

The Reality of Refugee Diplomacy: EU-Turkey Agreement and Political Narratives of Legitimization

Abstract

The EU-Turkey Statement was introduced in March 2016 as a solution to the ongoing Syrian refugee crisis, with the aim of limiting irregular migration to Europe and securing the EU's external borders. As an act of externalization of the European border and migration control, the agreement has been regarded as controversial. This paper attempts to answer how the EU-Turkey Statement has been framed in the political discourse as an attempt to legitimize the externalization of European border and migration management to a 'safe third country'. The research question will be addressed through document and discourse analysis, and with the analytical lenses of humanitarianization, securitization and externalization of the Statement, its evaluations, and the political discourses surrounding it. In summary, the result of this analysis shows that the EU-Turkey Statement has been framed as a humanitarian and security crisis in order to justify a questionable externalization policy.

Keywords: EU-Turkey Statement; Humanitarianization; Securitization; Externalization; International Human Rights and Refugee Law

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Introduction

As a response to the ongoing Syrian refugee ‘crisis’, the Council of the European Union presented a legally non-binding statement that would later be known as the “EU-Turkey Deal”. The Statement presented an official plan on how to minimize the number of irregular migrants arriving to Europe from Turkey, to limit the deaths at sea, and to break the business model of human smugglers, thereby including elements of both humanitarian and security concerns (Council of the EU, 2016). In order to do so, the agreement enabled the return of irregular migrants to the Turkish mainland and facilitated a cooperation of border control between the EU, Greece, Turkey, and NATO in the Aegean Sea. The means to persuade Turkey to cooperate included a promise of six billion euros in financial support, visa liberalization for Turkish citizens to EU countries, a reopening of the accession talks for Turkey in the EU, and a relocation mechanism for Syrian refugees to be resettled amongst EU Member States (Council of the EU, 2016). The agreement proved to be controversial due to a number of reasons, such as how the negotiation took place, the humanitarian consequences, the diversion of humanitarian funding to security measures, the legality of the Statement, and the ways of implementing it. Additionally, the Statement received critique for outsourcing border and migration control to Turkey (UNHCR, 2016a).

As the 2015 refugee ‘crisis’ dominated the media, the topic became highly politicized and received much public and political attention across Europe (Georgiou & Zaborowski, 2017). The EU-Turkey Statement was in this context presented as the only durable solution, even though it pushed the International Refugee Conventions to the limit and had significant humanitarian consequences (Peers, 2016). Henceforth, the relevance of this research is twofold; firstly, the implemented policies in relation to the agreement have enormous impact on the lives of the people affected, thus making the political justification questionable and the legitimatizing narratives misleading. Secondly, externalization as a concept is not a new phenomenon, but rather a reoccurring policy already used in other geographical context, thus making this analysis complementary to the existing literature. As similar agreements with third countries have already been proposed, e.g. between the EU and Egypt, more knowledge on the implications of these policies is necessary (European Council of Foreign Relations, 2018).

Our hypothesis is that the EU-Turkey Statement has been framed in a certain way in the political discourse in order to justify a policy of externalization. Therefore, we seek to examine the following research question: *How has the EU-Turkey Statement been framed in the political*

discourse, in order to legitimize the externalization of European border and migration control to a third country? In order to analyze the political discourse legitimizing this policy, we must first gain an understanding of the factual implications of it.

The Statement on Paper and in Practice:

In theory, the agreement states that all displaced Syrians intercepted in the Aegean Sea would swiftly be sent back to Turkey, while all new arrivals to the Greek islands would have their asylum case processed by Greek authorities in collaboration with the UNHCR. All those deemed not in need of international protection would be sent back to Turkey, “accordingly to the relevant international laws and the non-refoulement principle” (Council of the EU, 2016), thereby assuming that Turkey is in fact a ‘safe third country’. However, for every Syrian returned to Turkey, another Syrian would on a 1:1 ratio be resettled to an EU Member State, accordingly to the UN Vulnerability Criteria (UNHCR, 2016b)

In practice, the agreement has not come close to its original intentions. Only 2.164 Syrians have been returned since March 2016, and 12.476 have been resettled from Turkey to the EU Member States – a fraction of the approximately 3.6 million displaced Syrians within Turkey (European Commission, 2018a; UNHCR, 2018a). The visa liberalization for Turkish citizens has not been implemented, while limited progress has been made in regards to Turkey’s accession to the European Union (Pierini, 2018). Lastly, only 1.85 billion euros have been paid out to various humanitarian projects in Turkey - a considerable difference from the original six billion promised by the EU (European Commission, 2018a). While the funding is earmarked for humanitarian and development purposes, evidence suggest that parts of it is being spent of border control and security, including the purchase of Turkish-produced heavily armored vehicles, patrol boats, and surveillance equipment (Ekeberg and Hansen, 2018a; 2018b; 2018c). The agreement has been successful in terms of drastically reducing the number of arrivals to the Greek islands; from 856.723 in 2015 to 29.718 in 2017. Furthermore, the total amount of casualties in the Aegean decreased from 799 in 2015 to 54 in 2017 (UNHCR, 2018a).

Although the Statement is presented as a formal agreement between the Council of the European Union and Turkey, the document is nothing but a press release, and henceforth, an informal agreement at best. Due to the fact that the document is not a treaty or legally binding, it is not subject to scrutiny or legal investigation and judgement from the European Court of Justice, or any other international legal institution (De Vrieze, 2018, p. 31-41). Additionally,

because the agreement was made in a press release format, it did not need any approval procedure from the European Parliament or national legislations, thus bringing the democratic legitimacy of these kinds of informal agreements into question (Peers, 2016). The Council of the European Union has thereby successfully sidelined the European Parliament and other relevant institutions in the negotiation and decision-making process of the agreement.

We conducted our analysis by looking at the various sources through the analytical lenses of humanitarianization, securitization, and externalization. This approach is considered appropriate as it is evident that politicians have used narratives based on a combination of humanitarian ideals and security concerns to justify particular policy decisions.

Humanitarianism

For the sake of this paper, humanitarianism will be referenced in relation to the International Committee of the Red Cross' (ICRC) definition; "Humanitarianism aims at the happiness of the human species [...], it is the attitude of humanity towards mankind, on a basis of universality." (International Committee of the Red Cross, 1979, p. 144). This doctrine is seen as anchored within human rights and vows to promote the wellbeing of all humans. While we acknowledge humanitarianism as an ideology, we consider humanitarianization as the practice of making something into a humanitarian issue. In conducting our document and discourse analysis we have identified five main humanitarian arguments; i) avoiding casualties at sea, ii) upholding human rights and international law, iii) improving conditions on the ground iv) end smuggling operations, and v) provide a safe and legal entry for refugees to Europe. Top politicians on both sides of the negotiation table have used these five arguments to legitimize the implementation of the Statement and the following consequences.

As European media outlets showed picture upon picture of drowned migrants, an immediate demand to stop the casualties was necessary. This media attention emphasized the need to avoid migrants drowning in the Aegean Sea as they attempted to reach the Greek islands. Former Rotary President of the Council of the European Union, Mark Rutte, emphasized this by stating that "There is nothing humanitarian in letting people, families, children, step on boats, being tempted by cynical smugglers, and risk their lives," (Pamuk and Baczynska, 2016a). As another example, General Secretary of NATO, Jens Stoltenberg, described the situation as "[...] a big, big humanitarian tragedy where we all have to respond [...]" (NATO, 2016a). President of the European Council, Donald Tusk, also emphasized the need for solving the 'crisis' in a

humanitarian way “[...] all our actions aimed at solving the problem of refugees, the European Union is driven by empathy and the readiness to offer help to those in need, even if the world turns its back and pretends not to see.” (BBC, 2016).

As the European Union is based on liberal values and respect for human rights, the need to uphold international refugee and human rights law should be considered a central element within the European societies. As an example of this, Chancellor Angela Merkel stated that “[...] we must demonstrate whether we can credibly implement what we always preach: our adherence to our values, our humanitarian approach, the protection of human rights.” (The Federal Chancellor, 2016a). On another occasion, she claimed that “Europe’s soul is humanity. And if we want to keep that soul, if Europe and its values wants to succeed in the world, then it must not close itself off.” (BBC, 2018). It may be argued that Merkel’s Christian democratic and liberal values reflect through her statements, in recognition of Europe as the fundamental protector of human rights.

The EU-Turkey Statement also include aspects of the humanitarian discourse, as it declares that “Much progress has been achieved already, including Turkey’s opening of its labour market to Syrians under temporary protection [...]” and that the EU “[...] will further speed up the disbursement of the initially allocated 3 billion euros [...] and ensure funding of further projects [...] notably in the field of health, education, infrastructure, food and other living cost” (Council of the EU, 2016). This goes well in hand with statements of politicians such as Jean-Claude Juncker, Angela Merkel and Donald Tusk who have continuously argued for the importance of humanitarian assistance. Although these are just a few examples of the humanitarian discourse, it provides a clear understanding of the framing of the crisis and the EU-Turkey statement.

Securitization

Securitization is a process where a speaker addresses an issue, such as irregular immigration, and argues why this should be identified as a security threat towards e.g. a certain society's existential identity. It can further be described as a successful non-neutral speech act, which the audience has to accept in order to be defined as such. The acceptance gives several political advantages, such as the legitimization and justification of extraordinary measures, that normally would have been disproportionate and illegal towards the solution of the problem (Betts, 2009, p. 71; Neal, 2009, p. 335).

In terms of security, the discourse began as a humanitarian concern regarding displaced people drowning at sea but changed relatively quickly to a security concern towards who were entering the European Union (Georgiou & Zaborowski, 2017). Ultimately, refugees and migrants on route to Europe became part of a discourse in which they were first considered to be *at risk*, while later being understood to be *a risk* (Pallister-Wilkins, 2015). In relation to this, we identified three main security arguments; i) ‘extraordinary measures’ to solve an ‘extraordinary situation’, ii) protect Europe’s external borders to save Schengen and European unity and iii) counteract the criminal business model of smuggling operations.

First, various politicians have expressed the need to use ‘extraordinary measures’ to solve the ‘extraordinary situation’, while addressing the immediate migration issue. In an interview regarding the Statement, Stoltenberg argued that the involved parties were willing to use the “extraordinary measures [...] necessary to end the human suffering and restore public order [...]”, including to “welcome the establishment of the NATO activity on the Aegean Sea” (BBC, 2016). In order to regain control of the chaotic situation in the Aegean, politicians emphasized the need to act urgently, as Rutte expressed that “[...] we cannot cope with this any longer, so we have to get a grip on it.” (Soffel, 2016). Further, Rutte stated that “I tend to shy away from apocalyptic quotes. But I don’t see how, if we don’t get a deal today or tomorrow, we will get a deal at a later stage.” (Reuters, 2016b). By expressing the urgency in solving the migration issue, the discourse arguably creates a sense of fear of not being able to solve the issue before it is too late. Debatably, Rutte attempts to securitize this issue by convincing the audience that the implementation of the Statement is necessary and the most efficient solution to the pressing matter.

A second securitization discourse is the need to securitize the external borders. Politicians often use this framing to ensure the survival of the Schengen Agreement and hence the free movement of people and goods. As stated by President of the European Commission, Jean-Claude Juncker; “The internal market will not survive the refugee crisis if we do not manage to secure our external borders jointly [...]” (European Commission, 2016). In this quote, it becomes apparent that the EU’s internal market is framed as the referent object at risk, and that the irregular migration is the threat. Tusk elaborates on the importance of securing the external borders by proclaiming that “We are a territorial community, which means that we have a common territory and common external borders. Our duty is to protect them. The migration

crisis has made us aware, with full force, of the need to rebuild effective control of our external borders [...]” (Council of the EU, 2017). This confirms that the EU is framing its ambition to protect its external borders as a method to maintain internal stability.

A third key element of the Statement is to break down the smuggling operations in the Aegean Sea, as a way to protect the external borders of the European Union (Council of the EU, 2016). As the discourse changed from migrants being at risk to later become a risk, or the source of threat, smugglers were portrayed to be the means to provide access to Europe. Stoltenberg acknowledges this connection by saying “Enabled by criminal gangs, the flow of migrants and refugees is putting enormous pressure on the countries affected.” (NATO, 2016b). In relation to the Statement, Merkel argued that “This agreement not only helps the refugees, but it is also an important contribution towards stopping smuggling and human trafficking, so that the external borders can be protected and the reasons for fleeing can be combated.” (The Federal Chancellor, 2016b), thereby clearly mixing the discourses of humanitarianization and securitization. Interestingly, Merkel is implying that the refugees are fleeing due to human trafficking, and not from war and persecution. These quotes frame the Statement as having solved the security issues of human smuggling and Schengen, portraying the deal in a positive light. Yet it is questioned whether the Statement was ideal, as Rutte comments “in all honesty, is the agreement ideal in every respect? No. But was it sorely needed? Absolutely.” (Government of the Netherlands, 2016). In this quote it may be implied that the necessity of the Statement overruled the potential flaws in the agreement.

Externalization

The concept of implementing policies to outsource migration control to an area outside of a country’s sovereignty is called externalization. Consequently, a state’s migration control is no longer necessarily limited to its geographical territory (Gammeltoft-Hansen, 2011, p. 16). According to Martin Lemberg-Pedersen, European externalization can be defined as: “[...] the multifaceted processes whereby EU member states, or the Union as a supranational actor, complement policies to control migration across their territorial borders with initiatives aimed at realizing such control outside their territories.” (Lemberg-Pedersen, 2017, p. 40).

A process closely connected to externalization is that of issue-linkage, which involves negotiation processes between different parties “[...] where issues like asylum policies are linked to other issues, like trade, military, and development policies.” (Lemberg-Pedersen,

2015, p. 143). In this process, a more powerful country may use its power, being political or economic, to export responsibilities to another often less powerful state, who may not always have much to say in the matter (Lemberg-Pedersen 2017, p. 40). This means that weaker states can be pressured or persuaded to accept foreign border control on their territory by more powerful states. Powerful states have the ability to pressure weaker ones into collaboration through the conditionality approach. Conditionality entails offering a reward, such as financial aid or accession negotiations, in return for the political commitment to fulfill certain conditions (Lavenex & Uçarer, 2004, p. 424). By analyzing the discourses surrounding the Statement, it became noticeable that politicians tend to avoid the use of this framing. Arguably, 'conditionality' has strong negative connotations of outsourcing responsibilities, which discourages politicians from mentioning it explicitly.

One of the ways the EU has convinced Turkey to participate in this agreement, is through issue-linkage negotiations. In a leaked document from the negotiation of the Statement, Juncker articulated that the agreement had to be negotiated as a complete package, which included elements such as funding, visa-liberalization, and renewed accession talk to the Union (Pappas, 2016). The fact that the agreement is a combination of migration, foreign, and economic policies shows a clear example of issue-linkage diplomacy. The Statement is explicit about this, and explains how "[...] the European Union has begun disbursing the 3 billion euro of the Facility for Refugees in Turkey for concrete projects and work has advanced on visa liberalization and in the accession talks [...]" (Council of the EU, 2016).

Another way the EU has persuaded Turkey to cooperate is by using the strategy of conditionality. The incentives in this case are the above-mentioned funding, visa-liberalization and renewed accession talk. However, the EU is debatably withholding parts of the negotiated promises, which Recep Tayyip Erdogan, President of Turkey, is emphasizing by stating that "[...] you [the EU] did not fulfill your promises. [...] You never acted honorably, you did not act right." (NDTV, 2016). Due to the political development in Turkey after the agreement, and especially after the attempted coup, the EU has shown unwillingness to continue accession talks and implement visa-liberalization. According to Juncker, Turkey does not meet the EU's requirements regarding the rule of law, justice and fundamental rights (European Commission, 2017).

Although not explicitly mentioned in the Statement, it may be argued that the agreement is an act of externalization. The intent of the Statement is to limit irregular migration, which is expressed in the following way: “Turkey will take any necessary measures to prevent new sea or land routes for illegal migration opening from Turkey to the EU [...]” (Council of the EU, 2016). The quote both states the aim and one of the means of the agreement; limiting of migration is done by stemming routes leading to Europe by giving Turkish authorities the responsibility to prevent migrants reaching the EU’s external borders. Another externalization measure in the agreement is to return irregular migrants to a third country, namely Turkey. According to the Statement, the irregular migrants who reach the Greek islands will be returned to Turkey, which is expressed as such; “[...] Turkey, furthermore, agreed to accept the rapid return of all migrants not in need of international protection crossing from Turkey into Greece and to take back all irregular migrants intercepted in Turkish waters [...]” (Council of the EU, 2016).

Thus, it seems clear that the EU-Turkey Statement is an example of a political externalization measure. This becomes evident as it is directly stated in the Statement that its aim is to limit or manage migration, by transferring migration and border control responsibilities to Turkey.

Discussion

We have argued that the EU-Turkey Statement is in fact an externalization policy of European migration and border control to Turkey, which has been legitimized by framing the agreement in humanitarianization and securitization terms. In order to persuade the audiences about these arguments, it is necessary to interpret Turkey as a safe third country. Therefore, we aim to question this interpretation by examining the refugee reality in Turkey. According to the EU’s Asylum Procedure Directive, a safe third country is defined as:

“A third country that treats a person seeking international protection in accordance with the following principles: (a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion; (b) there is no risk of serious harm as defined in Directive 2011/95/EU (Recast Qualification Directive) ; (c) the principle of non-refoulement in accordance with the Geneva Refugee Convention and Protocol is respected; (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and (e) the possibility exists

to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Refugee Convention and Protocol.” (European Commission, 2018b).

These criteria, which derive from various instruments of International Human Right Law and International Refugee Law, all have to be fulfilled in order to categorize a third country as safe. In relation to Turkey, it may be argued that several aspects of this definition are questionable, such as the protection of various human rights, breaches of the non-refoulement principle, and limitations in the ability to request protection. First, it is important to state that although Turkey has ratified the 1951 Geneva Convention Relating to the Status of Refugees and its amendment, the 1967 Protocol, it has maintained the geographical limitation stated in the Convention (UNHCR, 2018b). Consequently, Turkey does not recognize non-Europeans as refugees, but rather provides displaced people in need of international protection with a ‘temporary protective status’. This status provides displaced people in Turkey with “a range of rights, services and assistance for beneficiaries of temporary protection. This includes, among others, access to health, education, social assistance, psychological support and access to the labour market.” (UNHCR, 2018c) However, compared to the refugee status given by the 1951 Convention, temporary protection does not provide the full benefits and is thus less desirable, because Syrians are only granted temporary refuge, thus indicating imminent repatriation.

When discussing whether Turkey is in fact a safe third country, it is necessary to acknowledge the recent reports of human right violations. Since the attempted coup d’état in 2016, Turkey has increasingly been criticized for breaching a range of human rights, such as freedom of movement, freedom of expression, freedom of assembly, freedom from torture and other ill treatment, as well as abuses by armed groups (Amnesty International, 2018). In relation to the Syrians under temporary protective status, Turkey has been accused of not upholding international standards, which is illustrated in a report from Amnesty International on human rights relating to the Statement, claiming that asylum-seekers and refugees struggle to maintain an adequate standard of living (Amnesty International, 2017). Various reports have described how Syrian refugees are being exploited in industries such as agriculture and construction, paid below minimum wage, sometimes only with food and accommodation (Human Rights Watch, 2016; Lemberg-Pedersen, 2018). Additionally, rights included in the temporary protective status, such as to education, security and health care, are not provided to unregistered refugees who crossed the border illegally (Lemberg-Pedersen, 2018).

There have been several claims of forcibly returns of refugees to Syria (Amnesty International, 2017). Gerry Simpson from the Human Rights Watch affirms this claim and links it to refoulement “These are clear-cut unlawful deportations because they are refugees – and sending them back amounts to refoulement,” (The Guardian, 2018). In another report, Human Rights Watch states that “Turkish security forces have routinely intercepted hundreds, and at times thousands, of asylum seekers at the Turkey-Syria border since at least December 2017 and summarily deported them to the war-ravaged Idlib governorate in Syria” (Human Rights Watch, 2018). Clearly, returning refugees to a country where they are at risk of being refouled into a warzone, is a direct breach of the non-refoulement principle. It is therefore highly questionable whether Turkey can be considered a safe third country. Additionally, as Turkey completed the construction of a border wall against Syria in 2017, it has been reported that people attempting to cross the border have been shot or pushed back across it (Vammen & Lucht, 2017). Witnesses have reported that if captured by Turkish border security, they have the options of either be imprisoned indefinitely or sign an asylum waiver and “return voluntarily” to Syria. The Turkish government has framed the construction of the wall as a security measure against terrorist infiltration from Syria, but it is undoubtedly also a mean to prevent further migration to Turkey (Carrié and Asmaa, 2018). It is important to mention that the EU has contributed to the surveillance and security of the wall; according to *Die Spiegel*, the funding provided exceeds 80 million euros (Spiegel, 2018). It may be argued that the border wall is a ripple-effect of the Statement and European externalization policies, as Turkey has found it necessary to limit the influx of refugees, due to the fact that migration to Europe has been contained in Turkey.

According to the above-mentioned examples, we would argue that Turkey cannot in good faith be categorized a ‘safe third country’. Due to extensive breach of human rights, refoulement of people in need of protection, and limitations in the possibility in applying for asylum, it seems evident that the European Union’s interpretation of Turkey as a safe third country does not comply with its own criteria.

Conclusion

As the 2015 Syrian refugee ‘crisis’ stunned European leaders across the continent, top political figures rushed to find a solution that would ensure security and unity within the Union. Regardless of well-known human rights violations, lack of legal protection for non-European refugees, serious economic concerns and the increasingly autocratic Erdogan-regime, the EU chose to interpret Turkey as safe third country - against its own definition. Turkey has been persuaded to cooperate through promises of financial aid, visa liberalization, and renewed accession talks, however, the EU has withheld several of the rewards, arguably due to Turkey’s failure in complying with the conditions set by the EU. As Turkey already has deported hundreds of thousands of Syrians back to the war-torn country, a de facto violation of the non-refoulement principle, Europe has undoubtedly compromised with its core values. The Statement has drastically reduced migration through the Eastern Mediterranean route, thereby containing Syrians in Turkey. Consequently, the number of displaced people within Turkey has increased, causing a ripple effect on the Turkish-Syrian borderscape. As a result, Turkey have conducted multiple military operations in northern Syria, establishing ‘safe zones’ as a way to deport refugees. Additionally, in order to avoid further migration, Turkey constructed a wall on the Turkish-Syrian border, thereby limiting the ability of displaced Syrians to apply for protection.

This article has investigated how the EU-Turkey Statement has been framed in the political discourse, in order to legitimize the externalization of European border and migration control to a ‘safe third country’. The most obvious finding that emerged from this study is how the Statement and the discourses surrounding it have been framed in terms of humanitarianization and securitization, in order to justify the agreement as an externalization policy. While the humanitarian argument represents an extensive part of the discourse, the implementation is lacking compared to the emphasis placed on security. This indicates that there is a high degree of incoherence between the political narrative of the EU as a liberal organization, and the realistic foreign policy strategy adopted towards migration and third countries. It may be concluded that EU’s ‘universal principles’ of human rights and humanitarianism in reality ends somewhere in the Mediterranean Sea.

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