

Briefing on the EU-Turkey Cooperation and Relevant Policies

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This brief is prepared by Ayşem Biriz Karaçay for HarekAct, with the objectives of highlighting the *phenomena of EU-Turkey cooperation and relevant policy suggestions*, and creation of an effective discussion area on these among academia, policy makers and implementers, and civil society actors in Europe.

The Current Stance on the Mediterranean Sea

- The Arab Spring, the flaming events in its aftermath, then Syrian Crisis have triggered the deadliest migration routes to Europe.
- In 2014, most of the migrants and refugees have travelled on smugglers' boats departing from Libya, Tunisia, or Egypt to reach to Italy. This extremely dangerous **Central Mediterranean** route dominated flows during 2014 and was the location of large-scale tragedies.
- In 2015, the track shifted from the Central Mediterranean towards a shorter and relatively safer crossing from Turkey to Greece, the **Eastern Mediterranean** route. The shift has allowed a much larger number of migrant and asylum seekers --- mostly Syrians --- to reach the European external borders.
- Mixed migration flows as well as migrant smuggling services in the Mediterranean region have gained unprecedented momentum in 2015. More than a million migrants and asylum seekers reached to Europe, while over 80 percent of them arrived on Greek islands by crossing the Aegean Sea from Turkey in 2015. For the same year, an estimate of 3770 people has lost their lives or was reported missing; since the start of 2016, even in the most adverse weather conditions, more than 150,000 people have made the crossings.

The Current Response of the EU:

- **The European Agenda on Migration**, which was adopted by the European Commission (EC) on 13 May 2015, identified the fight against migrant smuggling as a priority, to prevent the exploitation of migrants by criminal networks and reduce incentives to irregular migration. Three implementation packages under the Agenda, on **27 May 2015**, on **9 September 2015** and **15 December 2015** have already been adopted.
 - On 27 May 2015, the EC adopted the first proposals of its comprehensive approach to improving the management of migration. The EU proposed the relocation of people in need of clear international protection as **an emergency response mechanism to assist Italy and Greece**. Accordingly, a total of **40,000** persons should be relocated from Italy and Greece to other EU Member States. The EC has also recommended to resettle **20,000** people from outside the EU, in clear need of international protection as identified by the UNHCR.
 - On 9 September 2015, the EC delivered a new "comprehensive" package of proposals. Following the sharp increase in irregular border crossings in the Central and Eastern Mediterranean, but also on the Western Balkans route, over the last few months, **an emergency relocation for 120,000 refugees from Greece, Hungary and Italy** was proposed. The EC offered to add Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo, Montenegro, Serbia and **Turkey to the EU list of safe countries of origin**. An **effective return policy** and an **active Permanent Relocation Mechanism** were envisioned.
 - On 15 December 2016, the EC adopted set of measures to manage the EU's external borders. Accordingly, a **European Border and Coast Guard Agency** (built from Frontex and the Member States' authorities responsible for border management) will exercise the **day-to-day management of the external border**.

The Current Response of Turkey

- Turkey maintains a “**geographical limitation**” to the 1951 Refugee Convention, and denies refugees from ‘non-European’ countries of origin the prospect of long-term legal integration in Turkey. In April 2013 Turkey adopted a comprehensive, EU-inspired new **Law on Foreigners and International Protection** (LFIP). It affirms Turkey’s obligations towards all persons in need of international protection, regardless of country of origin, at the level of binding domestic law. In line with the new Law, the **Directorate General of Migration Management** (DGMM) was launched to take charge of migration and asylum system.
- Since the beginning of the Syrian crisis in 2011, Turkey maintains an “**open door**” policy for displaced Syrians. It established an emergency response and declared a “**temporary protection**” regime for Syrian refugees and ensures protection and assistance in 22 camps, set up by the Disaster and Emergency Management Agency (AFAD).
- The “temporary protection” regime grants beneficiaries **right to legal stay as well as some level of access to basic rights and services**. The DGMM is the responsible authority for the registration and status decisions within the scope of the “temporary protection” regime. To note that, Syrian nationals and stateless Palestinians from Syria covered under the “temporary protection” regime are not registered by UNHCR Turkey, except for a very small number of cases.

The EU-Turkey Joint Action Plan (JAP)

- On **18 March 2016**, following on from **the EU-Turkey Joint Action Plan (JAP)** activated on **29 November 2015** and the **7 March EU-Turkey statement**, the EU and Turkey decided **to end the irregular migration from Turkey to the EU**. The aim is to replace irregular and dangerous migratory flows by organised, safe and legal pathways to Europe for those entitled to international protection in line with EU and international law.
 - All new irregular migrants crossing from Turkey to the Greek islands as of 20 March 2016 will be returned to Turkey;
 - For every Syrian being returned to Turkey from the Greek islands, another Syrian will be resettled to the EU;
 - Turkey will take any necessary measures to prevent new sea or land routes for irregular migration opening from Turkey to the EU;
 - Once irregular crossings between Turkey and the EU are ending or have been substantially reduced, a Voluntary Humanitarian Admission Scheme will be activated;
 - The fulfilment of the visa liberalisation roadmap will be accelerated with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016. Turkey will take all the necessary steps to fulfil the remaining requirements;
 - The EU will, in close cooperation with Turkey, further speed up the disbursement of the initially allocated €3 billion under the Facility for Refugees in Turkey. Once these resources are about to be used in full, the EU will mobilise additional funding for the Facility up to an additional €3 billion to the end of 2018;
 - The EU and Turkey welcomed the ongoing work on the upgrading of the Customs Union.
 - The accession process will be re-energised, with Chapter 33 to be opened during the Dutch Presidency of the Council of the European Union and preparatory work on the opening of other chapters to continue at an accelerated pace;
 - The EU and Turkey will work to improve humanitarian conditions inside Syria.
- The Statement took effect as of 20 March 2016, and 4 April 2016 was set as the target date for the start of returns of people arriving in Greece after 20 March and of the first resettlements. 4 April 2016 thus saw the start of two processes: returns from the Greek islands to Turkey to make clear that this is a dangerous route and the wrong route; and the first resettlements of Syrian refugees from Turkey to Europe.

- Since the Statement took effect on 20 March, **462 irregular migrants** who have not applied for asylum, including 31 Syrians, have been **returned to Turkey from Greece**. A total of **511 Syrians** have been **resettled so far from Turkey to the EU** under the 1:1 scheme.
- The JAP is **problematic** in terms of **human rights and refugee law**.
 - The principle of non-refoulement prohibits removing refugees from national territory and also turning them away at the border of the contracting states. **In line with existing international obligations**, Turkey should **respect the principle of non-refoulement**.
 - A safe third country has to sign the Convention relating to the Status of Refugees without reservations. With the reservation that Turkey had on the Convention, **Turkey is not a “safe third country.”**
 - Additionally, **the inadequacy of the Greek asylum system** has been criticized many times by both the European Court of Human Rights (ECHR) and UNHCR reports.
- Therefore, such disregard of international refugee law spells problems for the future of the JAP.

Recommendations for the EU

- **The EU response to the so called “refugee crisis” has to be well-framed in rhetoric as well as in reality. An effective and liable refugee policy has yet to be in compliance with core EU values and obligations.**
- The European legal and institutional systems in place for asylum-seekers and migrants have not ensured a **fair responsibility/burden-sharing** between countries, and have not prevented people from choosing smuggling routes. Europe has both the obligation and the capacity to deal with this unprecedented and tragic crisis.
 - Consider that the current crisis can be a crucial turning point for the **EU’s normative power**. The right to **migrate and asylum** is a **fundamental and unalienable right** that must be respected by all. Asylum and migration policies should be **human-rights based** and include a systematic human rights impact assessment
 - Find **alternative tools for refugees to arrive safely in the EU** without risking their lives in unseaworthy boats and paying their life savings to smugglers. Thus the visa requirements and carrier sanctions that ensure safe arrivals have to be evaluated.
 - Implement **more proactive policies to stop the war in Syria** and develop a constructive dialogue in the international community.

Recommendations for Turkey

- **Turkey should treat the Syrian crisis as a humanitarian perspective, need to redefine the status of the Syrian refugees, taking into account the livelihood of their protracted displacement and give priority to integration policies.**
 - Address the **integration policies** by referring to the reality that Syrian refugees are likely to be permanent in Turkey.
 - Formulate comprehensive policy to guide this integration process and also **mobilize public support** for it.
 - **Explore support/funding** to integrate Syrian refugees, especially with respect to their education, access to the labor market and health needs.
 - Evaluate the **bureaucratic and organizational challenges**, while ensuring their protection and access to basic services such as health are not to be taken lightly.
 - Expand efforts to **draw Syrian refugee labor into the formal economy** and encourage vocational training.

- Initiate an **information campaign** to give better information to Syrian refugees about their rights, services, available assistance.
- Enhance **cooperation and coordination** with national international agencies and INGOs, as well as academicians and researchers and build/improve trust among these actors.