

‘The migration crisis’ and the ‘return to Africa’-discussion.

New refugee regimes and practices under way in the Mediterranean

Peter Seeberg

News

According to international media (Reuters, The Telegraph, etc.) the German Ministry of the Interior has initiated a discussion on whether it would be possible to stop migrants from reaching European coasts by picking them up at sea and returning them to, for instance, Tunisia or Egypt – and then apply for asylum in Europe from there. The idea is inspired by the EU-Turkey agreement of March 2016 (which includes the so-called “one in-one out deal”), which apparently has contributed to reducing the number of irregular arrivals to Greece significantly.

Summary

Taking its point of departure in the EU-Turkey agreement regarding refugees and migrants, the article analyses main elements of the EU-Turkey agreement and discusses if the deal (or parts hereof) can be utilized in other contexts. The article discusses the relevance of the EU-Turkey agreement in the Arab Mediterranean in future negotiations related to migration between the EU and the states involved in the complex migratory movements in the Mediterranean region and beyond. The article concludes that it will be difficult to persuade the Arab Mediterranean states to cooperate without promises of significant financial aid, and that several EU member states probably – rather than going for the negotiation strategy – will apply an ostrich approach to the question of how to solve the recent migration crisis.

Key Words

‘Migration crisis’, refugees, asylum, EU, Turkey, Arab Mediterranean

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Analysis:

Introduction

The EU-Turkey agreement, including the so-called "1:1 mechanism", has, as mentioned by Ahmet İçduygu and Evin Millet, "begun to accomplish its goal of considerably reducing arrival numbers in Greece."¹ The agreement constitutes a new and significant element in the international patchwork of regimes and practices which attempt to regulate the movements of refugees and migrants in the Mediterranean region and to secure the rights of refugees and migrants. Given that the EU-Turkey agreement apparently has contributed significantly to reducing the flow of refugees and migrants arriving in the EU, it seems relevant to ask if the model can be replicated to other contexts where migrants and refugees play an important role in the relationship between the EU and partner states in the southern and eastern Mediterranean. The fact, as mentioned by Elisabeth Collett, that the 28 EU member states were able to find internal consensus behind the agreement underlines how seriously the situation in late 2015 and early 2016 was perceived in the EU.²

Obviously there are many differences between the situation in Turkey, with its relatively high level of economic development and an (at least in principle) ongoing accession process with the EU, and the situation in the Arab Mediterranean context based on cooperation with the EU via the European Neighbourhood Policy (ENP). Moreover, the institutional cooperation between the EU and the Arab Mediterranean countries differs from arrangements between the EU and Turkey (which is not part of the ENP). The need, however, for establishing an institutional framework for migration management, where the EU works together with the Arab partners south and east of the Mediterranean, is in many ways similar.

North Africa is a transit region for large numbers of migrants and refugees and at the same time, albeit at different levels, is itself a producer of potential migrants for the European labour market. Seen from the side of the EU a future migration diplomacy in the context of the Arab Mediterranean is about creating trade-offs, where the decisive element is that the Arab Mediterranean partners accept to take back as many as possible of the irregular migrants arriving in the EU. Contrary to this the interests from the side of the southern and eastern partner states are to obtain significant advantages from future talks and agreements.

Returning irregular migrants

The first item on the agreement list is the question of returning "irregular migrants". A positive aspect of this might be that ideally it can reduce the negative influence of the

¹ Ahmet İçduygu and Evin Millet, "Syrian Refugees in Turkey: Insecure Lives in an Environment of Pseudo-Integration," *Instituto Affari Internazionali. Global Turkey in Europe, Working Papers* 13, no. August 2016 (2016).

² Elisabeth Collett, "The Paradox of the EU-Turkey Refugee Deal," *Commentary*, www.migrationpolicy.org (2016).

human smugglers and tone down the role of the whole "illegality industry", as emphasized by Ruben Andersson.³ It should be mentioned that the much acclaimed success of the "1:1 mechanism", as claimed by Spijkerboer, can be questioned in the sense that "the decline in numbers precedes the EU-Turkey agreement, and the agreement has no identifiable relation to the decline".⁴ A more problematic dimension is the expectation that the motivation for accepting binding agreements on return of irregular migrants from the side of the Arab Mediterranean states will be low. In the perspective of migration diplomacy the southern partners will be worried to lose a strong negotiation asset and, furthermore, they will fear that if their neighbouring states separately accept similar agreements, they would in the regional perspective stand in a weakened position. This might turn out to be a main problem in connection with attempts at replicating the EU-Turkey agreement in an Arab Mediterranean context.

Resettling of readmitted refugees

The EU-Turkey agreement includes several discriminatory practices, as underlined by Gloria F. Arribas, which it will be important for the EU to avoid in the Arab Mediterranean context. One of them is that the agreement regarding resettlement excludes non-Syrian refugees – a practice which obviously is not in accordance with the principle of granting protection to people based on needs rather nationality.⁵ Furthermore, the agreement is based on exclusion from the 1:1 mechanism for refugees who have attempted to enter Greece irregularly, with returnees to Turkey consequently prohibited from international protection in Europe – or, as it says in an EU Press Release, "Priority is given to migrants who have not previously entered or tried to enter the EU irregularly".⁶ A precondition for a well-functioning relocation system in the Mediterranean is of course that the EU member states will agree on allowing significant numbers of refugees to arrive in Europe and become resettled. This procedure has not, despite the relatively positive wording in the EU-Commission Press Releases, been very successful in the EU-Turkey context.⁷ The systems for resettlement have in different ways proven unfeasible, in particular when it comes to the internal solidarity between the EU member states.⁸ In addition to that the resettlement efforts might also result in potentially discriminatory practices, where the EU ignores preferences on behalf of the refugees who might want to utilize different types of networks in connection with arriving into the EU, for instance to draw on family already living in given EU member states.

³ Ruben Andersson, "Europe's Failed 'Fight' against Irregular Migration: Ethnographic Notes on a Counterproductive Industry," *Journal of Ethnic and Migration Studies* 42, no. 7 (2016).

⁴ Thomas Spijkerboer, "Fact Check: Did the EU-Turkey Deal Bring Down the Number of Migrants and of Border Deaths?," *Oxford University, Faculty of Law. Border Criminologies*, no. 28 Sep 2016 (2016).

⁵ Gloria Fernández Arribas, "The EU-Turkey Agreement: A Controversial Attempt at Patching up a Major Problem," *European Forum, European Papers* no. 17 October 2016 (2016).

⁶ EU-Commission, "Fact Sheet. EU-Turkey Agreement: Questions and Answers, 19 March 2016," (Brussels: European Commission, 2016).

⁷ "Press Release, 9 November 2016: Relocation and Resettlement: Member States Need to Sustain Efforts to Deliver on Commitments," ed. European Commission (Brussels 2016).

⁸ Ibid.

Visa-liberalisation

The reason for the fact that the agreement on visa liberalisation is part of the EU-Turkey deal is a result of migration diplomacy over many years related to the Turkish EU-accession. An important parallel step, albeit not directly as part of the EU accession process, was taken when in 2013 a so-called "Roadmap towards the visa-free regime with Turkey" was agreed upon as part of the accession process.⁹ A combination of the recent turmoil in Turkey and the continued skepticism in the EU towards Turkey's accession has resulted in a halt to any progress. It seems unrealistic to see visa liberalisation being included in negotiations between the EU and the Arab Mediterranean states. Rather, solutions might be developed within the framework of specific ENP programmes, projects related to the Union for the Mediterranean (UfM) with a labour market dimension, or agreements like the Mobility Partnerships (MPs), which the EU so far has signed with Morocco, Tunisia, and Jordan – and has had initial talks about with Lebanon and Egypt.¹⁰

Increased financial aid

In the context of the agreement with Turkey the EU has pledged €3 billion in addition to already disbursed financial aid. Added to that a further €3 billion has been pledged to Turkey. If a "Turkey model" should be replicated in the Arab Mediterranean, significant financial packages from the EU will be necessary in order to persuade the Arab states to accept to receive back irregular migrants, and to contribute to stabilizing the political realities in third countries, secure possibilities for education, health care, etc.

Cooperation on improving humanitarian conditions in Syria and other homelands

The EU-Turkey agreement focuses on Syria and suggests that the EU should cooperate with Turkey on improving humanitarian conditions there. This element, however, would obviously also be relevant in the context of similar agreements with Arab Mediterranean partners. Contributing to solving the many problems related to the tragic situation in Syria is also highly relevant for the Arab Mediterranean countries, not least because the EU-Turkey agreement has resulted in a transfer of large numbers of refugees from the Aegean context to the traditional Mediterranean migratory routes. In addition to that it will be relevant to work together on improving humanitarian conditions in many of the African homelands of the refugees and migrants.

Conclusion

The fact that the EU-Turkey agreement (seen from the side of the EU) has been somewhat successful gives no guarantee for the workability of applying similar agreements

⁹ "Roadmap Towards the Visa-Free Regime with Turkey," (Brussels: European Commission, 2013).

¹⁰ Peter Seeberg, "Mobility Partnerships and Security Subcomplexes in the Mediterranean: The Strategic Role of Migration and the EU's Foreign and Security Policies Towards the Mena Region (forthcoming)," *European Foreign Affairs Review* 22, no. 1 (2017).

elsewhere in the Mediterranean region. The expectation is that the involved Arab states will be skeptical and argue that they will need very significant financial aid from the EU (and other international donors) in order to take over parts of the responsibilities for the complex and resource-consuming processes related to the recent migration pressure. It adds to the lack of realism that the EU member states hardly will be able to agree on how to initiate negotiations with the Arab partners to the south and east – knowing that the costs will be enormous and that it seems easier, albeit shortsighted, to adopt an ostrich policy!