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# Lost at Sea? Exploring Europeanisation and De-Europeanisation in Turkey's Migration and Asylum Policies

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*Based on a theoretical approach to Europeanisation and de-Europeanisation in candidate countries, the paper analyses developments in Turkey's asylum and migration policies in recent years. Given the lack of credibility of accession conditionality in the Turkish case, and a general tendency towards de-Europeanisation in Turkey, overwhelming de-Europeanisation in this area may be the expected outcome. However, as this paper argues, the reality is considerably more complex. While there has undoubtedly been a degree of de-Europeanisation, Europeanisation has proceeded in some areas of migration and asylum policy. The paper, then, attempts to explain the factors behind continued Europeanisation as well as de-Europeanisation in this area.*

## Introduction

Following its recognition as a candidate country in 1999, Turkey entered a phase of rapid Europeanisation, particularly following the election of the Justice and Development Party (AKP) in 2002. This period of far-reaching and often domestically controversial reform lasted, perhaps ironically, roughly until the opening of accession negotiations between the EU and Turkey in 2005, when a series of factors cast increasing doubt on Turkey's prospects of full membership. These included increasing calls from EU politicians, particularly on the right, for a more limited 'privileged' partnership with Turkey, while the conditions of the negotiations themselves differed considerably from those that had characterised the accession processes of the Central and Eastern European Member States. Notably, the Commission classified negotiations with Turkey as 'open-ended', there was a new emphasis on the EU's "absorption capacity", the negotiations could be suspended with a significant breach of the political criteria on Turkey's part, and Turkey was required to sign customs agreements with all new members, including Cyprus (Casanova 2006, 234-235). Turkey's refusal to open its ports to Cyprus resulted in the freezing of 8 out of the 35 negotiation chapters, while a further 6 chapters were vetoed bilaterally by Cyprus and 5 by France.

Despite some attempts to revive Turkey's accession process, such as the Commission's 'Positive Agenda', and continuing Turkish Europeanising reform in some areas, Turkey increasingly seemed to be undergoing a broad process of 'de-Europeanisation', in terms of political discourse on the EU and in various policy areas including the rule of law and press freedom (Aydın-Duzgit, 2016) (MacMillan, 2016) (Saatçioğlu, 2016) (Yılmaz, 2015). In tandem with de-Europeanisation at the political level, support for EU accession among the Turkish population has also plummeted, with, according to a 2015 Eurobarometer poll, only 33% of Turkish respondents considering that EU accession would be 'a good thing' (European Commission 2015, 96).

In this context of de-Europeanisation, and with the prospect of full membership arguably appearing ever more distant, the extent of Turkish Europeanisation in the areas of migration and asylum policies in recent years is perhaps surprising, with Turkey notably overhauling its asylum system with a 2013 law, and signing a refugee agreement with the EU in late 2015. These developments appear to be even more surprising when it is considered that, even in the comparatively 'golden years' of the Turkish accession bid, Turkey's adoption of the Justice and Home Affairs (JHA) *acquis* appeared to be particularly problematic. Problems included the fact that JHA, one of the EU's fastest developing policy areas was effectively a 'moving target' for candidate countries. More specifically, the EU's demand for Turkey to sign a readmission agreement with the EU as a whole was especially problematic, as Turkey was the only candidate country of which this had been asked, perhaps understandably leading to Turkish concerns of becoming a 'buffer zone', or dumping ground, for irregular migrants and refugees. Despite the weakening of accession conditionality, however, Turkey eventually agreed to initial a readmission agreement in 2012. Turkey's asylum system, in particular its refusal to lift the geographical criterion included in the UN Agreement on Refugees meaning that only refugees fleeing from events in Europe are granted full refugee status, has long been another *impasse* between Turkey and the EU. While Turkey retains the geographical criterion, it has made significant changes to its asylum system with the 2013 law on foreigners and international protection, addressing EU criticisms regarding refugee rights and status determination.

Based on a review of the literature, then, this article attempts to examine and discuss the reasons for this perhaps unexpected Europeanisation in these areas, as well as its potential limitations. The following section provides an overview of the theoretical discussion of Europeanisation (and de-Europeanisation) in the candidate countries. Notably, as discussed further below, the view of Europeanisation here is a broad and complex one, comprising both rational and social institutionalist explanations, and an understanding of Europeanisation as potentially 'bottom-up' as well as 'top-down'. It is also important to note that Europeanisation may be provoked

not only by the EU but by other European institutions or organisations as well, while Europeanisation may be undertaken with a global aim due to the resonance of EU norms and policies with emerging global standards.

### **Europeanisation and De-Europeanisation in Candidate Countries: A Theoretical Overview**

Although there has been considerable debate on how to define Europeanisation (Sedelmeier 2011, 5) the term is generally used to refer to the domestic consequences of the process of European integration. More specifically, Europeanisation may refer to mechanisms primarily driven by the EU (*top-down* dynamics) or by domestic factors (*bottom-up* dynamics). As Radaelli points out, students of Europeanisation have searched for its effects on governance, institutionalisation or discourse; however, all three frameworks deal with domestic change, they are not mutually exclusive, and most authors consider them in combination (Radaelli 2004, 6-9).

While Europeanisation was originally conceived in relation to the Member States, the concept has frequently been applied to candidate countries; in this case, studies have frequently contrasted the use of conditionality as a strategy employed by rationalist institutionalist approaches with norm-based convergence as a result of social learning, based on sociological institutionalism (Sedelmeier 2011, 11). However, these two approaches, termed the External Incentives model and the Social Learning model, roughly corresponding with the concepts of strategic Europeanisation and normative Europeanisation respectively, are not necessarily contradictory, and may be complementary (Sedelmeier 2011, 11-12).

The *External Incentives model* focuses on the effects of conditionality in the accession process, and begins from the standpoint that the adoption of EU rules will be absent if the EU does not set them up as conditions or rewards. It thus assumes a top-down dynamic, and a logic of consequences rather than of appropriateness. Compliance with EU demands is expected to occur when the government of the candidate country in question considers that the benefits of doing so outweigh the costs (Bürgin and Aşıkoğlu 2017, 3). According to this model, then, rule adoption on the part of the candidate countries is dependent both on the determinacy of the rules (their clarity and binding status) and on the size and speed of the rewards. Thus, the promise of accession should be more powerful than that of association, and short-term rewards more powerful than distant ones<sup>1</sup>.

The credibility of conditionality is a particularly important factor according to this model; conditionality has most impact on rule adoption if the candidates are confident that they will receive the reward following their adoption of the required conditions, and they must also be convinced that the reward will be withheld if the conditions are not fulfilled. Moreover, there must be little internal EU conflict over conditionality and the EU should be able to monitor the candidate country effectively (Schimmelfenning and Sedelmeier 2005, 13-16) (Sedelmeier 2011, 12-15). Finally, rule adoption is also determined by the size of domestic adoption costs and their distribution among domestic actors. Thus, the likelihood of rule adoption decreases with the number of veto players (including the government) incurring net adoption costs (opportunity costs, welfare, and power losses) from compliance. However, if conditionality is credible, adoption costs and veto players are likely to influence the timing of rule adoption rather than whether rules are adopted (Schimmelfenning and Sedelmeier 2005, 216).

The *social learning model* contrasts with the more rationalist approach of the external incentives model in that it assumes a logic of appropriateness; according to this model, then, Europeanisation is understood as a result of socialisation rather than of conditionality. From this perspective, then, the EU represents a European international community which is bound together by a specific collective identity and a set of values and norms. The EU may either persuade the candidate's government of its legitimacy or it may seek to convince social groups and organisations, which then lobby the government. Therefore, rules adopted through social learning are much less contested domestically than those adopted through conditionality (Schimmelfenning and Sedelmeier 2005, 219). However, if only some of the relevant actors are persuaded, these actors will seek to adopt and implement EU rules but may founder when faced with opposition from unpersuaded actors. Rule adoption is thus more likely if a policy area is new or if domestic rules have been delegitimised, or if domestic and EU belief in "good policy" and rules are compatible, and rule adoption decreases if domestic rules conflict with the EU *acquis* and if they enjoy high and consensual domestic legitimacy (Schimmelfenning and Sedelmeier 2005, 18-20).

Thus, rule adoption will increase the more the target government and society identifies with the EU and shares its norms and values. This can perhaps be likened to Kaliber and Aydın Düzgüt's definition of Europeanisation as 'a wider socio-political context' (Aydın Düzgüt and Kaliber 2016, 4) "... from which varying ideas, norms and values can be extracted and used at sub-national, national and supra-national politics" (Kaliber 2014). Thus, for Aydın-Düzgüt and Kaliber, this more sociologically informed understanding of Europeanisation

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<sup>1</sup> However, even if accession is still distant, intermediary rewards such as pre-accession support or the opening of accession negotiations can have a positive impact according to this model (Schimmelfenning and Sedelmeier 2005, 10-13).

can be distinguished from “EU-isation”, referring to a technical process of adjustment, and is defined as a “formal process of alignment with the EU’s institutions, policies and legal structure” (2016, 4).

According to the *lesson-drawing model*, Europeanisation is primarily provoked by domestic factors (i.e. bottom-up dynamics) rather than originating from the EU, and may follow either a logic of consequence or a logic of appropriateness. In the former case, change is a consequence of dissatisfaction with the *status quo* in the country while, in the second case, bottom-up Europeanisation is provoked by identity change or a broader change in policy paradigms. In this context, the EU may act as an ‘external ally’ for those domestic actors with preferences in line with EU demands, and may offer legal, political or financial resources to pursue domestic change. Thus, according to this model, while the EU may influence reform, it does not induce it (Bürgin 2016, 107).

In addition, Buhari-Gülmez puts forward the concept of *ritualised Europeanisation*, which ‘contests the EU’s depiction as a narrow set of official criteria or a normatively integrated system that represents a parochial identity’. Instead, in ritualised Europeanisation, the universalistic nature of EU conditionality is emphasised, based on the EU’s central location in a global system. When Europeanisation is ritualised, then, reforms are adopted when they fulfill the condition of good resonance with emerging global standards. Thus, “domestic debates about the reform process usually transcend the EU membership framework and refer to the existing debates in the global context that usually precede the EU’s interventions” (Bühari-Gulmez 2016, 463). Emphasising that the three models of Europeanisation (strategic, normative and ritualised) can be seen as mutually reinforcing (Bühari-Gulmez 2016, 463), Buhari-Gülmez notes that, according to elite surveys and interviews, significant numbers of Turkish actors “consistently refer to global conditions, emphasize the universalistic character of the reform, and de-emphasize the EU conditionality” (2016, 473).

Finally, Europeanisation is not necessarily a one-way process: it may also be reversed. Building on their normative understanding of Europeanisation discussed above, Aydın-Düzgüt and Kaliber (2016, 6) define *de-Europeanisation* as ‘a loss or weakening of the EU/Europe as a normative political context and a reference point in domestic affairs and national political debates’, a process which is accompanied by a ‘scepticism or indifference towards Europe’, which adds to the EU’s loss of influence and legitimacy, and which may result from domestic factors as well as from EU policies. According to Aydın-Düzgüt and Kaliber, then, de-Europeanisation denotes not only a lack of Europeanisation but also a turning away from Europe in many aspects of political life and society. In their view then, de-Europeanisation ‘involves cases where reforms are reversed as well as ones where reform is incurred without the need or obligation to attain alignment with the EU, or where actors deliberately refrain from referring to the EU in justification of the reforms undertaken’ (2016, 6).

### **The Readmission Agreement between Turkey and the EU**

The requirement for Turkey to sign a readmission agreement with the EU has undoubtedly been one of the most problematic areas in its adoption of the JHA *acquis*. As has been noted above, due to Turkey’s geographical position it is a destination for many asylum-seekers and irregular migrants, many of whom intend to get to the EU. According to Frontex, for instance, about 75% of illegal entries into the EU are from the Greek border, most of whom are Syrian and Iraqi citizens (Aka and Özkural, 2015: 262). In this context, the implementation of a readmission agreement, in the absence of adequate arrangements for burden-sharing, has been unpalatable to Turkey as it implies Turkey’s effectively becoming a buffer-zone for unwanted migrants and asylum seekers otherwise destined for the EU. Moreover, the fact that Turkey is the only candidate country which has been asked to conclude a readmission agreement with the EU itself during its accession process has had a negative effect on trust in the EU and the accession process among Turkish officials, contributing to doubt regarding the EU’s motivation to eventually accept Turkey as a full member.

While the Commission invited Turkey to begin negotiations on a draft readmission agreement in March 2003, Turkey did not formally acknowledge the invitation until a year later. Although Turkey emphasised its willingness to sign an agreement with the EU covering the readmission of its own nationals or permanent residents, it did not agree to the inclusion of third-country nationals and stateless persons in the readmission agreement, due to fears that Turkey would become the final destination country for such migrants. In this context, then, Turkey insisted on first signing bilateral readmission agreements with countries of origin in order to reduce the cost of implementing the EU readmission agreement (Bürgin, 2012: 888). However, Turkey has encountered difficulties in concluding such readmission agreements with third countries, particularly as the third countries involved may themselves have little incentive to sign bilateral readmission agreements with a country such as Turkey. Thus, progress in concluding bilateral readmission agreements has been slow, although Turkey has now signed readmission agreements with ten countries, and is continuing negotiations with another fifteen (Aka and Özkural, 2015: 259).

Despite Turkey’s continuing reluctance to sign the agreement with the EU, the Commission used political pressure, creating a link between the start of negotiations on the readmission agreement and the

opening of EU membership negotiations (Bürgin, 2013: 888-889). Negotiations on the readmission agreement with the EU therefore began in May 2005. However, the fact that Turkey's full membership prospects began to look increasingly unlikely following the opening of the accession negotiations, particularly in the context of the freezing of eight negotiation chapters by the EU in 2006, meant that negotiations on the readmission agreement stalled in December 2006 (Bürgin, 2013: 6). The prospects for the readmission agreement were further weakened by the 2009 decision of the Republic of Cyprus to block the opening of additional chapters in 2009, including Chapter 24 which deals with migration issues (Bürgin, 2012: 889).

Despite the weakening of the credibility of Turkish accession, however, negotiations on the readmission agreement reopened in 2009 as visa exemption replaced full membership as an external incentive for Turkey to sign the agreement (Bürgin, 2013: 8). Although Turkey had actually been promised visa liberalisation in the 1963 Ankara Agreement, this was not implemented, resulting in Turkey being the only candidate country without a visa-free regime (Aka and Özkural, 2015: 259-262<sup>2</sup>). Thus, as visa exemption appeared more achievable than EU membership, the government estimated that the benefits of visa exemption would outweigh the costs of the readmission agreement.

In addition, the increasing salience of migration issues on the Turkish political agenda has led to domestic pressure for migration policy reform, notably in the areas of asylum policy and the development of a modernized border management, which could be accelerated via cooperation with the EU (Bürgin, 2012: 884). The prospect of visa liberalisation, then, could also be used to justify controversial reforms, such as border management reform, to domestic opponents, notably the army in the case of integrated border management (Bürgin, 2012: 896)

In June 2012, in exchange for Turkey's readiness to implement the readmission agreement, the EU Council empowered the Commission to initiate the process that would allow Turkish citizens visa exemption when travelling to the EU, in spite of the previous opposition of several of the Member States to a visa-free perspective for Turkey. This was immediately followed by Turkey and the Commission mutually initialling the Readmission Agreement, upon which Turkey was expected to ratify and bring the agreement into force (Aka and Özkural, 2015: 256) (Bürgin, 2013: 2). However, as Paul and Seyrek note, although the dialogue between Turkey and the EU on visa liberalisation began in December 2013, progress was slow, with Turkey only fulfilling 35 of the 72 criteria by 2015<sup>3</sup>, partly due to the lack of enthusiasm on the part of many EU Member States, which contributed to an impression in Turkey that the EU was not taking it seriously (Paul and Seyrek, 2016).

### **The Turkey-EU Refugee Agreement**

The Turkey-EU refugee agreement was agreed in late 2015 in the context of the refugee crisis in the Mediterranean. As Alexander Bürgin notes, as a consequence of the crisis both Turkey and the EU have vested interests in co-operation regarding irregular migration and refugee/asylum issues (2017: 8). From the EU's point of view, the Refugee Agreement can be understood as part of the EU's attempt to find external solutions to the refugee crisis in the context of the relative failure of internal attempts to deal with the crisis (Niemann and Zaun, 2017: 8). The EU is especially interested in co-operating with Turkey as it is one of the main transit routes for irregular migration to the EU, with an almost 16-fold increase between 2014 and 2015, with around 98% of irregular entries occurring via the Greek islands (Bürgin, 2017: 284). Turkey, on the other hand, currently hosting the largest refugee population in the world, values co-operation for burden-sharing reasons. Up to October 2015, for instance, Turkey spent around 8 billion euros on hosting Syrian refugees, of which only half a billion euros came from international contributors, with the EU itself providing only a third of this sum (Bürgin, 2017: 284).

The main aspects of the refugee agreement can be summarised as follows:

1. As of 20 March 2016 new irregular migrants (including those who have not applied for asylum or those whose applications have been declared unfounded or inadmissible) entering Greece through Turkey are to be returned to Turkey.
2. A 1:1 resettlement scheme: For every Syrian being returned to Turkey, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria. According to the agreement, a maximum of 72,000 migrants are to be resettled in this way.
3. Turkey promised to take all the necessary steps to prevent new sea or land routes from its territory to the EU.
4. In return, the EU has promised Turkey the following;

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<sup>2</sup> In contrast, the citizens of Albania, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Bosnia-Herzegovina have all achieved visa-free travel since 2009-2010, despite the fact that Bosnia-Herzegovina is not (yet) a candidate country for EU membership (Gedikkaya-Bal, 2016: 22)

<sup>3</sup> The 72 criteria were grouped under four blocks: documents security, migration and border management, public order and security, and fundamental rights (Nas and Özer, 2017: 154)

- a. Visa liberalisation, providing Turkey fulfills the 72 conditions discussed above.
- b. Disbursement of 3 billion Euros under the 'Facility for Refugees in Turkey' fund.
- c. Additional funding of 3 billion Euros to be spent on specific projects to help Syrian refugees in Turkey.
- d. Further negotiations and work on the upgrading of the Customs Union.
- e. The resumption and extension of Turkey's accession negotiations to the EU, including the immediate opening of chapter 17 and the imminent opening of further negotiation chapters.
- f. The instigation of biannual summit meetings with Turkey, the establishment of a continual political dialogue, as well as high-level dialogue on economic and energy policy (Niemann and Zaun, 2017: 8) (Seufert, 2016) (Nas and Özer, 2017: 162).

The refugee agreement thus brought forward the questions both of the readmission agreement and of visa exemption as well as, at first, promising to be a re-energising factor in Turkey's EU accession process. Turkey's motivation in agreeing to the deal, in addition to financial incentives, was arguably twofold: visa liberalisation and the promise of revitalising Turkey's EU accession process. While, even with the promise to revive Turkey's accession bid, full membership still appeared to be a dim and uncertain prospect, however, visa liberalisation continued to appear feasible in the short term from the Turkish perspective, with former Prime Minister Davutoğlu insisting on visa liberalisation by the end of June 2016 (Paul and Seyrek, 2016). Thus visa liberalisation potentially acted as a stronger condition for Europeanisation than EU accession itself in this area.

The agreement has had partial success in stemming the flow of refugees to the Greek islands, and has appeared to undermine the people-smuggling networks active in the region (Monar, 2017: 1-2) (Paul and Seyrek, 2016). Indeed, as Niemann and Zaun argue, refugee arrivals in Greece dropped by 98% while registered deaths and missing persons in the Aegean Sea fell by 94% between 2015 and 2016. However, it appears that monthly arrivals in Greece had already been dropping prior to the EU/Turkey deal, and other factors may also partially account for this decrease, including the closure of the Western Balkans route, coverage of poor reception conditions in Greece and the introduction of internal border checks by some EU countries (Niemann and Zaun, 2017: 8). Despite the (admittedly limited) success of the agreement, considerable difficulties and questions remain in spite of the 2013 overhaul of the Turkish asylum law, including whether asylum protection in Turkey is in accordance with international standards, and whether Turkey can legitimately be considered a safe third country, a legal *sine qua non* for refugee return (Niemann and Zaun, 2017: 8-9).

Visa facilitation has proved a problematic issue, putting the entire deal in jeopardy; notably, while Turkey has fulfilled 65 of the 72 benchmarks discussed above<sup>4</sup>, the requirement to revise its anti-terror laws in particular<sup>5</sup> has faced opposition from the Turkish side (Icoz, 2016: 495). In addition, as has been mentioned above in the context of the readmission agreement, visa facilitation for Turkey has been a contentious issue in many Member States, including France and Germany, amid largely unfounded fears that it would lead to an increase in permanent irregular migration and unfounded asylum claims from Turkey, together with free-movement of terrorists of Turkish origin, all of which would, in turn, play into the hands of right-wing populists in EU countries (Paul and Seyrek, 2016) (Bürgin, 2017: 291). Indeed, the readmission agreement is currently only partly functioning, and will be fully implemented by Ankara once the dialogue on visa liberalisation is finally opened (Erkuş, 2017). Turkey's former EU Minister Ömer Çelik, for example, emphasised the importance of visa liberalisation from the Turkish perspective as follows;

While visa liberalisation has even been granted to non-enlargement countries, the fact that we continue to face political obstacles (just as we do in the accession negotiations) is unacceptable. Visa liberalisation will have important consequences for the business world, and is a necessity which will bring the two sides closer psychologically (Çelik, 2017).

In this context, the Turkish government has repeatedly threatened to suspend the deal in case of lack of progress on visa liberalisation (Monar, 2017: 2), indicating its importance as a condition for Turkish Europeanisation in this area. As Foreign Minister Mevlüt Çavuşoğlu emphasised in 2017, 'If visa liberalisation is not forthcoming, we will have to retract the readmission agreement' (Diken, 2018). As noted above, the requirement for Turkey to revise its anti-terrorism laws has proved an *impasse* between the two sides: both Turkey and the EU argue that the other is not fulfilling their part of the bargain. From the Turkish point of view, in particular in the context of the attempted coup of 15 July 2016, the EU needs to be more flexible in this respect. In a speech made in Ankara in May 2016, two months before the attempted coup, however, President Erdoğan was already critical of this requirement. Notably, he implied that the EU was effectively supporting terrorism by requiring Turkey to 'soften' its definition of terrorism, and suggested the EU was meddling

<sup>4</sup> The benchmarks yet to be adopted at the time of writing include the signature of an operational cooperation agreement with Europol, the signing of a legal cooperation agreement with EU member countries, the preparation of third generation passports, review of the law on the protection of personal data, and review of anti-terrorism legislation.

<sup>5</sup> The European Union has asked Turkey to align its legislation on terrorism with the EU *acquis*, Council of Europe standards and European Court of Human Rights jurisprudence on terrorism (Paul and Seyrek, 2016).

excessively in Turkish affairs by imposing this condition: ‘What does it mean, we have to soften our approach to terrorism? Look at me, when did you start to govern Turkey? Who gave you that right?’ (BBC 2016).

As has been noted above, from the Turkish perspective burden sharing was also an important motivation for co-operating with the EU in this area. Thus, another rift between Turkey and the EU over the refugee deal appeared with the delay of the promised EU funds; in this context Erdoğan threatened to return migrants to the EU, stating that ‘We will open the gates to Greece and Bulgaria at any time, we’ll put the refugees on buses and send them there’ (BBC 2016b). Turkey has since received almost 2 billion euros of the first payment; although the first payment is not yet complete the European Council agreed in June 2018 to a second payment of 3 billion euros (Deutsche Welle Türkiye, 2018) (European Commission, 2018).

### Asylum Policy

The origins of a common EU asylum policy date back to the Maastricht Treaty; since then, the EU has achieved a considerable degree of harmonisation in this area. Notably, the EU’s asylum policy aims to determine the first country responsible for receiving and processing asylum applications within the EU, and also lays down the standards and rules which govern the rights of asylum seekers and of refugees (Aydın and Kirişçi, 2013: 381). As Bürgin and Aşikoğlu note, EU criticisms regarding Turkey’s asylum policy have focused on three main areas; firstly, the limited scope of Turkey’s asylum policy, due to its maintenance of the geographical limitation in the UN Agreement on Refugees, secondly, the lack of refugee rights and, finally, the question of status determination (2015: 1).

Turkey’s refusal to lift the geographical limitation included in the UN Agreement on Refugees means that it is only responsible for granting full refugee status to those fleeing from events in Europe; refugees from non-European countries are entitled only to temporary refugee status until their resettlement in a third country (Bürgin and Aşikoğlu, 2017: 1). Thus, the EU expects Turkey to extend the granting of refugee status to those originating from other parts of the world; this demand is, however, not unique to Turkey as other candidate countries such as Hungary, Latvia and Malta were required to do the same during their accession processes (Apar, Carrera and Kirişçi 2004: 25).

Turkish officials have, however, been reluctant to lift the geographical limitation for fear that the country may become a buffer-zone for irregular migrants and unwanted asylum-seekers who would otherwise be destined for the EU (Tokuzlu 2006: 368). This concern has been particularly evident in the context of the EU’s adoption of the Asylum Procedures Directive in December 2005, which allowed for asylum seekers to be transferred to a neighbouring country if it was characterised as a safe third country (Bürgin and Aşikoğlu, 2017: 7). Notably, the EU rules on ‘first country of asylum’ and ‘safe third country’ cannot become fully operational in the case of Turkey until the geographical restriction is lifted (Fine, 2017: 9). Thus, burden sharing has been at the top of the agenda in meetings between EU and Turkish officials regarding asylum reform, and, as Bürgin and Aşikoğlu point out, the lifting of the geographical limitation has been considered a ‘trump card’ by Turkey, subject to both the establishment of burden-sharing mechanisms and specific guarantees regarding full membership (2015: 7).

A second criticism has focused on the lack of refugee rights in Turkey. Turkey’s first asylum regulation in 1994 implied a compromise solution to the geographical limitation by allowing non-European asylum seekers to apply for asylum in Turkey before being resettled abroad once their status was recognised (Tolay, 2012: 43). However, the regulation largely focused on security concerns rather than on asylum seeker’s rights, and was heavily criticized for causing the deportation of asylum-seekers in violation of the *non-refoulement* norm (Aydın and Kirişçi, 2013: 382). Some improvements were introduced by an amendment to the asylum regulation in 1999 and a 2006 Ministry of the Interior Circular clarifying the rights and obligations of asylum seekers, notably in resolving the problem of deportations resulting from unrecognised asylum applications (Aydın and Kirişçi, 2013: 382). However, these reforms were of a limited nature, both in their scope which, according to the Commission, fell short of compliance with the EU asylum *aquis*, and in their incomplete implementation. The third criticism, regarding status determination, rests on the fact that the United Nations High Commission for Refugees (UNHCR), while technically working with the Turkish police, has *de-facto* performed status determination on behalf of Turkey (Aydın and Kirişçi, 2013: 382) (Bürgin and Aşikoğlu, 2015: 1).

The Turkish asylum system went through a considerable overhaul, however, with the 2013 law on foreigners and international protection<sup>6</sup>, which Açıkgöz and Arner describe as ‘the product of a unique combination of internal and external national, international and transnational factors’, including Turkey’s growing economic power and its growing attractiveness as a target country for migration, pressure from

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<sup>6</sup> The refugee deal signed between the EU and Turkey in March 2016 also places further demands on Turkey in this respect in addition to the readmission agreement. Notably, it requires the implementation of new regulations for the registration and classification of refugees in cooperation with the UNCHR, as well as the strengthening of refugees’ access to social services, medical treatment and education, and the facilitation of the participation of the refugees in the economy (Seufert, 2016).

increasing 'burden-shifting' in the areas of asylum and migration from the EU to Turkey, as well as increasing criticism of Turkey's treatment of asylum seekers by the EU but also by NGOs and other international institutions such as the European Court of Human Rights (Açıkgöz and Arıner, 2014: 4)

While the law does not lift the geographical condition, it does largely address the EU's two other main criticisms. Notably, the law includes an accentuated commitment to the principle of *non-refoulement*, and regulates various rights of asylum seekers, such as the right to the timely processing of the application and to object to a rejected asylum application, access to translators and lawyers, and the right to services such as primary and secondary education and health care. Moreover, addressing concerns regarding status determination, the law provides for the establishment of a General Directorate of Migration Management at the Ministry of the Interior, which would then take over status determination from the police Bürgin and Aşıkoğlu, 2017: 2).

On the basis of their online survey and interviews with academics, Turkish government and European Commission officials, Bürgin and Aşıkoğlu (2017) emphasise the continuing impact of the EU on asylum reform. Notably, interviews with Turkish government bureaucrats indicate that the prospect of full membership remains an important incentive for reform, while twinning projects on asylum and migration engendered socialisation which, in turn, contributed to the establishment of Europeanised institutions such as the Asylum and Migration Bureau, whose officials were responsible for drafting the law. Thus, for Bürgin and Aşıkoğlu, both the external incentives model and the social learning model are relevant in understanding Turkey's asylum reform (2017: 11-12).

As Aydın and Kirişçi (2013: 384), as well as Açıkgöz and Arıner (2014) argue, however, the impetus behind these reforms was of domestic as well as of EU origin. In addition, Kaiser and Kaya emphasise that the Turkish bureaucrats that they interviewed in 2011/2012 did not attribute the development of the new Law to Europeanisation processes; in their view, these officials were perhaps influenced by the AKP's increasingly Eurosceptic discourse (Kaiser and Kaya 2016: 108). However, while the officials interviewed by Kaiser and Kaya perhaps underestimated the influence of Europeanisation on the 2013 law, domestic factors, as well as non-EU international pressure, did play an important role in its development. Notably, the significant increase in asylum applications in 2007 and 2008 taxed the asylum system, while a conspicuous increase in cases of *refoulement* provoked criticism from Turkish as well as from international NGOs, the Council of Europe and the UNCHR (Kaiser and Kaya 2016: 111).

Finally, the removal of veto players and their replacement with officials supportive of reform in the new Migration Unit encouraged co-operation with international as well as Turkish institutions and non-governmental organisations. Together with the establishment of the Migration Unit, the limited nature of the previous legislation also contributed to the lack of veto players, thus ensuring that policy makers were relatively unencumbered (Açıkgöz and Arıner, 2014). Importantly, these new officials developed a closer dialogue with Turkish civil society, which had become increasingly active in the area of asylum, demanding reform and providing practical aid for asylum seekers (Aydın and Kirişçi, 2013: 384).

Like Açıkgöz and Arıner (2014), Aydın and Kirişçi also highlight the role of international organisations in the reform process, notably the UNCHR, which has contributed to the socialisation of both officials and civil society activists into recognising and respecting the rights of asylum-seekers and refugees, based on international norms such as *non-refoulement* (2013: 384). In addition, Fine (2017) has drawn attention to the role of the International Organisation on Migration (IOM) on the 2013 law, and argues that its influence in Turkey is due to the building of a transnational bordercratic community, as well as through the part it has played in labelling Turkey variously as a 'transit', 'destination' and 'safe' country, as well as both a 'European' and 'Muslim' country, resulting in its positioning of Turkey as part of a migration management 'in-group' of countries (Fine, 2017: 11).

## Conclusion

An examination of the factors behind recent developments in Turkey's migration and asylum policies indicates the complexity of the Europeanisation mechanisms at work. Primarily, Turkey's willingness to conclude the refugee agreement with the EU, including a long-contested readmission agreement with the EU, as well as the overhaul of its asylum system to bring it closer to EU norms took place in a period in which Turkish accession appeared to be increasingly less credible, indicating that strong accession conditionality, while obviously important, is not a *sine qua non* for extensive Europeanising reforms. However, the external incentives model still provides an important explanation for Turkey's decision to sign the refugee deal in that visa liberalisation replaced accession as the main incentive, and was particularly effective when coupled with the promise of financial support. Turkey's repeated threats to suspend the agreement in the face of lack of progress on visa liberalisation, as well as as a reaction to the delay in the promised financial aid, highlight the importance of both of these motives. Moreover, pressure for Europeanisation in this area has also originated from domestic sources, as well as from the EU itself, given the increased salience of migration and asylum

issues in domestic Turkish politics, with the promise of visa liberalisation used as an argument against domestic opponents of reform.

The overhaul of Turkey's asylum system which took place with the 2013 law also provides a particularly good example of the complexity of Europeanisation processes. In addition to originating from the EU, in the form of the continuing (albeit perhaps limited) effects of EU accession conditionality and the effects of socialisation arising from twinning projects, pressure for reform came from domestic sources, including national NGOs, as well as from other European institutions, notably the Council of Europe, but also from 'global' organisations, including UNCHR and the IOM, which had an important effect on the Turkish law particularly through socialisation effects on Turkish officials. Thus, the concept of ritualised Europeanisation can perhaps be illustrative here, in that Europeanisation in this area appears, at least partly, to be a means to harmonising with global as well as European norms in asylum. Meanwhile, however, Turkey's decision to maintain the geographical criterion in the absence of a more credible promise of accession indicates the continuing importance of the credibility of membership conditionality as an impetus for Europeanisation in this area.

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