

EU visa-liberalisation for Turks: just around the corner?

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At the 18 March EU-Turkey Migration Summit EU leaders pledged to lift visa requirements for Turkish citizens travelling to the Schengen zone by the end of June 2016 if Ankara met the required 72 benchmarks. On 4 May the European Commission will decide whether or not Turkey has done enough. The stakes are high because Turkey has threatened to cancel the readmission agreement, which is central to the success of the migration deal, if the EU fails to deliver.

Turkey is the only EU candidate country not to have visa liberalisation, despite Ankara being promised free movement of people decades ago. A protocol to the 1963 Association Agreement between the then European Economic Community (EEC) and Turkey states that both sides "shall refrain from introducing between themselves any new restrictions on the freedom of establishment and the freedom to provide services." There is also consistent jurisprudence by the European Court of Justice holding the view that in EU law the freedom to provide services covers persons providing services as well as persons receiving them. Turkey began a visa-free dialogue with the EU in December 2013 which included the implementation of a readmission agreement. However, with a visible lack of enthusiasm from many EU member states there was little belief in Ankara that the Union was serious. This impacted the process, with Turkey only fulfilling 35 of the 72 criteria. When Turkey became central to a solution for the migration/refugee crisis, Ankara saw an opportunity to accelerate the process by exploiting the EU's urgent need for a deal. Prime Minister Davutoğlu insisted on visa liberalisation by the end of June.

State of play

As of 2 May Turkey had met or partially met 65 of the criteria. Ankara has pledged to rapidly fulfil the remaining requirements. While many of the unfulfilled criteria are purely technical, some issues are more problematic. The first concerns the definition of terrorism. The European Commission has asked Ankara to revise Turkish legislation on terrorism with the aim of aligning it with the EU's *acquis*, Council of Europe standards and with the European Court of Human Rights jurisprudence on terrorism. The second problem concerns the protection of personal data. The European Commission requested Turkey to establish an independent and transparent commission to supervise the possible violations of citizen rights by law enforcement agencies. While Turkey has created what it claims to be an independent commission, the fact that it is linked to the Prime Ministry is problematic. A third point concerns migration management and the applicants of international protection. There are currently some 140,000 applicants waiting for a decision from the Turkish authorities. The European Commission requests that Turkey ensures that these applications are considered within the shortest possible time-frame. Ankara also needs to strengthen the visa regime applied to nationals of other countries which, in 2015, accounted for the largest numbers of irregular entries into the EU via Turkey, and stop applying a discriminatory visa regime towards EU member states. Finally, Turkey must continue issuing machine readable biometric travel documents.

The stakes are high

While EU leaders have stated that there will be no-short cuts for Ankara, there is a broad recognition of what is at stake. Since the EU-Turkey deal entered into force there has been a significant drop in the number of refugees crossing the Aegean from Turkey. While the number of arrivals was more than 56,000 in February 2016, the number has fallen to 7,800 in the last 30 days. Some 325 irregular migrants arriving in Greece have been returned to Turkey. Davutoğlu has warned that Ankara could stop implementing its side of the bargain, namely to take back all those who reach Greece from its shores, if Europe does not deliver. As the readmission agreement is a central part of the visa liberalisation agreement, Ankara believes it is acceptable to terminate or at least freeze the agreement.

The possible collapse of the deal, which could bring tens of thousands of new migrants to Europe, would be a catastrophe for EU leaders. Having negotiated the deal, German Chancellor Angela Merkel in particular has a strong interest in making it work, given that Germany was the main destination for about a million refugees and migrants last year.

Many member states, including France and Germany, also remain anxious over the potential impact of taking Turkey off the visa list. While the number of Turks holding passports is merely around 7.7 million – around 10% of the population – many leaders are concerned that it could play into the hands of right-wing populists. There is also a fear that Turkey’s deteriorating security situation could lead to an increase in asylum requests, particularly from Kurds. These concerns are exacerbated by the fact that Ukrainian, Georgian and Kosovo citizens are also expected to receive visa liberalisation in the coming months. In a move to lessen concerns, France and Germany proposed a new “emergency brake” initiative to strengthen a 2013 law that allows visa travel to be revoked for up to six months under certain conditions. This presently includes an increase in the number of asylum requests from the third countries or a substantial increase in third country citizens remaining in an EU member state unlawfully after entering as tourists. The idea has won support from other quarters, including the European Parliament. Given Turkey has indicated it would not oppose such a move, as long as it applies to other countries too, it may move ahead.

A pragmatic approach is required

While Ankara has put a lot of effort into the process, it seems unlikely that Turkey will be able to fully meet all 72 requirements by 4 May. In this situation the European Commission could go ahead and propose visa-free travel, but risk losing credibility. Alternatively, it could report that Ankara has not met all the criteria and not propose visa-free travel but this would put the future of the EU-Turkey deal at risk. A pragmatic solution would be for the Commission to give a preliminary green light and provide an update in June on troublesome issues. If the Commission delivers a positive report the next steps will be a debate in the Civil Liberties, Justice and Home Affairs Committee in the European Parliament, a European Parliament plenary and finally the Justice and Home Affairs Council on 9-10 June. Thus the timing is tight. However, the biggest challenge may come from the European Parliament and those national parliaments, such as the Netherlands, that need to ratify the agreement. Some members of the European Parliament are growing increasingly uncomfortable with the idea of giving anything to the ruling Justice and Development Party (AKP) as long as questions remain about its commitment to fundamental rights and freedoms, which risks the Parliament using its legislative power to block the deal, thus delaying the process, possibly until the autumn.

The lifting of visas is the biggest benefit of the migrant deal for Turkey. Visa liberalisation and the readmission agreement, as well as their implementation, will be decisive for the success of the EU-Turkey deal, but also the future of Turkey-EU relations. The successful implementation of these agreements may create a spill-over effect and re-establish trust between Turkey and the EU. Moreover, visa liberalisation will be a very important message to the citizens of Turkey, who have been turning increasingly sceptical towards the EU as a result of the double standards when it comes to Turkey’s accession process. The EU may win the hearts and minds of many pro-Western and pro-democracy Turks once again, the consequences of which might go beyond the visa issue.

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