettlement process is essential.

## GERMAN PILOT RESETTLEMENT FLOW CHART

The goal: to resettle the first 100,000 Syrian refugees from Turkey to Germany between 15 January and 30 April 2016. This is impossible without a simplified procedure. Currently Germany has almost no information prior to admitting refugees to its territory. With this process there would be essential information – that refugees are Syrians, and that there are no German or international security alerts.

Four steps:

### **1. DGMM announcement**

100,000 Syrians under protection in Turkey can apply to resettle in Germany. Criteria for this pilot phase: whole families with children preferred; registered in a Turkish refugee camp before 12 Dec 2014.

### **2. Refugee families fill out simple application**

Key information: personal details of family members, copies of identification/passports, fingerprints.

### **3. Applications are submitted to a joint unit staffed by DGMM-BAMF in Ankara**

All applications sent for security check (similar to security checks for giving visas); all applicants which pass security check collected. If there are more than 100,000 people there will be a lottery.

### **4. BAMF gives *Aufnahmezusage* – families travel to Germany.**

### ANNEX III: Steps to get to visa free travel in 2016

To lift the Schengen short-stay visa requirement for citizens of a third country, the EU needs to amend Council Regulation 539/2001.<sup>1</sup> This lists in Annex I all countries whose citizens have to have a visa to enter the Schengen area (“black list”), and in Annex II all countries whose citizens can enter without a visa (“white list”). The country in question has to be moved from Annex I to Annex II. This was done for Moldova in 2014, and for Western Balkan countries (Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia) in 2009/2010.

1. The European Commission puts forward the legislative proposal, which consists of the justification and the proposed amendment. It needs to draft the proposal, consult it internally, translate it into all 24 official EU languages and adopt it at one of the weekly meetings of Commissioners. This process takes several weeks, with most time spent on translation.
2. The proposal is then sent to the European Parliament, the Council and the national parliaments, which have eight weeks to consider whether it complies with the principle of subsidiarity.
3. The Council and the European Parliament decide on the proposal on an equal footing. In the Parliament, the proposal is discussed by the relevant committees, which are the Committee for Civil Liberties, Justice and Home Affairs (LIBE), which has the lead, and the foreign affairs committee (AFET), which provides its opinion. They can amend it, and they vote on it. This can take three sessions spread over two months or longer, but it can also be done more quickly. Once agreed, the proposal is put on the agenda of a meeting of the plenary, which takes the final vote. Approval requires a simple majority. The parliament has one full session per month.
4. As regards the Council, it is usually the Justice and Home Affairs Council that decides on changes to the Visa Regulation, and it usually does it after the parliament’s vote, but it can also do it in parallel or even before. The Council decides on lifting the visa requirement with a qualified majority. This means that at least 55% of the Council members participating in the vote (which makes 15), representing at least 65% of the EU population, must vote in favour. (The UK and Ireland do not take part in this vote since they are not Schengen members.)

The process of lifting the visa requirement took 5 months for Moldova; 5 months for Macedonia, Montenegro and Serbia; and 6.5 months for Albania and Bosnia. However, if the EU institutions and member states want to everything can be done more quickly; there are provisions for urgent priority proposals.

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<sup>1</sup> COUNCIL REGULATION (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, [consolidated version of 9 June 2014](#).

#### ANNEX IV: Visa roadmap conditions Turkey still has to meet

On 20 October 2014, the European Commission published its [first report](#) assessing whether Turkey complies with the benchmarks that its [visa liberalisation roadmap](#) sets out. The assessment came 10 months after the EU-Turkey visa liberalisation process was launched on 16 December 2013.

In the report, the Commission looked at all the individual benchmarks and used five distinct formulations to describe progress. The roadmap legend in detail:

*“Requirement fulfilled”*: **grade 1**

*“Almost fulfilled (i.e. only some limited work still needs to be done to entirely fulfil the requirement)”*: **grade 2**

*“Fulfilled partially, but with good prospects for further progress (i.e. much work still needs to be done, but the results achieved and the work done by the Turkish authorities are substantial, and developments so far are encouraging)”*: **grade 3**

*“Only partially fulfilled (i.e. much work still needs to be done to fulfil the requirements of the benchmark, no particular positive developments to address them were observed)”*: **grade 4**

*“Requirement not fulfilled (i.e. Turkey is far from meeting this benchmark)”*: **grade 5**

ESI recommends to divide the still unaddressed criteria into two groups:

Those to be addressed as an immediate priority before visa can be lifted in April 2016.

Those to be assessed fully by the European Commission one year after visa have been lifted in April 2017.

## Unmet visa roadmap conditions – October 2014

Requirements related to the readmission of illegal migrants	Grade
Implement readmission obligations existing with Member States	5
Implement the EU-Turkey readmission agreement in all its provisions (solid track record)	5
Strengthen the capacity of the competent authority to process readmission applications	5
Process readmission requests in line with domestic and EU data protection requirements	5
Compile and share with MS and the European Commission statistics on readmission	5
Establish & implement internal procedures to identify and return Turkish citizens, third-country nationals and stateless persons illegally residing in EU MS, facilitate the transit of persons being returned elsewhere	4
<b>Block 1: Document security</b>	
Exchange passport specimens, visa forms and information on false documents, cooperate on document security with the EU	4
<b>Block 2: Migration management</b>	
Adopt & implement legislation on the movement of persons at the external borders and the organisation of the border authorities in line with Turkey's 2006 IBM strategy and principles of the Schengen Border Code and Schengen Catalogue	5
Allow visa-free access to Turkish territory for the citizens of all EU MS	5
Enhance cooperation and information exchange between the staff and bodies in charge of border management, the custom service and other law enforcement agencies	4
Ensure cooperation with neighbouring EU MS, in particular on border management	4
Pursue the alignment of Turkish visa policy towards the EU <i>acquis</i> vis-à-vis the main countries representing important sources of illegal migration for the EU	4
Set up & apply a mechanism to monitor migration flows (regular and illegal), develop situational picture on illegal migration flows and the different countries of origin	4
Seek to conclude and implement readmission agreements with countries that represent sources of important illegal migration directed towards Turkey or EU MS	4
<b>Block 3: Public order and security</b>	
Conclude and implement an Operational Cooperation Agreement with EUROPOL	5
Sign, ratify and implement relevant international data protection conventions	5
Adopt and implement legislation on the protection of personal data in line with the EU standards	5
Continue & complete the implementation of the National Strategy and Action Plan for the fight against organised crime, ensuring adequate human and financial resources	4
Sign & ratify the Council of Europe Convention on Action against Human Trafficking, adopt and implement legislation in line with it and with the relevant EU <i>acquis</i> on prevention of THB, the prosecution of traffickers and protection and assistance to their victims	4
Provide adequate infrastructure and resources ensuring decent reception and protection of victims of trafficking and supporting their social and professional reintegration	4
Continue implementing the National Strategy and the Action Plan on the Fight against Corruption and the recommendations of GRECO (I., II. and III. Evaluation Rounds)	4
Develop working relations with EUROJUST	4
Continue implementing the 1980 Hague Convention on civil aspects of international child abduction, accede to the 1996 and the 2007 Hague Conventions related to parental responsibility and the protection of children, and international recovery of child support	4
Provide effective judicial cooperation in criminal matters, incl. in extradition matters, to all EU MS	4
<b>Block 4: External Relations and Fundamental Rights</b>	
Develop and implement policies addressing Roma social exclusion, marginalisation and discrimination in access to education, health services, ID cards, housing, employment and participation in public life	4
Ratify additional Protocols n. 4 and 7 of the European Convention on Human Rights	4
Revise - in line with the ECHR and with the European Court of Human Rights (ECtHR) case law, the EU <i>acquis</i> 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	4

## ANNEX V: EU-Turkey deal 29 November – why it is not enough

What the EU and Turkey have agreed on 29 November will not achieve its main goal: “to stem the flow of migrants to Europe”. Both sides will then blame each other. Frustration will erode already dangerously low levels of trust. Precious time will have been wasted.

There are five measures in the EU-Turkey deal that are supposed to help lower the number of refugees arriving in the EU.

**Measure 1:** The EU-Turkey statement states that

“... both sides will, as agreed and with immediate effect, step up their active cooperation on migrants who are not in need of international protection, preventing travel to Turkey and the EU, ensuring the application of the established bilateral readmission provisions and swiftly returning migrants who are not in need of international protection to their countries of origin.”

Firstly, how many migrants are *not* in need of international protection? Very few. More than half of the refugees arriving in the Europe are Syrians. In 2014, 95% of all Syrian refugees received protection in the EU (Eurostat). This makes only 5 percent that could be sent back. The second-biggest group (20 percent) are Afghans. Their recognition rate was 63 percent.

Secondly, who will determine which refugees are in need of international protection and which are not? This requires an asylum procedure, including the possibility to appeal a negative decision to a court. It is illusory to believe that Greece could conduct such a procedure for the 150,000 to 200,000 refugees that currently arrive on its islands each month. Even Germany with its large administration decided only 32,000 asylum claims in October.

The statement mentions applying “the established bilateral readmission provisions.” This is a reference to the Greece-Turkey readmission agreement from 2001. Between 2002, when it entered into force, and the end of last year, Greece asked for the readmission of 135,000 rejected asylum seekers and irregular migrants. Turkey accepted 13,100 of these. In the end 3,800 (3 percent) were returned to Turkey.

In 2015, Turkey has accepted more requests. But so far, only 8 people have actually been returned from Greece to Turkey. The problem is obvious: by the time Turkey has agreed to readmit someone and paperwork is completed, the person is usually no longer in Greece.

*Readmission of irregular migrants from Greece to Turkey (source: Hellenic Police)*

<b>Year</b>	<b>Migrants whose readmission Greece requested</b>	<b>Migrants accepted by Turkey</b>	<b>Migrants actually readmitted</b>
<b>2012</b>	20,464	823	113
<b>2013</b>	3,741	370	35
<b>2014</b>	9,691	470	6
<b>Jan-Sept 2015</b>	8,727	2,395	8

Even if Turkey accepts *all* Greek readmission requests (so far 9,000 this year) and even if Greece manages to request more readmissions – two or even three times as many per year –

this would not make much of an impact. Currently, more refugees arrive on Greek islands *per week*.

**Measure 2:** The second measure that could lead to a reduction in the number of refugees reaching the EU is the *EU-Turkey* readmission agreement, which will now come into effect in June 2016.

Everything we said here about the bilateral agreement with Greece also goes for this agreement. It applies to all EU countries – not only Greece, but Germany, Sweden, Austria and other EU states. In theory, all will be able to send back to Turkey rejected asylum seekers and irregular migrants. However, if refugees reach these countries through the Western Balkans, the *EU-Turkey* readmission agreement no longer applies: it requires that persons to whom it is applied “illegally and directly entered the territory of the Member States after having stayed on, or transited through, the territory of Turkey” (*EU-Turkey* readmission agreement, [Art. 4](#)). Those who take the Balkan route enter the EU “directly” from Serbia, not Turkey. So, this readmission agreement is even less relevant than the Greek one.

**Measure 3:** The third measure is Turkey’s intention “to adopt immediate measures to further improve the socio-economic situation of the Syrians under temporary protection.”

So far, the EU has tried in vain to extract from Turkey a commitment to allow Syrian refugees access to the labor market. The current commitment is vague in its language, but might include labour market access. This would be a very important step forward. It has yet to be agreed. And of course, it doesn’t apply at all to non-Syrians who cross to Greece.

**Measure 4:** The EU promises to “provide immediate and continuous humanitarian assistance in Turkey ... The EU is committed to provide an initial 3 billion euro of additional resources.”

Improving the conditions of Syrian – and other – refugees in Turkey is of course both commendable and urgently needed. This offer amounts to a significant commitment. However, at this moment it remains completely unclear whether and when this money will actually be spent.

**Measure 5:** Lastly, there is the promise “to enhance the fight against criminal smuggling networks.” There is a multitude of reasons why this means little. Fighting smugglers is like Sisyphus rolling his rock up a hill; any who are captured are quickly replaced by others. They respond quickly to the demand generated by the refugees. Turkey is unlikely to be willing or able to commit the resources that would be needed to patrol its entire Aegean coast for months in order to please the European Union.