

Chapter Twenty

Assessing the Future of the Migration Deal and Visa-Free Travel

N. Ash Şirin Öner

In the second half of 2015, over one million refugees and migrants were arriving on European shores, and almost 4,000 of them lost their lives during the journey. The largest migration flow since World War II (WWII) was soon termed a “migrant crisis.”¹ This was not merely a European crisis, and no country, including the United States, could overlook its consequences. Faced with such an emergency, European countries had to cooperate in order to grant protection to the asylum-seekers, mostly Syrians. Turkey drew attention by hosting almost three million Syrians and played an important role as a transit country in the migration flow to Europe. From Turkey’s perspective, this decision was significant in terms of timing because it came in a period when the hope of having a bright future with the EU had almost entirely waned. After a long period of reticence, there were high-level visits again between Turkish and EU leaders in Ankara and Brussels. The main theme of these visits was the migrant crisis, resulting in the Turkey-EU Leaders’ Summit held on November 29, 2015.

After the summit, the two sides engaged in efforts to stop the migration flow, albeit with disappointing results. A follow-up meeting was held to attempt a migration slow-down, which took place on March 7, 2016. The two sides agreed on several action points, including Turkey’s readmission of all new irregular migrants crossing to Greek islands, and that for every Syrian readmitted by Turkey from the Greek islands, another Syrian from Turkey was to be admitted to the EU. Following the March 17-18, 2016 European Council assembly, the EU-Turkey Statement, publicly known as the Migration Deal, was adopted with the aim of ending irregular migration from Turkey to the EU. The two sides also agreed to accelerate Turkey’s visa liberalization roadmap with the EU.

¹ Clayton, Jonathan and Holland, Hereward. “Over one million sea arrivals reach Europe in 2015.” UNHCR, December 30, 2015. <http://www.unhcr.org/afr/news/latest/2015/12/5683d0b56/million-sea-arrivals-reach-europe-2015.html>.

This chapter focuses on the Migration Deal (hereafter: The Deal) which can be seen as the revitalization of EU-Turkey relations. I elaborate on components of the Deal, including the hastening of the visa liberalization dialogue (VLD). The article is composed of two parts: In the first, we focus on the Deal itself. In the second part, we elaborate on the visa liberalization dialogue and roadmap achievements. The conclusion includes remarks on strengthening Turkey's transatlantic relations.

The Migration Deal and the Current Situation

In 2015, we saw a dramatic increase in the number of migrants and asylum-seekers to Europe. According to a Frontex report, only in 2015, more than 100,000 migrants and asylum-seekers tried to enter EU countries.² Due to this sudden and drastic increase, the migration issue was at the top of Europe's agenda. During a meeting in August 2015, French President François Hollande and German Chancellor Angela Merkel urged for a unified EU response to the largest crisis Europe had witnessed since WWII. While European countries discussed how to deal with the crisis, the number of migrants and asylum-seekers that were losing their lives in the Mediterranean continued to rise.³ It was obvious that the crisis required a unified EU response. "In September 2015, to alleviate the burden on Italy and Greece of mass arrivals of refugees, the Justice and Home Affairs Council decided to relocate 106,000 asylum seekers plus another 54,000 'unless a proposal is submitted by the Commission to the Council before 26 September 2016 to adapt the relocation mechanism.'"⁴

EU leaders met on October 15 to discuss the migrant crisis in the EU Council. They underlined the importance of collective responsibility and agreed on orientations including collaboration with the countries of origin and transit to stem the migratory flows, and the issue of return and read-

² Frontex. "General Report 2015." http://frontex.europa.eu/assets/About_Frontex/Governance_documents/Annual_report/2015/General_Report_2015.pdf

³ The International Organization for Migration (IOM) reported that the total number of deaths of all migrants and refugees attempting to reach Europe by sea by the end of August was over 2,300. See: IOM. "IOM Continues to Monitor Mediterranean Migrant Arrivals and Deaths." Press Release, August 25, 2015. <http://www.iom.int/news/iom-continues-monitor-mediterranean-migrant-arrivals-and-deaths>.

⁴ The European Union. "Council Decision (EU) 2015/1601 of September 22, 2015 established provisional measures in the area of international protection for the benefit of Italy and Greece." <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D1601&from=EN>.

mission.⁵ The leaders agreed on a EU-Turkey joint Action Plan which “reflects the understanding between the European Union (EU) and the Republic of Turkey to step up their cooperation on support of Syrians under temporary protection [...] The Action Plan identifies a series of collaborative actions to be implemented [...] with the objective to supplement Turkey’s efforts in managing the situation of massive influx of persons in need of temporary protection.”⁶ Donald Tusk, the European Council President, considered the Action Plan “a major step” in “stemming the migratory flows that go via Turkey to the EU.”⁷ Hence, the largest migrant crisis since World War II focused on the EU-Turkey relations and included visits of high-level EU officials. Angela Merkel, German Chancellor visited Turkey as well, on October 18, 2016.

Within the framework of revitalized EU-Turkey relations, since November 2015, there were bilateral contacts fostering cooperation and dialogue.⁸ The contacts resulted in the heads of state or government meeting with Turkey held on November 29, 2015. These are the major points addressed in the meeting statement:

[...] Turkey and the EU discussed the importance of overcoming common challenges ahead. In line with the conclusions of the European Council of 15 October, they agreed that the accession process needs to be re-energized. [...] For this purpose, it was agreed that a structured and more frequent high-level dialogue is essential to explore the vast potential of Turkey-EU relations, [...] Both sides welcomed the announcement to hold the Intergovernmental Conference on 14 December 2015 for opening of Chapter 17. [...] The EU welcomed the commitment by Turkey to accelerate the fulfilment of the Visa Roadmap benchmarks vis-à-vis all participating Member States. [...] The EU will provide immediate

⁵ European Council. “Meeting Report of October 15, 2015.” <http://www.consilium.europa.eu/en/meetings/european-council/2015/10/15-16/>

⁶ European Commission. “Fact Sheet ‘EU-Turkey joint action plan,’” October 15, 2015. http://europa.eu/rapid/press-release_MEMO-15-5860_en.htm.

⁷ European Council. “Remarks by President Donald Tusk after the European Council meeting of 15 October 2015.” <http://www.consilium.europa.eu/en/press/press-releases/2015/10/15-tusk-final-remarks-european-council/>

⁸ The migrant crisis was among the primary subjects addressed in the G-20 Leaders’ Communiqué Antalya Summit of November 15-16, 2015. The Communiqué mostly focused on political rather than economic issues due to the terrorist attacks in Paris on November 13, where 132 people were killed. See: Ceran, A. “Hız kazanan Türkiye-AB ilişkilerinin odağında göçmen krizi” [“Migrant crisis is the focus of Turkey-EU relations.”] *İKV Dergi*, No. 207, (Aralık 2015): p.31.

and continuous humanitarian assistance in Turkey. [...] Turkey and the EU have decided to activate the Joint Action Plan that had been agreed until now ad referendum on 15 October 2015 took note of the launching of preparatory steps for upgrading the Customs Union [...] ⁹ ¹⁰

Clearly, neither Turkey's unilateral efforts nor the EU's limited financial assistance were sufficient to successfully handle the migrant crisis. Therefore, the European Commission (EC) set out measures for increased border security and migration management.¹¹ In addition to the communication, the Commission proposed to establish a European Border and Coast Guard Agency that would "replace Frontex and monitor the Union's external borders, have a pool of European border guards and the right to intervene when necessary."¹² The migrant crisis dominated the European agenda during the first two months of 2016 as the war in Syria continued.¹³ As Merkel's "allocation plan"¹⁴ was not successful, "the EU once again found itself on the card table to deal with possible refugee flows from Turkey, since with spring coming, many more people were expected to move towards to Europe."¹⁵

A new summit—a follow-up to the summit of November 29—was held on March 7. The aim was to strengthen cooperation with Turkey, and the two sides focused on effectively implementing the joint Action Plan. Even

⁹ European Council. "Meeting of heads of state or government with Turkey - EU-Turkey statement, November 29, 2015." <http://www.consilium.europa.eu/en/press/press-releases/2015/11/29-eu-turkey-meeting-statement/>.

¹⁰ Chapter 17 was opened for negotiations on December 14, 2015.

¹¹ Ceran, A. "Hız kazanan Türkiye-AB ilişkilerinin odağında göçmen krizi" ["Migrant crisis in the focus of Turkey-EU relations."] *İKV Dergi*, No. 207, (Aralık 2015): p.32.

¹² European Commission. "Proposal for a Regulation of the European Parliament and of the Council on the European Border and Coast Guard and repealing Regulation (EC) No 2007/2004, Regulation (EC) No 863/2007 and Council Decision 2005/267/EC." December 15, 2015. http://eurlex.europa.eu/resource.html?uri=cellar:3086c6c9a3e711e5b52801aa75ed71a1.0023.02/DOC_1&format=PDF.

¹³ The number of asylum-seekers trying to cross the Aegean Sea considerably increased in the first two months of 2016.

¹⁴ The essence of Merkel's plan is taking a predetermined number of refugees each year and allocating them throughout Europe. Every member state would be taking refugees from the Middle East in accordance with its size and ability to provide assistance. See: H. Knaup, P. Müller, R. Pfister and C. Schult. "EU Split by Merkel's Refugee Plan." *Spiegel Online*, February 12, 2016. <http://www.spiegel.de/international/world/merkel-refugee-plan-faces-resistance-in-brussels-and-ankara-a-1077131.html>.

¹⁵ Toygür, İ. and Özsöz, M. "Stormy months on the Aegean: the refugee deal and its impact on Turkey-EU relations." *Elcano Royal Institute*, ARI 27/2016, March 15, 2016, p.2.

though they made progress, the number of illegal entries from Turkey to Greece was still high. EU leaders “welcomed Turkey’s commitment to accept the rapid return of all migrants coming from Turkey to Greece that are not in need of international protection.”¹⁶

In the EU-Turkey statement following the meeting, publicly known as the Migration Deal, both sides reaffirmed their commitment to the implementation of their joint Action Plan activated on November 29, 2015.¹⁷ With the objective of breaking the business model of smugglers and offering migrants an alternative to putting their lives at risk, Turkey and the EU agreed on a couple of additional action points:

1. Starting on March 20, 2016, all new irregular migrants crossing from Turkey to Greek islands would be returned to Turkey;
2. For every Syrian returned to Turkey from the Greek islands, another Syrian would be resettled from Turkey, following UN Vulnerability Criteria. This is called the “1:1 mechanism.” The EU would resettle Syrians according to the conclusions of member states’ government representative meeting in the Council on July 20, 2015. There are an additional 18,000 places for resettlement and any further resettlement would be carried with a limit of an additional 54,000 persons;
3. Turkey would take any necessary measures to prevent new sea or land routes for illegal migration opening from Turkey to the EU;
4. Once irregular crossings between Turkey and the EU closed (or at least substantially decreased), a voluntary humanitarian admission scheme would be activated;
5. Fulfilling the visa liberalization roadmap would be hastened with a view to cancelling the visa requirements for Turkish citizens at the latest by the end of June 2016;
6. The EU’s expenditure of three billion euros under the facility for refugees in Turkey would be accelerated. An additional three billion euros is expected by the end of 2018;
7. Ongoing work to boost the customs union is welcomed by the two sides;

¹⁶ European Council. “Meeting of the EU heads of state or government with Turkey, March 7, 2016.” <http://www.consilium.europa.eu/en/meetings/international-summit/2016/03/07/>.

¹⁷ European Council. “EU-Turkey statement, March 18, 2016.” Press Release, 144/16, March 18, 2016.

8. There was a commitment to rejuvenate the accession process as stated on November 29, 2015;
9. EU member states would cooperate with Turkey to improve humanitarian conditions in Syria.¹⁸

The first statistics on the implementation of the “1:1 mechanism” are hopeful for the future of the Deal. In the first ten days of its implementation (April 4–15, 2016), 79 Syrians resettled from Turkey to three EU member states,¹⁹ and 325 people returned from Greece to Turkey.²⁰ Despite the relatively positive picture, several doubts were raised regarding the implementation of the Deal. Firstly, the “1:1 mechanism” was not as successful as it first seemed; returns were high, whereas the number of resettlements was low, meaning that solidarity was lacking within the EU. Secondly, there was a decrease in arrivals along the Eastern Mediterranean route (Greece) but an increase in the Central Mediterranean route (Italy). Hence, migrants chose other routes to reach EU territory.²¹

A European Commission report claimed that “the sharp decrease in the number of irregular migrants and asylum seekers crossing from Turkey into Greece is proof of the Statement’s effectiveness—and in particular, that the business model of smugglers can be broken.”²² Yet, Spijkerboer emphasizes that there was no detectable relation between the Deal and the number of migrants crossing from Turkey to Greece since the fall in numbers took place before the Deal.²³

¹⁸ European Council. “EU-Turkey statement, March 18, 2016.” Press release 144/16, <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>.

¹⁹ These member-states are Germany (37 settlements), Finland (11 settlements), and the Netherlands (31 settlements).

²⁰ Di Bartolomeo, A. “EU Migration Crisis Actions with a focus on the EU-Turkey Agreement.” *Migration Policy Center*, Policy Brief, Issue 2016/04, April 2016, p. 5.

²¹ The route between Libya and Italy is busy. Unfortunately, as IOM reports, 525 people lost their lives while attempting to cross the Mediterranean Sea in January 1–March 10 period. See: Safdar, Anealla. “IOM: 525 refugees die at sea in first few weeks of 2017.” *Aljazeera*, March 14, 2017. <http://www.aljazeera.com/news/2017/03/iom-525-refugees-die-sea-weeks-2017-170314115725176.html>.

²² European Commission. “Communication from the Commission to the European Parliament, the European Council and the Council—Second Report on the progress made in the implementation of the EU-Turkey Statement.” June 15, 2016, COM (2016) 349 final. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-wedo/policies/europeana-gendamigration/proposalimplementationpackage/docs/20160615/2nd_commission_report_on_progress_made_in_the_implementation_of_the_eu-turkey_agreement_en.pdf.

²³ In sum, the EU-Turkey Agreement has no identifiable influence on the overall declining number of crossings in the Aegean. Arguably, it led to a temporary increase in the weeks before it was concluded.” See: Spijkerboer, T. “Fact Check: Did the EU-Turkey Deal

In addition, the Deal has been criticized by academics as well as organizations such as the Council of Europe, and NGOs like Amnesty International.²⁴ Moreover, the “1:1 mechanism” is criticized within the context of human rights. Arribas emphasizes that the return of all new irregular migrants to Turkey from the Greek islands is the most controversial component because it involves international refugee law, the EU law, and the law on human rights. Particularly, the Deal refers to preventing collective expulsions and respecting the *non-refoulement* principle.²⁵ The *non-refoulement* principle is examined along with considering Turkey a “first country of asylum” or a “safe third country” in accordance with the Asylum Procedures Directive.²⁶ The legal basis for the return to Turkey is Article 33 of the Asylum Procedures Directive, which allows for an application to be “inadmissible,” meaning that EU member-states may reject an application without deeper investigation. “There are two legal possibilities that could be envisaged for declaring asylum applications inadmissible in relation to Turkey:²⁷

1. The first country of asylum²⁸ where the person has been already recognized as a refugee in that country or otherwise enjoys sufficient protection there;
2. A safe third country²⁹ where the person has not already received protection but the third country can guarantee effective access to protection to the readmitted person.”³⁰

Regarding qualification as a safe third country or a first country of asylum, Turkey is in a problematic situation. Amnesty International claims that Turkey can neither be considered a safe third country nor a first coun-

Bring Down the Number of Migrants and of Border Deaths?” *Border Criminologies Blog*, September 28, 2016. <https://www.law.ox.ac.uk/researchsubjectgroups/centrecriminology/centrebordercriminologies/blog/2016/09/fact-check-did-eu>.

²⁴ NGOs are vocally opposed to the Migration Deal. For example: *Médecins Sans Frontières* has decided to suspend funds from both the EU and its member states.

²⁵ Arribas, G. F. “The EU-Turkey Agreement: A Controversial Attempt at Patching Up a Major Problem.” *European Papers*, Vol. 1, No. 3, (2016), p. 1098.

²⁶ Directive 2013/32/EU of June 26, 2013 on common procedures for granting and withdrawing international protection

²⁷ European Commission. “EU-Turkey Agreement: Questions and Answers, Factsheet on the EU-Turkey Agreement.” March 19, 2016. http://europa.eu/rapid/press-release_MEMO-16-963_en.htm.

²⁸ Article 35 of Directive 2013/32/EU of June 26, 2013 (Asylum Procedures Directive).

²⁹ Article 38 of the Asylum Procedures Directive.

³⁰ Di Bartolomeo, Anna. *opt.cit.*, p.6.

try of asylum.³¹ In its report, Amnesty set forth that “it seems highly likely that Turkey has returned several thousands of refugees to Syria in the last seven to nine weeks. If the agreement proceeds as planned, there is a very real risk that some of those the EU sends back to Turkey will suffer the same fate.”³² According to the Office of the United Nations High Commissioner for Refugees (UNHCR), Turkey may not guarantee “sufficient” protection,³³ the Parliamentary Assembly of the Council of Europe (CoE) notes that returns of Syrian refugees to Turkey as a “first country of asylum” may be contrary to European Union and international law.³⁴ Moreover, non-Syrians who come from non-European countries do not have effective access to the asylum procedure because Turkey does not grant them refugee status in accordance with the 1951 Convention relating to the Status of Refugees.³⁵

With its poorly constructed implementation, a year has passed since the Migration Deal was agreed upon and it has come to the verge of collapse in the midst of a diplomatic feud between Turkish and European governments. In early March, 2017, a diplomatic row broke out between Germany and Turkey over Turkish referendum campaign rallies in Germany. The row continued as Turkish Foreign Minister Çavuşoğlu was barred from entering the Netherlands to attend a campaign rally in Rotterdam. After that incident, Çavuşoğlu threatened to abandon the agreement altogether.³⁶ Even though on the brink of collapse, in its last report,

³¹ Since Turkey is questioned for being a “first country of asylum” or a “safe third country,” whether Greece is violating the principle of *non-refoulement* by returning asylum-seekers to Turkey is also open for debate.

³² Amnesty International. “Turkey: Illegal Mass Returns of Syrian Refugees Expose Fatal Flaws,” April 1, 2016. <https://www.amnesty.org/en/latest/news/2016/04/turkey-illegal-mass-returns-of-syrian-refugees-expose-fatal-flaws-in-eu-turkey-deal/>.

³³ UNHCR has stated that it was not part of the Migration Deal so it would not take place in returns or detention and would simply assist Greek authorities in developing a satisfactory reception capacity for the asylum-seekers. See: UNHCR. “UNHCR redefines role in Greece as EU-Turkey deal comes into effect.” Briefing Notes, March 22, 2016. <http://www.unhcr.org/news/briefing/2016/3/56f10d049/unhcr-redefines-role-greece-eu-turkey-deal-comes-effect.html>.

³⁴ Council of Europe. “The situation of refugees and migrants under the EU-Turkey Agreement of March 18, 2016.” Report, Committee on Migration, Refugees and Displaced Persons, Doc. 14028, April 19, 2016. <http://assembly.coe.int/nw/xml/XRef/Xref-DocDetails-en.asp?FileID=22612&lang=en>.

³⁵ To make up for not providing international protection because of its geographical limitation to the 1951 Convention, Turkey created conditional refugee status with its Law on Foreigners and International Protection.

³⁶ By referring to the Deal, the Interior Minister Soylu said that Turkey could “blow up Europeans’ minds” by sending Europe 15,000 refugees that Turkey does not send according

dated March 2, 2017, the European Commission highlights the decline in the number of crossings to Greece as an indicator of achievement,³⁷ yet admits that they are higher than the number of returns to Turkey and that the living conditions are poor in the reception centers on the Greek islands.³⁸ Thus the European Council calls on the member-states to urgently respond to the needs of migrants in the centers.

The European Commission estimates that 1,487 migrants returned to Turkey since the Deal was reached. Meanwhile, the resettlements have gained pace when compared to returns from the Greek islands. As of March 14, 3,919 Syrians resettled from Turkey to the EU under the “1:1 mechanism.” As the Commission notes, the pace of resettlements is regular and needs to be further strengthened. Regarding the Facility for Syrians in Turkey,³⁹ the total amount allocated increased to 750 million euros, representing half of the total amount for the 2016-17 period. The amounts contracted have increased, through 39 projects, in record time to EUR 1.5 billion out of the already allocated EUR 2.2 billion for 2016-2017.⁴⁰ However, Turkish officials complained that the promised financial aid was not delivered fast enough and that the Deal failed to decrease the number of Syrians in Turkey.

to the readmission agreement. See: “Let’s send 15,000 migrants a month to Europe to shock them: Turkish interior minister,” *Hürriyet Daily News*, March 17, 2017. <http://www.hurriyetdailynews.com/lets-send-15000-migrants-a-month-to-europe-to-shock-them-turkish-interior-minister.aspx?PageID=238&NID=110926&NewsCatID=510>

³⁷ In the December 8, 2016 - February 26, 2017 period, the total number of arrivals to the Greek islands was 3,449. It is much lower compared to almost 200,000 in the same period the previous year.

³⁸ For the irregular migrants in Greek islands see European Stability Initiative, “Pangloss in Brussels: How (not) to implement the Aegean Agreement,” October 7, 2016. <http://www.esi-web.org/pdf/ESI%20-%20Pangloss%20in%20Brussels%20-%207%20October%202016.pdf>; Christopoulos, D. “Exiles in the Aegean: a year after the EU–Turkey deal,” *OpenDemocracy*, March 18 2017. <https://www.opendemocracy.net/dimitris-christopoulos/exiles-in-aegean-year-after-eu-turkey-deal>.

³⁹ European Commission. “Communication from the Commission to the European Parliament and the Council - First Annual Report on the Facility for Refugees in Turkey,” March 2, 2017. https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/frit_factsheet.pdf.

⁴⁰ European Commission. “Report from the Commission to the European Parliament, the European Council and the Council- Fifth Report on the Progress made in the implementation of the EU–Turkey Statement,” 2017 COM(2017) 204 final, March 2. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/europeanagendamigration/20170302_fifth_report_on_the_progress_made_in_the_implementation_of_the_eu-turkey_statement_en.pdf.

The Issue of Visa Liberalization

The visa liberalization dialogue (VLD) was launched between Turkey and the EU on December 16, 2013, in parallel with the signing of the EU-Turkey readmission agreement. The visa liberalization dialogue involves the implementation of a roadmap (“the Roadmap”) outlining 72 requirements (“benchmarks”) that Turkey needed to fulfill to qualify for visa-free travel within the Schengen zone. The benchmarks were arranged in five thematic groups (“blocks”): Document security, migration management, public order and security, fundamental rights, and the readmission of irregular migrants.

Turkey’s compliance with the benchmarks are assessed by the European Commission through its regular reports. Until today, three reports have been published: October 20, 2014, March 4, 2016, and May 4, 2016.⁴¹ The first report noted Turkey’s advancements in implementing several Roadmap benchmarks, and acknowledged its capacity to make further progress, but warned that the “legal and administrative situation and developments in Turkey, and its overall cooperation with the EU, have not yet reached a stage to enable the Commission to propose to the Council and the European Parliament, to lift Schengen visa requirement for the Turkish citizens.”⁴² In the last report dated May 4, 2016, presented in parallel with the proposal of changing the visa-regulation, the Commission highlighted Turkey’s progress to satisfy the benchmark conditions and encouraged the authorities to continue its effort to complete all of them. By the time the report was issued, there were still seven benchmarks left. Due to practical and procedural reasons, upgrading the existing biometric passports to include security features in line with the latest EU standards, and fully implementing the provisions of the EU-Turkey readmission agreement, including those related to the readmission of third country nationals, would take longer to complete.⁴³ Yet the necessary steps had been taken

⁴¹ The Roadmap is also assessed in the Commission’s Reports on the progress made in the implementation of the Migration Deal.

⁴² European Commission. “Report from the Commission to the European Parliament and the Council on progress by Turkey in fulfilling the requirements of its visa liberalization roadmap,” October 20, 2014 COM (2014) 646 final. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/international-affairs/general/docs/turkey_first_progress_report_en.pdf.

⁴³ European Commission. “Report From The Commission to The European Parliament and The Council - Third Report on progress by Turkey in fulfilling the requirements of its visa liberalisation roadmap,” 2016 COM (2016) 278 final, May 4. <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/europeanagendamigration/propos->

to complete these conditions as well (e.g., the third generation biometric passports will most probably enter circulation in 2017).⁴⁴

Other benchmarks included adopting measures to prevent corruption, aligning the legislation on personal data protection with EU standards, negotiating an operational cooperation agreement with Europol, offering effective judicial cooperation in criminal matters to all EU member states, and revising legislation and practices on terrorism in line with European standards.⁴⁵

Among the benchmarks, the revision of anti-terror legislation is the most controversial issue. The Commission reported, “Turkey needs to revise its legislation and practices on terrorism in line with European standards by better aligning the definition of terrorism in order to narrow the scope.”⁴⁶ Both the legal framework and its interpretation have to be revised so that the right to liberty and security, the right to a fair trial and freedom of expression, assembly, and association could be guaranteed in practice.⁴⁷ The issue was that the definition of terrorist offences in Turkish legislation may be interpreted so broadly that it could cause a violation of fundamental rights and freedoms.⁴⁸ However, Turkey argued that its laws are essential in fighting against the outlawed Kurdistan Workers’ Party (PKK) and the Islamic State of Iraq and Levant (ISIS) militants, and thus insisted on not amending the Anti-Terror Law. Neither side backed down, and the Euro-

alimplementationpackage/docs/20160504/third_progress_report_on_turkey_visa_liberalisation_roadmap_en.pdf.

⁴⁴ Ceran, A. “Vize Serbestliği Diyaloğunda Hasar Kontrolü: Vizesiz Avrupa Neden Hayal Değil?” [“Damage Control in Visa Liberalization Dialogue: Why is a Visa-Free Europe not a Dream?”], İKV Değerlendirme Notu (İKV Evaluation Note) 196, March 2017. http://ikv.org.tr/images/files/ikv_degerlendirme%20notu_196_.pdf.

⁴⁵ Ceran, A. “Vize Serbestliği Diyaloğunda Hasar Kontrolü: Vizesiz Avrupa Neden Hayal Değil?” [“Damage Control in Visa Liberalization Dialogue: Why is a Visa-Free Europe not a Dream?”], İKV Değerlendirme Notu (İKV Evaluation Note) 196, March 2017. http://ikv.org.tr/images/files/ikv_degerlendirme%20notu_196_.pdf.

⁴⁶ European Commission. “Turkey’s progress on the visa liberalization roadmap,” May 4, 2016. <http://www.avrupa.info.tr/sites/default/files/2016-08/Visa%20factsheet%2001246.pdf>.

⁴⁷ The legal basis of the EU’s policy of combatting terrorism is the Council Framework Decisions (2002/475/JHA and 2008/919/JHA) which specifies terrorist offences and related penalties. Turkey should comply with the Council Framework Decision defining the notion of terrorist offense, and implement the action plans aimed at eliminating the violations of human rights. See: Ceran, A. “Vize Serbestliği Diyaloğunda Hasar Kontrolü: Vizesiz Avrupa Neden Hayal Değil?” [“Damage Control in Visa Liberalization Dialogue: Why is a Visa-Free Europe not a Dream?”], İKV Değerlendirme Notu (İKV Evaluation Note) 196, March 2017. http://ikv.org.tr/images/files/ikv_degerlendirme%20notu_196_.pdf.

⁴⁸ Ibid.

pean Commission's Fifth Report on the implementation of the Deal, dated March 2, 2017, reported that seven benchmarks remain to be fulfilled.

Even though the negative political atmosphere stalled the dialogue, there is room for progress. The technical side of the process is almost complete. If Turkey and the EU show political will and reach a consensus, necessary steps can be taken to break the deadlock. Both the EU and Turkey should focus on their common interests. The EU should consider Turkish sensitivities on terrorism, while Turkey should consider every move of reform as a gain and not forget that the EU is its most suitable partner to cooperate in many fields, not the least in migration management.⁴⁹

Concluding Remarks

The migrant crisis of 2015 was not merely a European issue, it is a global crisis. Aware that mass migration would pose a challenge to individual countries and the world order, U.S. President Obama convened a Leaders' Summit on the Global Refugee Crisis held on September 20, 2016, following the UN Secretary General's High-Level Summit on Refugees and Migrants (held on the previous day). With those meetings, the Obama administration directly addressed the migration and refugee crisis, and called for action. However, recently elected President Trump is notorious for his anti-immigration stance. Harsh measures to prevent the entry of migrants and asylum-seekers have marked his first months in office (e.g., the arrival of all refugees has been suspended, and a resettlement program for Syrian refugees has been halted). This anti-immigration stance might be temporary, but it is risky for Europe where migrants and asylum-seekers are not welcomed and face more restrictive policies in an environment with increased numbers of right-wing populist parties.

Europe is asymmetrically affected by refugee flows compared to the U.S. While most of the asylum seekers arrive in the U.S. through resettlement and the number of people granted refuge is smaller, most of those who enter EU territory do so irregularly and illegally. As seen in the recent crisis, this type of migration is the main reason behind the EU's efforts to decrease the number of migrants and refugees coming to Europe. The Migration Deal with Turkey clearly shows this intention. Migrants and asylum seekers might not be welcomed in Europe or the U.S., but as this

⁴⁹ Ibid.

is clearly a global problem, collaboration is necessary. Countries such as Turkey are hosting too many asylum seekers and have difficulty providing assistance. Hosting almost three million Syrians since 2011, Turkey has spent over 25 billion dollars. The burden should be shared, and Turkey needs help from both the EU and the U.S.

Even though the “1:1 mechanism” has not fully been implemented and has many deficiencies, it is the outcome of a rejuvenation of EU-Turkey relations. This momentum needs to be maintained and strengthened, as migration management makes Turkey and the EU interdependent and could help create an atmosphere of trust and lay the groundwork for future cooperation.

