The External Dimension of the European Union's Migration Policy
The EU response to the migration and refugee crisis

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In the last few years there have been fast and essential changes happening in the European Union (EU) regarding common policy in the field of migration and asylum. In order to manage asylum and migration in an efficient way, in all its aspects, the EU legislation has developed significantly. The progress achieved on the formation of a comprehensive, efficient and balanced migration and asylum common policy of the EU has been considerable. Yet, the remaining challenges are still numerous.

The process of shaping a common migration and asylum policy at the European Union level was a great challenge for the EU because the idea of reaching a consensus has been, and still is, hampered by some of the Union Member States, reason for which accomplishments in this domain have been slow and their results led to the shaping of some sorts of deeply fragmented policies. Largely, due to „the lack of a clear political objective, wich will be approved by all the Union members, as well as due to the lack of convergent opinions regarding central themes and the existence of opt-out protocols that encouraged a high degree of flexibility for the application of common policies"[1](Papagianni, 2006: pp. 272-273).

The interpenetration of economic, political and security problems inevitably tests the EU and the member states capacities to create and implement a common migration and asylum policy that are efficient and coherent. Although migration and asylum represent some of the main

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[1] Attempts to establish a common migration policy of the EU has been hampered since the beginning by one of the most complex regulatory issues of the EU: how to include the particularities of the member states in the regulatory migration practices at a European level and also resolve, at the same time, potential conflicts that can occur between the visions of the member states regarding the way migration policies should look like at a EU level and additionally, the distribution of powers while elaborating the migration policies domain.

debating themes at the EU level, the identification of the methods and means necessary in order to manage them appears difficult to establish.

In search of new solutions to this problem, the EU started to focus on a more differentiated approach on migration. Therefore, in the light of constant immigration pressure and of the internal resistance towards a stronger legislative integration in the field of migration and asylum, the focus of the cooperation shifted to the exterior in the hope of employing countries of transit and origin to manage the migration flows. Consequently, migration has become a central focus of EU policy and the consultations with countries in geographic proximity to the EU have intensified.

Therefore, one solution to resolve this crisis, one that the EU is betting on, could be the employment of both the countries of transit and origin in order to manage the migration flows. In this regard, the EU „concluded a series of agreements with the neighbouring countries to the East and South to strengthen their capacities to prevent the illegal migration phenomenon and to improve their border management"(Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, COM(2014) 154 final: pp. 7-8). However, given the internal blockages regarding the powers of the EU on migration and given the lack of a common and coherent migration policy, that should include both legal and illegal migration,"EU has little to offer to these countries in exchange for their cooperation in regard to the EU borders security"(Wallace în Wallace *et al*, 2010: p. 396).

Thus, migration management at a European level came to include an "internal dimension, which derives from the common responsibility of the member states, as well as an external dimension, managed in cooperation with third states, transit and origin countries of the immigrants, but also for the asylum seekers"(Ministry of External Affairs). Third countries have therefore become important actors in the external dimension of EU migration policy.

In the context of the current migration/refugees crisis, an important actor, with a strategic importance, is Turkey. An agreement between the EU and Turkey represents a key element in solving this very complex crisis.

The EU-Turkey Agreement

The last negotiations between the EU and Turkey for a deal on stopping the migration flows towards Europe happened in March of 2016[2]. Scheduled for the 7th of March, the EU-Turkey reunion was followed by an informal meeting of the members of the European Council, during which EU leaders laid out the details for a future agreement with Turkey, which should be concluded in the coming days at the EU-Turkey Summit.

Although an agreement in the coming days was sitting into question, following some tough negotiations, the agreement was closed during the reunion of the European Council in Brussels, on the 18th of March, an agreement, which entered into force on 20th of March 2016.

The EU and Turkey have agreed on two main things: firstly – to return in Turkey (safe third country) all new irregular migrant, as well as all asylum seekers, who have been denied asylum request in any EU member state, that reach the Greek islands after passing through Turkey starting from the 20th of March; secondly – to set up a 1-for-1 resettlement scheme, which says that for each Syrian refugee accepted by the Turks, another Syrian refugee that is already in Turkey, will be taken to a welcoming centre in a EU member states[3]. Priority is given, under this provision, to refugees who have not previously entered or try to enter the EU irregulary.

What does the EU gain by closing this Joint Action Plan?

At a first sight, for the EU, the answer is simple, if the plan is consistently and totally applied, the EU gets what it wanted: to reduce the number of irregular immigrants and asylum seeker who arrive on European land.

What does Turkey gain by closing this Joint Action Plan?

For their cooperation, Turkey has received several „promises"- of these three stand out in particular: the re-opening of the negotation chapter for EU accesion, an acceleration of the visa liberalisation process and additional financial support.

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[2] This was the third meeting between the EU and Turkey since November 2015 dedicated to managing migration crisis.
[3] This provision does not involve people who have already arrived in Greece.
A solution for the refugees who are already in Greece has not yet been found.

Evaluation of the EU-Turkey Agreement: How inclusive and balanced is this agreement?

I will evaluate this report from two stances: ₐthe content standpoint (stipulations) and ᵦthe viability standpoint

   a) The content of the agreement reflects, once again, that the EU is interested in this crisis, mainly, to promote solutions for asylum seekers, refugees and immigrants in their own regions of origin, or in transit and third countries, to secure its borders and ultimately is interesed in accepting refugees on its territory. Thus, the stipulations of this agreements targets to take measures in order to stop illegal migration[4] and for returning asylum seekers and iregular immigrants in Turkey, these choices „being mostly based on EU's interests that simplify a complex problem by supplying incomplete solutions in the transit states or in the region of the origin states of the immigrants and asylum seekers, with less importance given to alternative solutions and their efficiency"(Biondi, 2015: pp. 213, 216). Therefore we can say that EU through this agreement its protecting their own interest, rather than the interests of those who need it protection and a safe place to live.

Consequently the agreements guidelines can be questioned for their lack of adequate guarantees for human rights. From this point of view, there are two debatable problems regarding the EU-Turkey Agreement.

Firstly, that itself breaches the European legislation particularly Article 19 of the Charter of Fundamental Rights of the European Union[5] but also international laws. Therefore, "Art. 19, which must be interpreted in conjunction with the decisions of the International Human Rights Court, regarding refugees and with the Human Rights Convention, it results that when a country assumed responsibility for migrants and asylum seekers (for example, taking them on board of one of their ships) this means that any attempt to take them to a country, which is not safe for them, without giving them the possibility to apply for international protection is a

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[4] Otherwise „the vast majority of EU agreements with third countries on migration issue focuses on security and border management" (Papagianni, 2013: p. 295). This agreement thus reflects, once again, one of the major criticisms to the European Union in the management of migration, namely the one concerning its transformation in a fortress that allows free movement of EU citizens within its borders while immigration of people coming from third countries being carefully controlled.

[5] It says that: „1) Collective expulsion are prohibited. (2) No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment"(Charter of Fundamental Rights of the European Union, Official Journal of the European Union, 2012/C 326/2).

collective expulsion"(Centre for European Policy Studies: Carrera and Guild). However, the agreement provides some mechanism in order to assure that those in desperate need of protection will be helped.

Secondly, given those previously mentioned, Turkey's „safe third country" quality comes into question, for both immigrants and refugees. Therefore, „some legal experts and many human rights NGO's argue that there are doubts about whether Turkey is a safe third country because it doesn't fully apply the Geneva Convention and because there are many human rights violations in Turkey"(Emmanouilidis, 2016: p. 4). However the EU was committed to helping Turkey to introduce the best measures to respect the rights of the refugees and argue that Turkey even if not completely apply the Geneva Convention the refugees will enjoy sufficient protection in Turkey because it applies equivalent standards in practice.

b) Not only the legal aspects of the agreement can be questioned but the practical issues also. Regarding the viability of the agreement „the longer it takes for it to be fully applied, the more can increase the distrust for each of the sides"(Pascouau, 2016: p. 2) and therefore, the results can be disappointing.

A debatable issue is the applicability of the 1-for-1 scheme. In Turkey's case, it's clear that it will receive Syrian refugees that have been distributed through this mechanism, but at the European level this matter remains debatable, especially in the context in which the procedure is based on the voluntary desire of the European countries to receive relocated Syrian refugees through this mecanism and it is known that „great majority of the refugees find protection in developing countries, and that the developed countries offer asylum to a small residual number"(Biondi, 2016: 2008). The interesting thing is that last year, the European Commission triggered the infringement procedure against 19 countries, including Romania, for failure to comply with the asylum right. It remains to be seen if in these conditions, solidarity between the member states will function and they'll agree to share the refugees.

Another interesting point is the fact that just because this agreement stipulates the elimination of visas for Turkish citizens, but also the re-open negotiations for Turkey's EU accession, doesn't mean that these facts will truly happen, which can lead to dissensions between both sides.

Regarding the guidelines for eliminating visas, they consist of 72 precise conditions, which is why already there are voices, especially from Austria and France, which consider that these conditions won't be met until June, reasons for which this provision won't produce any effects. The same situations stand for re-opening negotiations on Turkey's accession to the EU. In the European Council's conclusions from 17/18th March 2016, it is stated that "Turkey is required to respect the highest standards when it comes to democracy, rule of law, respect of fundamental freedoms, including freedom of expression"(European Council's conclusions), problems that are somewhat sensitive and not entirely respected by Turkey. Moreover, even though negotiations are settled in the 33rd Chapter, according to European legislation, they can be resumed anytime.

An obvious thing is that much of the action points of the agreement focuses on Greece[6], mainly because will be the first country that will have to implement this agreement. The good implementation of this agreement depend on its ability to cope with this situation, but is evident that Greece will not be able to manage all of this alone.[7] The EU and the other 27 member states have already pledged aid to Greece but given the „negative track record of both Greece, which has no delivered on earlier pledges, and other EU countries which have not lived up to their promises to support EU agencies (European Asylum Support Office and FRONTEX) in the past, it is by no means certain that these huge challenges can be met in a short time"(Emmanouilidis, 2016: pp. 4-5).

Conclusions

The External Dimension of the European Union's Migration Policy is presently considered a solution for the current migrant/refugees crisis; in this case, the collaboration and agreements with key states being very important for common management of this phenomenon. The EU-Turkey Summit form 17/18 March 2017 was another attempt to make progress on managing the EU's migration/refugee crisis. The EU-Turkey agreement is seen as an important element that could answer this crisis.

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[6] Greek authorities will have to „individually identify, registern and chanel people to the right procedure – broadly speaking the asylum way or the return one"(Pascouau, 2016: p. 1).

[7] The Commission estimates that „Greece will need: Around 4,000 staff from Greece, Member States, the European Asylum Support Office (EASO) and FRONTEX"(EU-Turkey Agreement: Questions and Answers)

The evaluation of this agreement have highlighted the following key issues: that the EU has adopted a new agreement in which the priority solution is limiting its moral responsibility in what it concerns accepting refugees on its territory, the closely focus in terms of reducing illegal migration towards Europe as well as fact that Turkey used EU's incapacity in solving the migrants/refugees crisis in order to receive some concessions from the EU

If from the point of view of its content, despite criticism, mechanisms were introduced to solve issues related to compliance with both the European law and international legislation and related to humanitarian issues, it remains to be seen how will they be applied given that neither the European states fully respect the European legislation regarding asylum nor proved to be solidarity in this matter. But more important is Turkey's capacity to introduce in a short period of time the necessary reforms to improve, in cooperation with the EU, its national legislation regarding human and refugee's rights and to become a real safe third country.

The results of this agreement are tied to the good cooperation between Turkey and the EU and vice-versa. However, the scale tends to bend towards Turkey so that if Ankara is not satisfied with the results of the implementation of the guidelines in the agreement, it can neglect this joint problem to the EU's expense, leading to the repetition of the current situation. This agreement doesn't fully solve this crisis nor will it provide an adequate response to those in need of international protection; but only treats some issues of interest for the EU. Yet, the remaining challenges are still numerous.

However, the Joint Action Plan between Turkey and the EU represents a step forward in solving this problem; yet not a final solution. The agreement must be applied consistently and without half measures by both parts in order to produce some positive results.

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