

**Visa Regimes in the EU and Turkey:  
Is Turkey Ready to Adopt the Schengen Visa Regime?**

by

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## **STATEMENT OF AUTHORSHIP**

This thesis contains no material which has been accepted for any award or any other degree or diploma in any university or other institution. It is affirmed by the candidate that, to the best of her knowledge, the thesis contains no material previously published or written by other person, except where due reference is made in the text of the thesis.

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## ABSTRACT

This qualitative study is conducted in order to analyze the relationship between the European Union (EU) and Turkey in the domain of visa and migration regimes. Turkey's current visa regime is accepted as flexible and significantly more liberal than the Schengen visa regime. The EU requires Turkey, a candidate state to join the EU, to harmonize its visa and migration regime with that of the EU countries as a part of Turkey's obligation to adopt the EU *acquis* in its entirety. The study identifies the major differences between the visa and migration regimes of the EU and Turkey and investigates Turkey's readiness and willingness to align its visa and migration regime with that of the EU. As a novel approach, this thesis analyzes the requirements that the EU sets for Turkey in this domain and Turkey's responses to these requirements from the perspective of institutional theory. By applying the analytical framework of institutional theory to the domain of visa and migration regimes, this study identifies the factors motivating and inhibiting change in Turkey's relevant institutions and suggests policy implications for both Turkey and the EU.

### **Keywords:**

Visa, migration management, Schengen visa regime, Turkish visa regime, the EU-Turkey relations, institutional theory, formal and informal institutions.

## ÖZET

Bu kalitatif çalışma Avrupa Birliđi (AB) ve Türkiye arasındaki vize ve göç rejimleri alanındaki ilişkiyi analiz etmek amacıyla yapılmıştır. Türkiye'nin şu an uygulamakta olduđu vize rejimi, Schengen vize rejimine göre esnek ve çok daha liberal olarak kabul edilmektedir. AB, aday ülke konumunda olan Türkiye'nin, AB müktesebatını bir bütün olarak kabul etmesi gerekliliđinin bir parçası olarak, vize ve göç rejimini AB ülkelerinin vize ve göç rejimiyle uyumlu hale getirmesini talep etmektedir. Bu çalışma AB ve Türkiye'nin vize ve göç rejimleri arasındaki temel farklılıkları belirlemekte ve Türkiye'nin vize ve göç rejimini AB ülkelerinin vize ve göç rejimiyle uyumlulaştırma konusunda hazır ve istekli olup olmadığını incelemektedir. Yeni bir yaklaşım olarak bu tez AB'nin bu alanda Türkiye'nin gerçekleştirmesi için belirlediđi yükümlülükleri ve Türkiye'nin bu yükümlülüklerle verdiđi cevapları kurumsal teori penceresinden incelemektedir. Bu çalışma, kurumsal teorinin analitik çerçevesini vize ve göç rejimleri alanına uygulayarak Türkiye'nin ilgili kurumlarında deđişimi destekleyen ve engelleyen faktörleri belirlemekte ve hem Türkiye hem de AB için siyasi çıkarımlar önermektedir.

### **Anahtar sözcükler:**

Vize, göç yönetimi, Schengen vize rejimi, Türkiye'nin vize rejimi, AB-Türkiye ilişkileri, kurumsal teori, formel ve enformel kurumlar.

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## LIST OF ABBREVIATIONS

AENEAS	Programme for Financial and Technical Assistance to Third Countries in the Area of Migration and Asylum
AKP	Justice and Development Party (Adalet ve Kalkınma Partisi)
ANAP	Motherland Party (Anavatan Partisi)
BSEC	Organization of the Black Sea Economic Cooperation
CIREFI	Center for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration
Comex	Schengen Executive Committee
DSP	Democratic Left Party (Demokratik Sol Parti)
EaP	Eastern Partnership
EEA	European Economic Area
EFTA	European Free Trade Association
ENP	European Neighbourhood Policy
EU	European Union
EU VIS	European Union Visa Information System
FRONTEX	European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union
FTD	Facilitated Transit Document
FTRD	Facilitated Rail Transit Document
MHP	Nationalist Action Party (Milliyetçi Hareket Partisi)
OECD	Organization for Economic Cooperation and Development
TEPAV	Economic Policy Research Foundation of Turkey
SIS	Schengen Information System
SIS II	Schengen Information System II
UN	United Nations

# CHAPTER 1

## INTRODUCTION

### **Introduction**

Enlargement is one of the most challenging issues that the European Union (EU) has ever faced since its establishment. Apart from the obvious problems that are expected to surface because of the difficulties of governing a broader and more crowded EU, like those stemming from the redistribution of resources and the allocation of decision making powers between an increasing number of member states, a significant component of this challenge is attributed to the potential increase in security risks targeting the European demos after the enlargement. Today, the notion of security is tightly intertwined with the phenomenon of enlargement in the EU.

Paradoxically, the desire among the EU member states to increase the internal security of the EU is considered one of the main motivations behind the decision to enlarge beyond the current EU boundaries (Smith 2004; Manners 2002). Nevertheless, enlargement, while solving some security issues, inevitably creates new problems of security simultaneously. Perhaps the most significant reason as to why this is the case has to do with the rise in human mobility in the 21<sup>st</sup> Century and the resulting aggravated difficulties in protecting borders. Now that the EU considers enlarging its territory towards the east and the south, it will gain not only new members but also new neighbors. This means that the EU has to ensure its security in

a new challenging realm in which its territory is enlarging and its external borders are becoming longer and shifting towards politically unstable and economically problematic regions. This fact is alarming for many officials in the EU since with the advent of the recent enlargements, the newly established longer external borders which mostly mark the boundaries between the EU and the relatively volatile territories to the east are becoming more difficult to defend against threats such as human trafficking, smuggling of goods and persons, organized crime and terrorist activities in an era of ever increasing human mobility. Consequently, keeping in mind the appeal of the topic to the public and politicians alike, it should not come as a surprise that the nexus between the EU's enlargement and its security has been extensively debated in the academia (see for example Sjursen 2002, Koff 2005, O'Brennan 2006).

As indicated above, one component of the security risks that the EU started to face within the context of the enlargement agenda is connected with the issue of migration. Due to obvious reasons for many, but nevertheless considered as puzzling by some, in Europe the phenomenon of migration started to be closely associated with the notion of security after the end of the Cold War and it has been increasingly regarded as a threat to security ever since without paying due attention to the potential benefits it may bring about. The socially constructed link between migration and security has recently become an essential part of the migration literature. The popularity of the topic has been on the rise for some time and consequently, the literature provides a comprehensive body of work on this topic (see

for example Huysmans 1995, 2000; Kostakopoulou 2000; Guiraudon 2000, Karyotis 2007). As a matter of fact, this link has become even stronger in the aftermath of the 9/11 attacks. Potential enlargements, especially Turkey's possible accession, aggravated the situation, since this enlargement, if it happens, will bring the external borders of the EU closer to the origin and transit countries of migration that carry high migratory risks. Namely, the EU will share borders with Syria, Iran and Iraq if Turkey joins and this alone is thought to be quite alarming by the officials in the EU and especially by the politicians in individual member states.

In light of the recent developments, since it is widely believed in the EU that the security of the whole European population is at stake because of the increasing immigration pressure on the Union, the EU did not lose time in responding by tightening its grip on migration controls. Perhaps the most well known defense mechanism of the EU against the migratory risks from certain third countries is its notoriously tight visa policy. After migration has started to be closely associated with the issue of security in Europe during the 1980s and 1990s, the visa requirements started to be determined according to the level of migratory threats posed by third countries instead of political criteria, such as the regime type, and reciprocity which were the most important factors in characterizing visa regimes before the constructed concept of securitization of migration has taken root. It was under these conditions – under the shadow of the discourse of securitization of migration – that the Schengen visa regime was born. Consequently, the conceptualization that links migration with security concerns has been the main tenet of the Schengen visa regime.

In order to decrease the perceived security risks associated with migration, along with tightening its migration regime by making it harder for the nationals of certain countries to obtain visas, by augmenting the number of countries in its visa obligation list, by intensifying the security measures at its external borders and by developing the capabilities and increasing the responsibilities of its migration management authorities, the EU tries to spill over its migration management methods and techniques to its immediate neighborhood as well. In order for Europe to find out whether this spill over policy could be successful, Turkey has the potential of serving as an excellent laboratory, since it may be the least likely country in the EU's immediate neighborhood to which the EU could successfully export its migration and visa regime because of several reasons and complications that will be elaborated on in the following chapters of this thesis. Supposedly, if this method proves to be effective in the Turkish case, it may work elsewhere as well.

As a matter of fact, exporting its migration and visa regime to Turkey could very well be imperative and urgent for the EU at the current state of affairs. Since Turkey – an EU membership candidate – represents a buffer zone between the EU and the relatively unstable regions of the Middle East, Asia and North Africa, the EU needs to make certain that Turkey is capable of protecting its own borders as well as the external borders of the Union when its time comes. In addition to that, as opposed to the general stance which considers it a country of emigration, Turkey has been increasingly becoming a country of transit migration and immigration (İçduygu and Kirişci 2009). Hence, not only because of its geopolitical position but also because of

its changing migratory processes, especially since it has been turning into a favorite transit country for migrants aiming to cross the external borders of the EU, Turkey represents an area of concern for the EU's security if the phenomenon of migration is accepted as being connected to security risks, which is currently the dominant perspective in the EU policy circles. Thus, mostly because of these practical reasons attached to the EU's perception of its own security, and to a lesser degree since it is one of Turkey's obligations if it wants to become a member of the EU, the EU tries to export its tight visa regime and migration control methods to Turkey.

The EU's gains from exporting its visa and migration regime to candidate and neighboring countries may seem crystal-clear, but what is the picture on the flipside of the coin, i.e. on the Turkish side? In other words, why should Turkey accept to become the EU's policy testing ground? Looking at the issue at stake from Turkey's viewpoint, the carrots offered by the EU due to successful compliance strike as an obvious prize for Turkey. The rewards given by the EU are indeed important for Turkey. Turkey's candidacy to join the EU, the accession negotiations taking place between Turkey and the EU, the progress achieved and the stalemates encountered during these negotiations play a very important role in defining Turkey's domestic as well as foreign policy. Due to the EU conditionality and its carrot and stick policies, Turkey has been undertaking many institutional changes in various policy areas especially during the thirteen years since its candidacy was officially accepted in order to comply with the EU's *acquis communautaire*. Yet there are many more pending requirements put forward by the EU that Turkey is supposed to fulfill in due

course. Adjusting Turkey's migration and visa regime according to the EU standards is one of the most challenging entries in the common agenda of the EU and Turkey. In this respect, it is important to find out what kind of a potential impact could the EU conditionality reveal on Turkey's migration and visa regime and its institutions. Furthermore, it is equally vital to identify the benefits that Turkey receives from modifying its institutions in this domain taking the EU *acquis* as a compass, other than those that could possibly come in the form of direct rewards from the EU. In other words, would it still be desirable for Turkey to adopt the EU's migration and visa regime if the EU does not reciprocate Turkey's well-intended efforts? Is embracing the EU's migration and visa regime beneficial by itself?

Furthermore, one of the goals of this thesis is to reveal the mechanism in which the EU tries to keep Turkey at bay on the one hand and treat it as a partner in migration management cooperation on the other hand. To achieve the best results in its pursuit of security in the migration domain, the EU promotes the inclusion and exclusion of the neighboring states simultaneously (Zichner and Bruns 2011, 79). However, by strategically operationalizing the European Neighbourhood Policy (ENP) and the Eastern Partnership (EaP), the EU reinforces the existing barriers between the insiders and outsiders (Zaiotti 2007, 144) more than it weakens them. This thesis will analyze the somewhat ambiguous positioning of Turkey in this context. Turkey has historically been among the states that the EU paradoxically tries to keep close in order to maintain its secure distance with. Though not a member of neither the ENP nor EaP by the virtue of being a candidate state to join the EU,



Turkey is being confronted by similar exclusion tools that the EU normally uses against the members of the ENP and the EaP. Perhaps, in the EU's past and future, it is and it will be the only country which would ever be treated this way for such a long period of time.

Turkey has officially sought for membership in the EU since 1987, but as of the year 2012 it has not yet succeeded in attaining its long desired goal. To make matters worse, this goal seems as a distant utopia to a significant number of experts in the field, even after such considerable time and effort has been spent for the cause by both Turkey and the EU and a certain degree of alignment has been reached in some policy areas between the EU *acquis* and the Turkish body of law. Actually the recent course of events seems to be supporting this premonition. Twelve years have passed between Turkey's submission of the application for membership and the declaration of Turkey's official candidacy by the EU. Between the EU's decision that declared Turkey as a candidate to join the EU and the start of the accession negotiations, another six years passed and the accession negotiations have been lasting for almost seven years since then, marked with periods characterized by an alteration between steady harmonization and complete halt, but mostly by the latter. Furthermore, even according to the best estimates, the negotiations will continue for many more years before Turkey can finally be one of the members of the EU. The long period of time that was and will be spent certainly has a discouraging effect on Turkey; however, this is far from being the single obstacle on Turkey's way to join the EU. Some member states, like France and Austria, have decided to subject

Turkish accession to the EU to national referenda even if Turkey is given the green light by the EU, which almost nullifies Turkey's chance to join the EU at the outset.

Although the expectation that Turkey will become a member of the EU one day is not very high especially in certain member states and some members even explicitly and strongly oppose Turkey's membership, this does not stop the EU from continuously requiring Turkey to align its policies and laws with those of the EU. According to these requirements, Turkey's migration and visa regime is among the areas that need to be fundamentally restructured. When demanding this restructuring, the EU naturally considers its own benefit above all. Guided by this logic, this study suggests that in its relationship with Turkey in the context of migration and visa regimes, the EU has been trying to pursue its own security interests. The EU requires Turkey, which constitutes a buffer zone between the EU and the unstable and problematic countries towards the east, that it should strengthen its border controls and protect the EU from irregular, transit or forced migration from the Middle Eastern, Asian and African countries. However, when lodging such requirements, the EU somewhat paradoxically considers Turkey as one of the abovementioned problematic countries in terms of migratory risks. The EU is still afraid of a mass influx of Turkish immigrants to Europe. In reality though, this fear proves to be ungrounded and largely based on anecdotal evidence. This is proved by the fact that the EU is very reluctant to abolish the visa requirement that it imposes on Turkish citizens, a requirement that is usually applicable to the countries with high

immigration potential. This unwillingness and Janus-faced approach on the part of the EU is found to be offensive by Turkey's politicians and public alike.

It is beyond doubt that the fact that the EU behaves in an exclusionist way towards Turkey and implements strict visa regulations vis-à-vis Turkish citizens negatively affects Turkey's political, social, cultural and economic integration to the EU. Since the visa requirement constitutes a remarkable barrier for Turkish citizens on their way to travel to the EU, the interaction between the communities cannot be sustained at the desired level under the current EU visa regime that obliges Turkish nationals to obtain visas. Consequently, Turkish citizens have been considering the European society as hostile and unwelcoming towards Turkish people. Actually, the negative public opinion towards the EU which is on the rise in Turkey can be explained to a certain degree by the fact that Turkish people sense discrimination, especially considering that the EU has recently abolished its visa requirements for some, even non-candidate, European states while it still follows exclusionist policies towards Turkey.

For the Turkish side, another problem posed by the EU's migration management requirements stems from the fact that if Turkey adjusts its regulations according to the *acquis* before becoming a full member of the EU, it will have to tighten its borders for the citizens of almost all Middle Eastern, Asian and African countries since an overwhelming majority of these countries are in the Schengen negative list. This certainly will have adverse economic implications for Turkey.

## **1.1. Research Questions**

This thesis will attempt to find answers to the following research questions:

1. How does the visa and migration regime of the EU look like in the historical and contemporary perspectives?
2. What is the picture of Turkey's visa and migration regime in the historical and contemporary perspectives?
3. What considerations define the EU's migration regime and visa policy?
4. What factors determine Turkey's position on its migration and visa regime?
5. What is Turkey's position and potential role in the EU's migration system?
6. How can the incremental changes in the migration regime and visa policy of Turkey be explained from the perspective of the institutional theory?
7. What are the possible future developments in Turkey's migration and visa regime in light of the EU's requirements? What should the EU do in order to guide these developments?

## **1.2. Scientific Significance: Migration Management and the EU-Turkey Relationship**

This thesis is going to analyze the relationship between Turkey and the EU in the area of migration management and visa regimes through investigating the dynamics within this domain. The novelty that this thesis brings about is that it is going to do so by looking at the requirements which the EU sets for Turkey to fulfill and the

responses that Turkey produces to these requirements from the perspective of institutional theory. When answers to the research questions are provided, the course of events in this policy area is going to be analyzed by paying due attention to both the EU's and Turkey's considerations.

The issue of contemporary migration and visa regimes within the context of the EU-Turkey relationship has been poorly addressed in the academia up to now. The part of the migration regimes literature focusing on the EU-Turkey relationship is weak, disorganized and it is not built up on a theoretical framework. Furthermore, since migration and visa regimes have quite a dynamic and volatile character and since they evolve with the political, economic and social developments, it is important to study migration and visa regimes frequently to be able to capture the particular transformations observed in this area in a more comprehensive and coherent way and reveal up to date information, insights and implications.

### **1.3. Methodology**

Visa regimes are not very stable and are associated with usually gradual but frequent change. Continuous studies are needed in order to capture these changes and provide up-to-date information and insight.

This thesis aims to compare and contrast the visa regimes of the EU and Turkey, underline the differences between the two, assess Turkey's efforts to

harmonize its visa regime with that of the EU and draw policy implications for both Turkey and the EU in order for Turkey to have a smooth transformation from its current liberal visa regime to the strict Schengen system and for the EU to secure Turkey's support and cooperation in the fight against irregular migration.

In the theoretical part of this thesis, the literature on the defining aspects of today's European migration and visa regime will be critically analyzed. Furthermore, this thesis will constitute a first step towards applying the institutional theory to the domain of migration and visa regimes. Turkey's institutional dynamics that govern its visa and migration policy will be elaborated on and some potential policy implications will be suggested.

The methodology of this thesis is qualitative in character. Since this is an exploratory research and this particular topic has not been directly studied before, using qualitative methods seems to be the best way to penetrate deep into the specifics and details of the issues at stake. Consequently, this thesis will engage in an extensive analysis of the relevant official documents of Turkey and the EU in order to understand the rules governing the visa and migration regimes of both parties and to capture the latest changes and modifications in these rules. It is by the way of thoroughly analyzing these documents that a comprehensive comparison between these two regimes could be carried out. Among others, the main official documents that have been analyzed are the Official Gazette of the Republic of Turkey, Regular Reports on Turkey's Progress towards Accession prepared by the European Commission, official documents explaining the peculiarities of the Schengen regime

like the Visa Code and Common Consular Instructions. Moreover, in order to keep track of the latest changes in the Turkish visa regime, the website of the Ministry of Foreign Affairs of the Turkish Republic was regularly checked during the preparation of this thesis and relevant information was extracted.

This research project will extensively benefit from the data drawn from the expert interviews with the representatives of the EU member states' embassies and consulates including those working at the Delegation of the European Union to Turkey, relevant state officials working at the Ministries of Interior, Foreign Affairs and EU Affairs. According to Pfadenhauer, "expert interviews are conducted with people who possess privileged knowledge and an insider overview in the researched area; during such interviews, they are asked to provide the information about the researched phenomena they consider the most important" (2009). To reach these experts, I intend to benefit from the wide network I have established during my professional research experience in Turkey. Theoretical sampling will be utilized to define the respondents for this investigation. Hence, deliberate selection of interviewees according to the level of insight they can provide to the study and their contribution to the developing of the theory (Glaser and Strauss 1967) will be made. These interviews were conducted in December 2011 at the relevant ministries and embassies at Ankara. At each organization several officials were present during the interviews and the questions were answered by the official who has the most competence in the area related to the question. The interviews were conducted in usually very formal but nevertheless friendly environments, which encouraged active

discussion. Moreover, the notes and observations from a roundtable event organized at Economic Policy Research Foundation of Turkey (TEPAV) on 6 December 2011 on the topic of visa liberalization for Turkish nationals with the extensive participation of multiple state officials from the Turkish side and European officials working at the embassies of the member states in Ankara were also used to conduct the analysis.

#### **1.4. The Content and Structure of the Thesis**

This thesis consists of six chapters. The first chapter explains the topic and aim of the thesis, addresses the scientific significance of the work and discusses the methodology used. The second chapter critically reviews and analyzes the scholarly work pertaining to the domain of migration and visa regimes. In this chapter, the key aspects and defining features of today's European visa and migration regime as reflected in the literature are underlined. Next, the third chapter starts with a discussion on the establishment, consolidation and current functioning and rules of the Schengen visa regime. This chapter then continues with the history and current status of the Turkish visa regime, especially paying attention to the differences between the Turkish and Schengen visa regimes. The fourth chapter analyzes the changes and transformations that have been occurring in the Turkish visa regime since the Europeanization process started. In this chapter, in-depth investigation of the Regular Reports on Turkey's Progress towards Accessions was combined with a



thorough examination of other relevant official documents, and insights and opinions provided by both the EU and Turkish officials interviewed during the fieldwork that was conducted. The fifth chapter constitutes an attempt to apply the institutional theory on the Turkish visa and migration regime and analyzes Turkey's institutional dynamics present in the domain of migration and visa policies and suggest some policy implications in order for Turkey to achieve a more rapid and less painful harmonization of its visa regime with that of the EU, in order for the EU to have a better prospect of securing Turkey's cooperation with the EU in the matters related to visa and migration issues, and in order for both Turkey and the EU to have a better understanding of each other's differing positions on matters related to migration and visas. Finally, the sixth chapter draws concluding remarks and points out to the related areas where future research has a potential to prove fruitful.

## **CHAPTER 2**

### **AN OVERVIEW AND ASSESSMENT OF THE SCHOLARLY WORK**

#### **Introduction**

This chapter is intended to provide a general understanding of the EU's current visa and migration regime by analyzing the scholarly work already carried out in the field. Elaborating on the opinions provided in the literature regarding the characteristics of the European migration and visa regime is critical for the purposes of this thesis, since after all, it is with this migration and visa regime that the countries in the region try to align their respective regimes either willingly or reluctantly. Therefore, in this chapter the scholarly work on the main tenets of the current EU migration management system and visa regime will be critically reviewed.

It will be relevant to start this chapter with reviewing the literature on visas and visa regimes in general and the importance attributed to a strict visa regime in the EU in particular. Next, the scholarly work on the relationship between the EU and Turkey in the domain of migration management and visa regimes will be discussed. Then the chapter will continue with a critical analysis of the main issues that the literature on the migration and visa regimes in the EU concentrates on. These main issues are at the same time the integral components and ideas defining the

migration and visa regime that the EU has today: the debate between national sovereignty versus supranationalism in migration management; the migration-security nexus; the digitalization of migration; the tools that are used by the EU in order to manage the migration flows directed towards the Union such as readmission agreements and remote control policies; the broad understanding of the EU's instrumentality in its relations with both friends and foes and the exclusion practiced by the Union towards some of its neighbors regarding the migration and visa issue. After such broad understanding of the migration and visa regimes in the context of the EU is provided in this chapter, the main features and rules, the historical developments and the contemporary dynamics of the EU's and Turkey's migration and visa regimes will be discussed in the third chapter.

### **2.1. Visas, Visa Regimes, Selective Exclusion and its Application in the EU**

In today's world, it is a fact that visa restrictions applied by the nation states towards the citizens of certain countries confine the movement of these people across borders by the way of controlling and limiting their mobility. Although this is perceived almost as a law of nature now, it was not always like this throughout the history. The system of passports and visas reached its current stage after years of gradual evolution. Though passports and visas have been existent since the medieval times in different forms, today's comprehensive system can be conceptualized as a product of the birth of the modern nation state (Neumayer 2006, 72).

Restrictions to free movement of people for different reasons existed long before the emergence of modern nation states (Casey 2010, 19-20; Torpey 2000; Lloyd 2003); however, they certainly became more institutionalized since then. In this respect, Torpey argues that, in addition to Weber's argument that modern states succeeded in the monopolization of the legitimate use of violence, they also managed to monopolize the legitimate means of movement by taking this right out of the hands of individuals and private entities (Torpey 1998, 239; Torpey 2000, 4). Passports, visas and similar documentary controls related to mobility and identification have become the main tools of nation states in reaching the goal of monopolization of legitimate means of movement since the French Revolution (Torpey 2000, 3). When achieving this monopolization, borders help the states impose a clear cut distinction between the desirable and the undesirable (Andreas 2003).

Today, the right to issue passports and visas belongs exclusively to the nation states. Although they had been invented way before, passports gained the status of being the standard tools of identification when moving internationally only during the World War I (Casey 2010, 20; Torpey 2000; Lloyd 2003; Fahrmeir *et al.* 2003) and they were already parts of everyday life towards the middle of the 20<sup>th</sup> century (Agnew 2002). In fact, inside Europe, barriers to migration between nations were almost nonexistent until the end of the 19<sup>th</sup> century (Castle and Miller 1998) and strict border controls started to be applied only after the oil crisis in 1973 (Casey 2010, 22-23).

It will be relevant here to explain what is actually meant by a visa. In a classical dictionary, the word visa (or visé in its old form) is defined as “an entry or note on a passport, certificate, or other official document signifying that it has been examined and found correct; a formal official signature or entry of this nature” (Oxford English Dictionary, Second Edition, 1989, online version September 2011, accessed 11 December 2011). According to a more contemporary definition underlining the meaning of the word that it gained in the context of international travel, a visa is a “stamp or mark put on a passport by officials of a foreign country to show that the holder may enter, pass through or leave their country” (Oxford Advanced Learner’s Dictionary of Current English, Fourth Edition, 1989). The definitions that are provided in the literature take into account the negative connotative meanings that the term has recently acquired as well. For instance, according to Ceyhan, a visa is a “proactive identification and surveillance technique established by a foreign authority on an individual in his country of origin” and possession of a visa allows someone to enter a country other than his or her own in case such authorization is needed (2007, 219). Consequently, the failure to obtain a visa may forbid the entry of someone to a foreign country. From the perspective of the EU, a visa<sup>1</sup> which lets someone enter the territory of the EU means

Authorization given by or a decision taken by a member state which is required for entry into its territory with a view to: an intended stay in that member state or in several member states of no more than three months in all, transit through the territory or airport transit zone

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<sup>1</sup> Although not stated explicitly, a short term visa is meant here since the definition excludes long term visas by limiting the duration of stay with three months.

of that member state or several member states (EU Official Journal L 72, 18.03.1999).

In general, the term visa is reminiscent of the positive outcome of one's application to a country's embassy or consulate in order to obtain permission to visit that country in case such permission is needed. However, this is in fact true for some types of visas only, since there are exceptions to the rule. Even if there is a requirement to hold a visa in order to visit a certain country, it does not always have to be obtained at an official representation of that country such as an embassy or consulate. Consulates and embassies are not necessarily involved in the issuance of all types of visas. Some visas can be granted at the border crossing points of the country to be visited, but only in certain countries, only for nationals of certain countries and sometimes even only for certain subgroups of people holding those certain nationalities who can fulfill additional criteria. In addition, this option may be available only in certain ports of entry of a country. In this thesis, where necessary, the term 'conventional visa' will be used for visas which can be obtained only at the foreign missions of the destination country in advance of the planned visit, to avoid confusion.

There are different types of visas issued by the destination countries depending on the purpose of the visit. To name but a few, there are tourist visas, visas for visiting family or relatives, student visas, business visas, visas for sportsmen, visas in order to marry or enter into civil partnership, transit visas and work visas. The duration of stay and the number of entries indicated on a visa also

vary greatly: a visa may be valid for as short as a couple of hours in the case of airport transit visas or it may be valid for the whole lifetime of the holder; though in the case of Schengen visas, the maximum validity period is limited to five years. There are single or double entry visas as well as visas that entitle the holders to an indefinite number of entries within the period of validity.

According to the literature, since visas are issued by states to ensure freedom of movement for desired individuals while limiting the access of the aliens to the country who are perceived as potentially dangerous to the state's security, visa regimes entail very explicit selective exclusion. For instance, Neumayer claims that not passports *per se*, as Salter (2003, 2) seems to suggest, but the visa restrictions imposed on passport holders from certain countries are one of the most important mechanisms with which nation states exert their prerogative to control entry into their territory (2006, 73). Convey and Kupiszewski emphasize that migration policies greatly differ according to the country of origin of the migrants (1995, 944). Furthermore, Bigo and Guild suggest that visa obligations point out to a suspicion and mistrust towards the country or nation in question. If an individual from that country succeeds in obtaining a visa, it means that he constitutes an exception to the rule of exclusion applied towards that specific nation (Bigo and Guild 2007, 236).

In today's world, a consensus seems to have been reached that facilitating the mobility of some can be only achieved at the expense of inhibiting and deterring the mobility of others, though the reasons to why this is the case are not very clear. Perhaps, the easiest and the most effective way of doing this is imposing visa

requirements on the citizens of the countries whose mobility is desired to be held under control. The restrictions to freedom and difficulties in crossing national borders turn out to be highly unevenly distributed across different nationalities and in the mainstream public opinion, these restrictions are generally accepted almost as a law of nature. Somewhat surprisingly, they are not considered things to be surprised at, they are not questioned in a logical sense and the weak attempts to challenge them are easily suppressed. In short, it is imposed on us as though they have to be there in order to maintain the order in the world. Moreover, it is also worthwhile to note that in the international law, no such thing as the right to enter foreign territory exists (Sassen 1996; Sassen 1998; Neumayer 2006, 72); international travel and freedom of movement has simply not been and is not accepted as a human right.

In the context of the EU, the dominant view in the literature is that the EU's current arrangements regarding its visa policy are detrimental for the nationals of most third countries. In this respect, Ceyhan argues that in the EU, people coming from the third countries are generally perceived as security threats (2007, 220). Moreover, Bigo and Guild underline that due to the practice of harmonization of the foreign policies of individual member states in the Union, if a certain country is banned from visa-free travel, for example for political reasons, then other member states are automatically supposed to lead a similar visa policy towards that country because of the principle of solidarity (2007, 245). When looked at from the other side, this means that if a third country would like to obtain the right of visa-free travel into the Schengen Area for its citizens, it has to satisfy all the Schengen states



that it deserves to be granted such a right. Furthermore, the EU practices economic exclusion in its visa regime as well. For instance, poor people are discouraged from travelling into Europe and may often be denied visas on economic grounds (Bigo and Guild 2007, 258).

Having provided this general discussion on visas, visa regimes and their exclusionary properties and how they have been elaborated on in the literature up to now, this chapter will continue with a critical analysis of the scholarly work focusing on the relationship between the EU and Turkey in terms of migration and visa regimes. After that, the remainder of the chapter will focus on the specific debates and features which characterize the European migration and visa regime and serve as its building blocks.

## **2.2. The Relationship between Turkey and the EU regarding Migration and Visa Regimes**

Due to the recent salience of the topic, the relationship between Turkey and the EU regarding issues related to migration, and to a lesser degree to visas, has become a favorite topic among academics. Although the literature on this topic mostly concentrates on the actual and potential flows of immigration from and through Turkey into the EU, there is a growing body of works on other aspects of migration management and visa issues as well.

In a study assessing the dynamics of Turkey's European accession process, Müftüler-Baç claims that one of the most discussed issues in the public debate related to Turkey's future membership concerns the potential burden on the EU budget that could be caused by a mass Turkish migration, although in reality the possible flow of Turkish migrants indeed carries the potential of being beneficial for the EU's economy (2008, 211-212). There are some important studies which try to estimate the size of this potential Turkish immigration into the EU (see for example Togan 2004; Erzan *et al* 2006; Krieger and Maitre 2006; İçduygu 2010). The estimates of the number of potential long term Turkish migrants alter between 0.5 and 4.4 million (Commission of the European Communities 2004, 19). In an attempt to explain the opposition to Turkey's bid to join the EU among the nationals of the EU member states, McLaren, after engaging in statistical analysis that allows her to compare the EU citizens' attitudes to Turkish candidacy and to that of the Central and East European countries, reaches the conclusion that previous long term and large scale migration acts as the key obstacle against Turkey's membership (2007).

According to Paçacı Elitok and Straubhaar, the two groups of studies which attempt to estimate the future flow of migration from Turkey to the EU, namely those using surveys and those benefitting from econometrical methods, face a major methodological difficulty: how to incorporate the effect of the significant institutional change that accompanies Turkey's possible accession to the EU (2011, 118-119). Moreover, since the range of the resulting estimations is very wide, the quality of the data used may not be at the desired level and the methodologies used

may be ambiguous, these studies should be regarded with a certain degree of caution (Paçacı Elitok and Straubhaar 2011, 120).

İçduygu is of the opinion that international migration has turned into “an increasingly politicized area within EU-Turkey relations” (2010, 62). He claims that both the EU and Turkey should realize that migration is “not a problem, but ‘a phenomenon that requires governance’ through social transformation” and to make this governance possible, the two sides should claim joint responsibility over the possible problems and liabilities concerning migration (İçduygu 2010, 61). Similarly, in another work, he claims that Turkey’s willingness to join the EU and the transformations that it has experienced recently resulted in a necessity to create and implement new policies related to migration (İçduygu 2004, 88). He underlines that due to Turkey’s obligations and responsibilities towards the EU, Turkish migration policies and practices are expected to be harmonized with those of the EU and Turkey has recently taken action in this direction by either changing or planning to change its policies and practices in this area (İçduygu 2004, 93).

As for the dimension of the EU-Turkey relationship regarding the visa issues, Tuğtan is of the opinion that since the EU does not give concrete membership guarantees to Turkey, Turkey is reluctant to implement the Schengen *acquis* as it is feared in Turkey that the adoption of the European migration and visa regime at the current state of affairs may affect the border trade negatively, turn Turkey into a dumping zone for irregular migrants and thus cause a significant financial burden on the Turkish economy (Tuğtan 2004, 27). Kirişçi believes that Turkey’s adoption of

the Schengen visa regime may not necessarily result in an improvement in the control of Turkey's eastern borders; on the contrary, it may lead to an increase in the irregular migration both into and through Turkey. He further claims that border control and visas should not be thought as a single issue; they are in fact separate (Kirişci 2005, 361). Furthermore, Kirişci thinks that it is not fair to expect from Turkey to adopt the Schengen visa regime at the outset. He underlines the importance of confidence building measures on both sides and he believes that the EU should prioritize granting visa exemption to Turkish nationals in order to foster better relations in this domain (Kirişci 2005, 364).

### **2.3. National Sovereignty vs. Supranationalism in Migration Management and Common European Migration Policy**

Although the sovereignty of nation states are arguably in decline in the age of globalization, the right of the nation state to accept or deny entry into its territory has been hardly questioned. The literature extensively analyzes this perceived nexus between state sovereignty and migration management and control. Collinson states that "Control over the admission of aliens has historically been viewed as inherent in the very nature of sovereignty" (1996, 77). Similarly, Van Houtum and Pijpers underline that the political desire to manage migration and asylum policies under national sovereignty is very strong (2007, 298). It seemed like it was universally accepted that this right belongs to only and only the nation state whose territory is

being attempted to be entered until some new ideas on this matter started to emerge in Europe. With the deepening of the EU, specifically with the signing of the Schengen Agreement and its incorporation into the EU *acquis* with the Amsterdam Treaty in 1997, it started to become apparent that successful alternatives to state sovereignty in migration management can indeed exist.

Historically, Europe has always been an arena of political innovation. Accordingly, Anderson reminds that borders began to be perceived as national entities for the first time in Continental Europe (1996). Therefore, it should not come as a surprise that this conceptualization started to be challenged first where it was born. Zaiotti emphasizes the significance of this challenge by stating that recent developments in Europe is an indicator of the fact that “statecentric conception of territoriality”, which has been one of the core aspects of the international system for some time, started to be seriously questioned (2011, x). Moving this argument a step further, Lavenex is of the opinion that, traditionally a core aspect of state sovereignty, immigration control has become an issue of supranational governance for the first time in the context of the EU and it tends to occupy and dominate the realm of the EU foreign relations (2006, 329), especially after the Schengen Agreement had been signed. Similarly, Hernández i Sagrera points out that although migration is, by definition, an international phenomenon, historically states have not been usually engaging in cooperation in controlling migration, as such cooperation was being perceived as a threat to sovereignty; yet the EU has managed to persuade the member states to coordinate and harmonize their immigration control methods by

making them obey the common EU migration policy (2010, 569), which was born after the triumph of supranationalism over national sovereignty in the domain of migration management in the EU.

Although the term ‘common migration policy’ may sound reassuring at first glance, the literature does not associate it with positive policy outcomes in migration management. It is a fact that over the course of time, the EU’s migration policy has become more restrictive. Especially after the successful launch of the internal market project, the common migration policy of the EU turned its attention extensively to controlling and limiting the number of asylum seekers in Europe, fighting irregular migration by all available means and exporting its doctrines and strict policies to origin and transit countries. Especially after the events of 9/11, the efforts of the EU in this area intensified a great deal. Combined together, these efforts resulted in the strengthening of the external borders of the EU (Van Houtum and Pijpers 2007, 292). The term ‘common EU migration policy’ started to automatically connote hard borders, extensive policing and anti-immigration policies.

In the EU a reduction of state-centrism in policy making can be clearly seen especially after the entry into force of the Lisbon Treaty in 2009 and it is for sure that the common EU migration policy has developed to a certain extent. Nevertheless, some of the issues concerning migration management have not become subject to common European policies yet. For instance, yearly quotas for certain types of immigrants coming from outside of the EU are still determined by individual member states separately. As Ayaz underlines, each member state has the right to

individually determine how many third country nationals they would like to accept to their own territory according to the Lisbon Treaty (2010, 83). Moreover, work permits for third country nationals are granted by relevant authorities in individual member states and they are not automatically transferable to be used in other member states. Besides, Bigo and Guild advocate that the primary control of migration still remains entirely in the hands of the individual member states (2007, 236). In fact, there is not a supranational EU institution that can issue visas as of today. The embassies and consulates of the member states, which are national entities, in the sending states are largely responsible for the control of immigration, as they are the competent authorities capable of issuing all types of visas for all purposes including visiting, studying and living in the EU.

As of today, the debate between supranationalism and state sovereignty in migration management in the EU seems to be won by the former; however, this does not necessarily lead to a positive outcome especially if it brings along the alignment of the migration regimes of all the member states with that of the strictest member. The observations listed in the previous paragraph all point out to the fact that the common EU migration policy is still evolving and there is definitely room for improvement in order to reach a more coherent, homogenous and fair policy.

## **2.4. The Migration-Security Nexus**

As indicated earlier, a strong assumption that lies in the very heart of the European migration and visa regime is that migration is intrinsically linked to the issue of security. This assumption has led to the birth of the concept known as ‘securitization of migration’. According to Karyotis, securitization occurs when an issue of normal politics is pushed into the security domain by politicians, who behave as if a genuine threat exists and emergency measures should be adopted to counter this threat. The presentation of an issue as a threat, not its relative importance, leads to securitization (Karyotis 2007, 3). The dominant opinion in the literature is that this is exactly what is happening with the phenomenon of migration in the European context.

The literature has analyzed the constructed relationship between migration and security in depth. For instance, Zaiotti underlines that with the rise of mass mobility in the global world, states try to ensure that their borders present a secure and selective obstacle for the inflows of people from the outside (2007, 153) and according to Trauner and Kruse, the emphasis on secure borders and the need to develop various tight migration policies have been greatly fostered by the changing perception of security (2008a). According to Ceccorulli, the Schengen Agreement was the first platform in which the process of securitization of migration in Europe officially began. She further claims that the sudden end of the Cold War and the anticipated immigrant flows at the time from the former Communist countries of Eastern Europe to Western Europe helped strengthen the ongoing securitization process (Ceccorulli 2010, 494). Van der Ploeg and Sprenkels support the idea that



although migration has not always been associated with security, the current tense climate in which the threat of terrorism is constantly being felt contributed to the creation of this association a great deal (2011, 72), whereas Karyotis is of the opinion that the events of 9/11 did not actually start the securitization of migration, but they speeded up the dynamics which were already present in the European security regime (2007, 1). After 9/11, it became impossible to refer to migration without simultaneously mentioning security concerns (Karyotis 2007, 6). He goes on to claim that overall, the constructed linkage of migration to security is grossly exaggerated (Karyotis 2007, 2). Similarly, Düvell supports the idea that migration regimes in the world took a course of being more securitized and authoritarian instead of benefitting from the advantages of increasing liberal freedoms (2003, 201).

Though the literature is critical of the ongoing securitization in the domain of migration, it is hardly questioned today that in the globalizing world of the 21<sup>st</sup> century, a great challenge exists for the states: the borders of the state have to be porous enough to ensure the free flow of legal goods, freight and desirable aliens, while at the same time they have to be impermeable for illegal migrants, smugglers and undesirable immigrants. The European Commission for instance has already underlined this challenge by stating that “The increasing amount of passenger traffic is providing the European Union with a challenge: how can it ensure smoothly run border crossing procedures, and facilitate the influx of bona fide travelers while at the same time tightening up security?” (European Commission 2008). Because of the fact that borders have to be simultaneously both flexible and hard, it is inevitable that

certain difficulties arise. This phenomenon has been referred to in the literature as “the paradoxical union of ‘open’ economies and ‘closed’ nation states” (Guiraudon and Joppke 2001; Broeders 2011, 45-46).

As a response to this challenge, the EU has managed to create a common migration regime to a certain degree, with the exception of a couple of opt-out states not participating in its certain aspects, and of some issues which are still under the control of individual member states. The idea of a common migration policy in the EU can be traced back to 1980s. In 1985 France, Germany and the Benelux countries signed the Schengen agreement in order to create a free travel zone without border controls among themselves. The so-called Schengen group has agreed on three main issues: “(1) stricter controls at external frontiers; (2) fewer controls at internal frontiers; (3) stricter controls of foreigners in the country in which they reside” (Foblets 1994, 796). The Schengen countries also agreed on the necessity to form a common visa policy, to cooperate more in customs and police matters and to harmonize their legislation related to the rights of third country nationals (Foblets 1994, 796-797).

Although the Schengen agreement was initially aimed at ensuring the free movement of people within the European Community (Carrera 2005, 700) which was accepted as a fundamental freedom of the internal EU market and an essential political element of the EU citizenship package (Carrera 2005, 699), the literature seems to agree on the fact that Schengen’s main emphasis has always been by far on security. For instance, according to Zaiotti, Schengen is concentrated on pooling

sovereignty among the member states in order to ensure the best protection of the external EU borders (2007, 153). Similarly, Salter claims that driven by such logic, Schengen has been depicting migration as a matter of security rather than as a social concern (2004, 82). Moreover, Uğur thinks that the actions of Schengen have been exclusionist and discriminating, and thus Schengen significantly stigmatizes immigrants and negatively affects the EU immigration policies (1995, 987). As a further evidence to Schengen's securitization, Bigo and Guild support the idea that the rules of the Schengen regime almost exclusively deal with those who have to be excluded, and it is very hard to find information about who should be included and on what grounds (2007, 237-238). Furthermore, the consulates started to use police methods in deciding on visa applications. They do not simply evaluate people on the basis of general rules. They utilize risk profiles derived from previous statistics and apply them to applicants (Bigo and Guild 2007, 240).

In light of the information provided above, it is possible to conclude that the rise of supranationalism in European policy making does not prevent the fact that European migration management still largely relies on securitization and exclusionism. The EU applies the strategy of securitization in the domain of migration management by transforming the issues that were never viewed as dangerous into imminent threats to European security. The EU's official discourse can often be seen as associating immigration with drug trafficking, terrorism and other illegal activities directly threatening state security. Similarly, according to Karyotis, migration in the European domain was and is being securitized because of

its connection with political, societal, criminological and economic problems (2007, 12). According to him, this securitization is problematic mainly for three reasons: (1) it is against the EU's core values regarding equality and human rights; (2) it takes the attention of policy makers away from working on effective migration management policies; and (3) it creates confusion regarding different categories of migrants, resulting in the oppression of asylum seekers as well as irregular immigrants and labor immigrants, without paying attention to their fundamental differences (Karyotis 2007, 12). Taking the issue at stake a step further, Van Houtum and Pijpers support the idea that the EU has turned into a gated community in which fear dictates the biopolitical control of migration (2007, 291).

Increasing reliance to security in migration management tightens the migration regimes and demands that the travelers spend significantly more time and resources on border crossing processes. In the case of the EU, the increase in time and effort required to cross the EU's external borders seems incompatible with the principles of modern liberal economy.

It is a well known fact that when practicing securitization-based exclusion Schengen states have been increasingly benefitting from technological advances in the management and control of migration as much as possible. Consequently, the extensive utilization of state-of-the-art technology has recently become one of the central features of the European visa and migration regime. In academic sources, this process is referred to as the digitalization of migration and it is the topic of the next section.

## **2.5. The Digitalization of Migration**

With the recent increase in human mobility mainly caused by the processes of globalization, states face more challenges now to operate their borders effectively. Perhaps the most important challenge in this respect is to ensure the easy influx of bona fide travelers while significantly constraining incomers representing potential threat. In order to deal with this challenge, states benefit from developing means of technology as much as possible. In the 21<sup>st</sup> century, states extensively benefit from technological tools in their migration control practices, such as fingerprint databases and documents containing biometric information. Fingerprint databases are mainly used in order to detect irregular migrants and criminals on their attempts to cross international borders. Passports and visas with biometric properties guarantee that the documents used by border-crossers are correct and belong to the person who carries them.

Among the most important databases that the EU member states use in their migration control practices are the Schengen Information System (SIS), Schengen Information System II (SIS II) and the European Union Visa Information System (EU VIS). The SIS contains data regarding people who should be denied entry into the EU by the border control officers. Moreover, it provides information that assists in detecting stolen vehicles and identity documents. The SIS II is the new generation SIS which is currently being developed. It is currently in the stage of development and when ready it will be accessible for more parties. The major novelty that the SIS II brings is the inclusion of biometric information. The EU VIS is currently being

developed as well. It is being constructed in order to prevent visa shopping and it will contain a larger amount of data compared to the SIS (Meijer 2011).

In this context, one thing should be clear to every party involved in the procedures of migration control: having the means and the right to benefit from these means are different things. It does not necessarily follow that the states should use extensive technology in migration management just because they are capable of doing so. Pointing out the many drawbacks that it creates, the literature generally looks skeptical at the extensive use of technology in migration control and management. In this context, Van der Ploeg and Sprenkels claim that in today's Europe, it is a well-known reality that it is no longer the policy that defines the technology to be used, but it is the technology that dictates which policies will be implemented and how the rules and the laws will be designed to benefit from the technology to the full extent (2011, 70-71) and this obedience to technology creates serious problems. The current situation is one in which technology is the master and the policies are slaves, although the opposite should be the case in order to achieve better outcomes in migration management.

Furthermore, Van der Ploeg and Sprenkels demonstrate that the EU imposes technological requirements on third countries regarding their migration regulations as well, such that "practices in the countries of origin are adjusted to the demands of the IT systems in the countries of arrival" (2011, 76). In a similar manner, Besters and Brom claim that information technology is used not neutrally, but greedily in the process of digitalization of the borders of Europe. Moreover, they have their doubts

on the degree of democratic control applied in the process and on the effectiveness of digitalization as a policy instrument used in migration management (2010, 455).

Lyon is of the opinion that following the successful monopolization of ‘the legitimate means of movement’, it seems like it is now the turn for states to monopolize the ‘legitimate means of identification’ (2007, 122). However, when citizens of certain third countries travel to the EU, it is not their own states, but the EU countries that monopolize the legitimate means of identification. According to the literature, by implementing its common migration control policies reinforced by digitalization, the EU seems to become more distrustful of the outside each passing day. In this respect, Broeders argues that “the EU no longer trusts anything as proof of identity other than the visas it issues itself” (2011, 48), which according to Guild means that “documents issued by non-member States are no longer definitive for determining identity... The Union takes over the task of identifying all persons who seek to come to the Union and determines where they belong” (2003, 344). Whether the EU has the right to do so or not is debatable from a legal point of view.

In the literature, another common concern stemming from the process of digitalization of migration is related to ethics and human rights. Regarding this matter, Besters and Brom are concerned that the legal rights of immigrants are continuously being violated during the process of digitalization of migration (2010, 455). Furthermore, according to Ceyhan, the so called ‘dossier society’ based on digital information exchange between various actors allows not only the storage and exchange of personal information, but also its reproduction (2007, 226). Therefore, it

can be suggested that this can lead to the deliberate stigmatization of people who are perceived as potential threats by the actors not just in an individual member state, but across the Union. As a result, the problem of potential human rights violations emerges, since the protection of sensitive personal data has recently become increasingly difficult due to the spread of information facilitated by the modern means of technology widely available to various state and non-state actors. Similarly, Van der Ploeg and Sprenkels share the idea that the extensive utilization of information technology in migration management creates several important concerns, mostly regarding the issue of human rights. It leads to the informatization of the person: all kinds of information about a person are transformed into internationally readable data and this information is stored in digital files, information networks and databanks (Van der Ploeg and Sprenkels 2011, 74).

In sum, since people are increasingly treated as information and because information about them is accessible to an increasing number of actors at the transnational level, probably including private ones, there is a growing concern in the literature that the privacy of individuals is continuously being violated and the EU is the main arena in which this takes place as a direct result of the digitalization of migration. Today it is a fact that in seemingly protecting its security, the EU disregards many ethical concerns in its migration control procedures, although it seems so eager to take most of these concerns into consideration in other cases. This approach is also reflected in the official EU documents. As the European Parliament and Council once put forward (1995), when national security interests are concerned,



the rules and laws on the protection of personal data and sensitive information do not apply. What this statement means is self evident when assessed together with the fact that migration is accepted as a phenomenon directly threatening national security in today's Europe.

## **2.6. The ENP, the EaP and Their Implications for the EU's Migration Regime**

The constructed association of the phenomenon of migration with issues related to security helped to create the belief among the politicians and the public that the source of migration, in this case third countries mostly located in the EU's immediate neighborhood after the Eastern enlargement, acts at the same time as the source of insecurity. Add this to the fact that in the globalizing world, with the state borders becoming less strict at the regional level, the notions of external and internal security started to become increasingly intertwined (Huysmans 2000; Bigo 2001; Pastore 2001; Lavenex 2006). The EU clearly acknowledged this last point in its communications: "The post Cold War environment is one of increasingly open borders in which the internal and external aspects of security are indissolubly linked" (European Security Strategy 2003, 2). As a result, the EU supposedly faced a challenge to minimize the insecurity coming from its neighbors and manage both its external and internal security in a successful manner. Meanwhile, in the policy circles the EU's security and the coherent implementation of its migration policy

started to be believed to depend on the coordinated actions of the EU members and neighboring states; within this context coordinated actions meaning mostly actions under the control, supervision and hegemony of the EU. According to the EU, it became imperative to act beyond its borders in order to maintain security inside its borders (Zichner and Bruns 2011, 82). The EU began to search for how to best achieve this and establishing regional organizations with built-in carrot and stick policies seemed to be a promising option.

According to the literature, the most important regional organizations via which the EU tries to achieve this coordination by relying on the securitization discourse are the ENP and the EaP. The ENP's launch came in 2004 after being projected in the Thessalonica European Council in 2003. Barbé and Johansson-Nogués suggest that it was visualized officially in order to create an image of a benign Europe trying to spill over some of its virtue on the neighboring states (2008, 81). As the ENP Strategy Paper asserted, the stated aim of this organization was to ensure promoting "stability, security and well-being for all", as well as to foster international cooperation in the areas of mutual interest to the contracting parties (Barbé and Johansson-Nogués 2008, 81). It was officially based on the principle of joint ownership, in which the EU would not try to force its priorities and conditions on the partner states (European Commission 2004, 8). Although it was not explicitly stated that the partner states should converge to the EU norms in the ENP Strategy Paper, it is without doubt that implicitly they were expected to do so (Gänzle 2009, 1715-1716). The ENP's current members are Algeria, Armenia, Azerbaijan, Belarus,

Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, Occupied Palestinian Territory, Syria, Tunisia and Ukraine (European Commission European Neighbourhood Policy webpage).

Inaugurated in 2009, the EaP in turn represents an institutional platform for the discussion of migration regulations, trade and economic partnership between the EU and its eastern neighbors without promising an EU membership perspective. It was conceptualized as the ENP's extension towards the East (Christou 2010, 414) and it was designed as an attempt to take into consideration the geographical and political differences between the EU's Eastern and Southern neighbors and to strengthen the EU's relationships with the former (Gänzle 2009). Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine are the countries included in the EaP (European Union External Action webpage). Both the ENP and EaP claim to offer the signatory states everything but institutions, which are exclusively available only to the EU member states. Under these initiatives, the EU offers technical and financial assistance to the neighboring states in various areas including migration control, especially in strengthening document controls, customs and border surveillance in order to increase their border control capacity. According to Barbé and Johansson-Nogués, the EU's influence has stretched widely over the course of time and even spread to the improvement of police training, reduction of corruption and pursuit of justice (2008, 86).

These initiatives have caused significant interest in academia (see Albioni 2005; Del Sarto and Schumacher 2005; Pardo and Zemer 2005; Scott 2005; Smith

2005; Dannreuther 2006; Kelley 2006; Browning and Joenniemi 2008; Bosse and Korosteleva-Polglase 2009; Bechev and Nicolaidis 2010; Browning and Christou 2010; Christou 2010) and the effectiveness of these two organizations has been severely questioned in the literature. For instance Christou is of the opinion that the ENP and EaP have contributed neither to the objectives of achieving stability nor security in the region (2010, 413). According to him, the EU's stated objective in launching these initiatives, namely providing 'integration without membership' failed. He further accuses the EU of behaving in a contradictory and inconsistent manner within the framework of these two organizations (Christou 2010, 414). Gänzle criticizes the conditionality included in both the ENP and EaP as it falls short of enlargement conditionality in effectiveness (2009, 1729).

The way that the EU utilizes the ENP and EaP can be characterized by both internal and external security concerns. In this respect, Barbé and Johansson-Nogués support the idea that by trying to convince the neighboring states to implement hard borders and strict migration regulations, the EU uses the ENP and EaP in a very instrumental way (2008, 86). Though according to the official discourse of the EU the ENP is supposed "to avoid new dividing lines across the continent" and to establish cooperation within a club of friends (Zaiotti 2007, 143), Zaiotti is of the opinion that in reality the ENP clearly indicates the distrust that the EU has against its neighbors. He accuses the ENP of reproducing the already existing barriers between the EU and its partners and of creating new problems (Zaiotti 2007, 144-145). Similarly, Zichner and Bruns criticize the EU of promoting the inclusion and

exclusion of its immediate neighborhood simultaneously through initiatives like the ENP and EaP (2011, 79). In a similar line of thought, Zaiotti finds it problematic that the ENP was Schengenized even before its birth and that the securitarian policies of the Schengen regime are tried to be imported to the ENP members (2007). In addition to that, the literature offers substantial evidence that the EU does not provide enough funds to cover all the expenses that the ENP states are forced to incur with regards to controlling and managing issues such as undocumented migration and resettlement (Barbé and Johansson-Nogués 2008, 91).

One of the most important foreign policy tools that the EU tries to utilize in its relationship regarding migration control with its immediate neighborhood, thus within the ENP and EaP, is readmission agreements, which is the topic of the next section.

## **2.7. Readmission Agreements**

The readmission agreements that the EU is most eager to sign with third countries are among the most important instruments of the Union in shaping its migration management strategy and in fighting irregular migration. The EU tries to come to terms and cooperate with migrant sending and transit countries in order to tackle the problem of irregular immigration that it faces. Especially after the signature of the Amsterdam Treaty increased the competence of the EU in the area of migration,

readmission agreements have become one of the integral parts and defining features of the EU migration regime.

The size of the problem of irregular immigration is debatable, nevertheless it is a very politicized and hot topic among both the public and policy spheres in Europe. The aim of a readmission agreement is to facilitate the return of aliens who reside irregularly in an EU member state to their country of citizenship or to the country that they transited through before passing the external EU border depending on the circumstances. Without the guarantee that third countries would accept them into their own territory, the capture and apprehension of irregular immigrants does not mean much for the EU since it cannot deport them if no other country is willing to admit these people.

As early as 1995, the EU made the inclusion of readmission clauses obligatory in all the association and cooperation agreements it signs with third countries. According to these, both the third country that is party to the agreement and the EU members accepted to readmit their own nationals residing irregularly in each other's territory without formalities, and the third country accepts to sign more specific and detailed bilateral agreements on readmission with requesting EU member states, since at the time the EU as a supranational entity was not competent on the issues related to migration. After the signing of the Amsterdam Treaty in 1997, the EU obtained competence in migration matters and thus became able to sign readmission agreements with third countries. Consequently, the EU prioritized signing EU readmission agreements over bilateral ones after this date (Billet 2010,

48). When deciding on the target countries which these agreements are to be negotiated with, the Council declared that it accepts migratory pressure and geographical position of the country as the most important determinants (Billet 2010, 52).

In order to convince the third countries to sign these agreements, the EU has to offer them certain incentives, most of which are in the form of financial aid. Starting with the readmission agreement signed with Russia, after the negotiations entered into a deadlock, visa facilitation procedures which include the simplification and acceleration of the visa application process for short-stay visas and reduction of the visa fee that has to be paid by the citizens of the third country at stake were introduced as a new form of carrot and they soon became the most important and powerful incentive in convincing third countries to sign readmission agreements (Trauner and Kruse 2008a, 11). Since then, visa facilitation began to be accepted as a must incentive in order for the readmission agreements to be signed (Trauner and Kruse 2008b, 411). An almost automatic link has been established between the signing of readmission and visa facilitation agreements, such that most of the time they entered into force at the same date. The European Parliament officially acknowledged this link by stating that these two agreements are “mutually conditional and parallel” (Billet 2010, 70). However, it should be underlined that this link is established only for a certain group of countries, mostly for the neighboring ones who pose comparably lower immigration risk to the Union. Some mandates

issued by the Council do not allow the Commission to negotiate visa facilitation with the third country at stake.

As of March 2012, 18 mandates for negotiating a readmission agreement with third countries has been issued in total by the Council to the Commission and 13 agreements have been concluded. Table 2.1 lists the mandates issued and agreements concluded so far.

**Table 2.1: EU Readmission Agreements**

<b>Third Country</b>	<b>Mandate</b>	<b>Signature</b>	<b>Entry into Force</b>
Sri Lanka	Sep 2000	4 June 2004	1 May 2005
Russia	Sep 2000	25 May 2006	1 June 2007
Pakistan	Sep 2000	26 Oct 2009	1 Dec 2010
Morocco	Sep 2000	-	-
Hong Kong SAR	Apr 2001	27 Nov 2002	1 Mar 2004
Macao SAR	Apr 2001	13 Oct 2003	1 June 2004
Ukraine	June 2002	18 June 2007	1 Jan 2008
Albania	Nov 2002	14 Apr 2005	1 May 2006
Algeria	Nov 2002	-	-
China	Nov 2002	-	-
Turkey	Nov 2002	-	-
Bosnia and Herzegovina	Nov 2006	18 Sep 2007	1 Jan 2008
Macedonia	Nov 2006	18 Sep 2007	1 Jan 2008
Montenegro	Nov 2006	18 Sep 2007	1 Jan 2008
Serbia	Nov 2006	18 Sep 2007	1 Jan 2008
Moldova	Dec 2006	10 Oct 2007	1 Jan 2008
Georgia	Sep 2008	22 Nov 2010	1 Mar 2011
Cape Verde	June 2009	-	-

Of the 13 countries that the EU has signed readmission agreements with, visa facilitation agreements have been concluded with nine of them, namely, Russia, Ukraine, Moldova, Georgia, Bosnia and Herzegovina, Montenegro, Serbia, Albania and Macedonia (webpage of Ministry of Foreign Affairs of the Republic of Latvia,



Consular Department), all of them European states located in the EU's immediate neighborhood. However, since the citizens of Bosnia and Herzegovina, Montenegro, Serbia, Albania and Macedonia have later obtained the right of visa-free travel to the EU, the visa facilitation agreements lost their meaning for them.

As can be seen from Table 2.1, the Commission has not been able to conclude a readmission agreement with five countries yet, although a mandate was issued by the Council to negotiate and sign a readmission agreement with them. These are Morocco, Algeria, China, Cape Verde and Turkey. Except for that of Cape Verde, the mandates for the rest date back to 2000 and 2002. The EU encountered various problems in negotiating and even in beginning to negotiate readmission agreements with these four countries. The case of Turkey will be discussed in the fourth chapter of this thesis, where a detailed analysis of the EU-Turkey relationship in the area of migration will be carried out.

Readmission agreements, their connection with visa facilitation agreements and their effectiveness have recently been debated extensively in the academia (see for example Trauner and Kruse 2008a, 2008b; Schieffer 2003; Roig and Huddleston 2007; Billet 2010; Hernández i Sagrera 2010). According to Trauner and Kruse, readmission and visa facilitation agreements have become significant tools for the EU in order both to improve its internal security and stabilize its immediate neighborhood by granting the EU leverage in promoting reforms in the justice and home affairs of the signing third countries (2008b, 412). Regarding the results obtained out of readmission agreements, Billet is of the opinion that third countries

usually lack financial and legal capacity to implement the agreements and this seriously reduces their effectiveness (2010, 74). She cites the lack of a study that must be conducted by the EU institutions which should assess the impact of already concluded readmission agreements on the irregular migrant flows originating from or passing through the third countries that are parties to the agreements, as another major problem (2010, 77). Even though the Commission regularly publishes national statistical data on the apprehension and deportation of irregular migrants, these data have limited validity and reliability since there is a lack of consensus with regards to common definitions between the member states, some of them may not report the data as reliably as the others, and the data is not divided into subcategories (Trauner and Kruse 2008b, 430). For instance, it does not differentiate irregular migrants from rejected asylum seekers. The information of the destination of deportation is missing as well, which makes it impossible to measure the effectiveness of particular readmission agreements by using these data. As a result, neither the EU nor the origin and transit countries cannot estimate with accuracy what effect the signature of a readmission agreement would reveal on the irregular migration flows. In addition, the origin and transit countries cannot reasonably calculate the size of the economic and social burden they are shouldering in case they sign such agreements and this ambiguity acts as a disincentive for these countries to sign the agreements.

Another drawback is that the interests of the third countries are not sufficiently considered and the agreements are not tailored according to the specific relationship between these countries and the EU. The clauses included in all the

agreements are almost identical (Billet 2010, 67). Roig and Huddleston demonstrate that the two most significant incentives for the third countries in order for them to be convinced to sign readmission agreements are visa facilitation and EU membership perspective (2007, 363). However, since these two incentives are never available to the countries which are most problematic in the field of immigration, it is very hard to find a common ground even to enter into negotiation with these countries. They are not interested as much in other types of compensation, such as financial burden sharing in covering repatriation costs, assistance via the AENEAS Programme (Programme for Financial and Technical Assistance to Third Countries in the Area of Migration and Asylum) and its successor Thematic Programme, or building closer economic and trade relations. As a result, the signing of readmission agreements with these countries is doomed to fail from the very start, since it is very hard for the Commission to suggest carrots that satisfy the third countries and at the same are acceptable for the EU members.

## **2.8. Remote Control**

Another important aspect of the EU migration system that stands out in the literature is the issue of 'remote control'. Remote control in the context of migration means trying to deal with potential migratory problems mostly related to irregular migration at their source rather than combating them later at their destination. The actors participating in the remote control of migration are multiple. Embassies, consulates,

EU institutions, airline carriers, security agencies, immigration officers are among the most well-known parties involved (Zaiotti 2011, 180).

Though Grabbe is of the opinion that border controls gained the status of “the EU’s first line of defence against instability” (2000, 520), most scholars disagree since according to them, the first line of defense has already moved beyond the borders into the territories of the third countries and the duty of first defense is assumed by the embassies, consulates and immigration liaison officers located in these third countries instead of border guards. Although remote control policies in migration control are far from being new inventions, their utilization increased during the 1980s and they were incorporated into the then newly emerging Schengen regime. In the post-Amsterdam era, with the aid of the developing technology, more advanced techniques and policies of remote control started to be developed and used (Zaiotti 2011, 180), the aim presumably being fighting more effectively against irregular migration. According to Zaiotti, remote control policies flourished in this era also because the EU had established an intense network of relations with third countries during the period (2011, 180), which means the window of opportunity to benefit from these policies opened for the EU. It should not be forgotten that the applicability of remote control policies depends almost fully on the consent of the third country in question.

Examples of remote control policies utilized by the EU so far include programs such as Program Argo and the deployment of the Immigration Liaison Officers network; joint operations at sea borders such as Project Deniz and Ulysses;

joint operations at air borders such as Operation VISA; and joint operations at land borders such as IMMPACT Projects. Especially, the establishment of the Immigration Liaison Officers network is a policy that seems to have important consequences on the management of migration flows from third countries towards the EU. These officers are appointed by the member states to third countries and their tasks include reaching and exchanging information on irregular migration networks, training the staff of the embassies, consulates and airline carriers, and cooperating with the local officials in the third countries to which they are posted (Zaiotti 2011, 184). Although liaison officers had been started to be deployed much earlier and most of them had already managed to establish informal networks, after the signature of the Amsterdam Treaty they started to work with a clear mandate and their status was formalized (Zaiotti 2011, 184). According to Bigo, the formal consolidation of immigration liaison officers into the European migration management system reinforced the efforts of the EU to establish an ‘archipelago of police’ (Bigo 2000) in foreign territories on which there is minimum democratic control (Zaiotti 2011, 185). The EU acknowledged the significance of the establishment of the network of the immigration liaison officers in this new era of migration management by defining this network as the foundation of a European security community (Zaiotti 2011, 185).

In addition to immigration liaison officers, a great amount of responsibility is loaded upon airline carriers in the remote control process. If an airline carries a passenger to an airport in the EU without valid travel documents such as a visa in the

cases it is needed, then the airline is subjected to pay a substantial fine. However, there are serious concerns about this practice. According to Convey and Kupiszewski for instance, this practice is against the 1951 Geneva Convention, since an asylum seeker's chance to apply for asylum is mostly determined by an airline company under the current practice (1995, 945).

## **CHAPTER 3**

### **THE SCHENGEN AND TURKISH VISA REGIMES**

#### **Introduction**

Having provided a background of the issues that shape the current migration regime in the EU and a brief account of what has been elaborated on in the literature regarding these issues up to now, this chapter starts with the investigation of the EU's visa regime in detail. The conceptualization and the successful launch of the Schengen regime is a key development in challenging the dominant nationalist approach in the domain of migration management in Europe and it is highly probable that it will serve as a model for other regions as well in the near future. Schengen visa regime introduced a completely novel approach to migration management and mobility. It has gained acceptance in a relatively short period of time, replaced the old nationalistic doctrine dominant in the field of migration control and become the new norm in the continent.

After briefly discussing the birth, consolidation and enlargement of the Schengen visa regime, I will focus on how it functions currently by explaining its defining rules and instruments. Then, the chapter will continue with the Turkish visa regime, its history, defining features and its current state. The visa policy pursued by the Turkish Government will be periodized and the characteristics of each period will be elaborated on. The main differences between the Schengen and Turkish visa

regimes will be discussed and the visa obligation lists of the EU and Turkey will be compared and contrasted. Consequently, this discussion and comparison will reveal the main changes that Turkey has to carry out in order to harmonize its visa regime with that of the EU.

### **3.1. Schengen Visa Regime**

The foundations of the Schengen regime were laid in the early 1980s. The discussions on Schengen have started as an intergovernmental forum with the participation of only few countries and they were carried out outside the European Community institutional framework. After its launch in 1995, the participating countries have applied the Schengen visa regime in an intergovernmental fashion for four years, without direct involvement of the EU. The Schengen *acquis* was incorporated into the EU body of law by the entry into force of the Amsterdam Treaty in 1999. Today, candidate countries for accession to the EU are by default obliged to adopt the Schengen *acquis* in its entirety and join the Schengen zone upon their accession unless otherwise stated, although in most cases substantial transitional periods are deemed to be necessary (Zaiotti 2011, 5).

Before moving into the detailed discussion of the current practices and rules of the regime, it would be relevant to give a historical account of the creation and development of Schengen.



### *3.1.1. Schengen's Birth and Consolidation*

The seeds of the Schengen visa regime started to germinate at the time when the possibility of launching a common European market was put forward in the European policy circles. The idea of creating a common market in Europe fueled the discussion of the European integration project as a whole in many other areas then, attributing a particular emphasis on the expansion of community competence (Zaiotti 2011, 63). During this time, the issue of border control came up front as well, since the creation of the common market depended largely on abolishing internal border controls in order for the goods, capital and services to move freely. Under these circumstances, it became necessary that the policies and rules concerning the movement of people should also be updated in order to keep up with the dynamics of the common market.

In the first half of the 1980s, Europe was experiencing an economically turbulent period. Besides, the European Community was trapped in an “institutional deadlock” (Zaiotti 2011, 67). In order to break the deadlock, different initiatives were put forward in the community. Particularly, the efforts of France and Federal Germany were notable. Those days, France and Federal Germany were looking for ways to improve their already firm and strong relationship. One of these efforts was the signing of the Rambouillet agreement in May 1984, which pledged the two countries to gradually abolish controls at their common border. This was the “the first decisive step in the path toward a postnational approach of border control” in Europe (Zaiotti 2011, 68).

In the June 1984 Fontainebleau European Council, the members of the EC supported the ideas of further economic liberalization, abolishing customs and police controls for people moving inside the community and the creation of a European passport, flag and anthem. Although these ambitious goals were thought to be achieved under the community framework, a “parallel intergovernmental initiative” also developed, and both these two initiatives – community and intergovernmental – aimed to create a Europe without frontiers (Zaiotti 2011, 69). The community initiative is referred to as the Brussels initiative and the intergovernmental one as the Schengen initiative in the literature. In the early stages of their development, these two parallel initiatives did not conflict with each other. However the main reason that the Schengen initiative was tolerated by the officials in Brussels was their belief that Schengen would eventually be incorporated into or absorbed in by the EU legislation (Zaiotti 2011, 88-89).

Immediately after the Fontainebleau Council, France and Federal Germany signed the Saarbrücken Accord, which aimed, among others, at the abolishment of control of persons at the internal borders, harmonization of visa policy and further cooperation on legislative issues concerning foreigners, drugs, arms and passport delivery (Zaiotti 2011, 70). Immediately after this, Benelux countries showed an interest in joining France and Germany in their efforts to create a zone without borders in Europe. After fruitful discussions, the five countries signed the Schengen Agreement on June 14, 1985 at a carefully chosen and meaningful location – aboard the cruise ship *Princesse Marie-Astrid* on the section of the river Moselle which is

jointly controlled by Germany, Luxembourg and France, close to the Luxembourgish town of Schengen (Zaiotti 2011, 4). The Schengen Agreement is officially known as “Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders”.

The signature of the agreement was an important step forward; however, it resembled more to “a working program than a detailed plan of action” (Zaiotti 2011, 70). Consequently, the signatories of the agreement started negotiations on an implementation convention. The negotiation process this time took longer, since tough political and technical issues – which were expected to surface because the Schengen initiative was controversial in its nature – had to be addressed by the signatory parties. Conditions of the regime’s entry into force were hardest to agree on and some states voiced serious concerns at different stages of the negotiations (Zaiotti 2011, 93). It took five years to agree on the details of the Schengen Implementation Convention, which was signed on June 19, 1990 (Convention implementing the Schengen Agreement of June 14, 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders).

The Schengen Agreement and Schengen Implementation Convention modified the nationalistic understanding of the term ‘border’ by inventing the categories of internal and external borders. Schengen Implementation Convention defined the internal borders as “common land borders of the Schengen States, their

airports for internal flights and their ports for regular ferry connections exclusively from and to other ports within the territories of the Schengen States and not calling at any ports outside these territories” (Schengen Implementation Convention, Article 1). In the same article of the Schengen Implementation Convention, external borders were conceptualized as all land and sea borders, airports and seaports of the Schengen states which are not internal borders. External borders demarcated the newly formed common territory of the Schengen states. They were conceptualized as distinct entities that have unique properties (Zaiotti 2011, 72). Since external borders were accepted as belonging to all the countries in the Schengen zone, the Schengen Implementation Convention obliged the Schengen countries into “taking account of the interests of all Contracting Parties” when carrying out controls at the external borders (Schengen Implementation Convention, Article 6.1). This can be accepted as the declaration that the nationalistic (Westphalian) meaning that (external) borders carried up to that time had to be surpassed in order for the newly formed Schengen regime to function effectively.

In the minds of its creators, the aim of the Schengen was to create a common area in which goods, capital as well as persons would circulate freely. In order to compensate for the elimination of internal border controls when creating this common area, border controls were transferred to the external borders of the Schengen area and they were strengthened. However, they were not limited with the controls at these newly conceptualized external borders. Other controls would also be carried out inside the securitized Schengen area. For instance, within the Schengen

area identity checks may still be carried out depending on the national law. In some member states, these checks may only be conducted within a certain range from the border, whereas in other member states identity checks are permitted in the entire territory (Faure Atger 2008, 10).

Towards the end of 1993, Schengen Implementation Convention was ratified by all the then members of the initiative. The agreement entered into force on September 1<sup>st</sup> of the same year and consequently, the Schengen Executive Committee (Comex) was founded. Comex was responsible of monitoring the progress of the member states towards adopting the Schengen rules and practices and deciding on whether the preconditions for the Schengen Implementation Convention's entry into force were fully satisfied by the signatory parties (Zaiotti 2011, 94). In the Luxembourg Comex meeting in 1992, these preconditions were listed as "the establishment of external border controls; the issuing of uniform visas; a harmonized system to manage asylum claims; the realization of the SIS [Schengen Information System]; the respect for the provisions of existing drug conventions; the legal protection of personal data; and the creation of a special circulation regime in airports" (Zaiotti 2011, 94). The actual implementation of the new regime started about one and a half year after the Schengen Implementation Convention's entry into force, which corresponds to March 26<sup>th</sup>, 1995. On this date, Schengen Implementation Convention became fully operational in seven countries: the initial signatory states France, Germany, Belgium, the Netherlands and Luxembourg; and

two states that joined shortly after – Spain and Portugal. Comex provisioned an initial phase of three months in which:

Each Contracting Party shall be responsible for the application of the convention, particularly the abolition of checks at the internal borders during the initial phase of application. The Contracting Parties shall keep each other mutually informed, shall consult whenever necessary and shall work in close cooperation (SCH/Comex (94) 29 rev 2).

### *3.1.2. Enlargement of the Schengen Zone*

Before it became mandatory for the newly acceding states to the EU to join the Schengen zone as well, membership to the Schengen zone was optional and depended on the performance of the willing state in several dimensions. According to Article 140 of the Schengen Implementation Convention, member states of the European Communities can join the Schengen zone, provided an agreement between the existing Schengen states and the acceding state is reached. The acceding countries should accept the Schengen *acquis* fully (Zaiotti 2011, 73) and they have to fulfill some preconditions before they can become a member of the Schengen club.

Namely, they must have the capacity to:

- take responsibility for controlling the external borders on behalf of the other Schengen States and for issuing uniform Schengen visas
- efficiently cooperate with law enforcement agencies in other Schengen States in order to maintain a high level of security once border controls between Schengen countries are abolished

- apply the common set of Schengen rules (the so-called “Schengen *acquis*”), such as controls of land, sea and air borders (airports), issuing of visas, police cooperation and protection of personal data
- connect to and use the SIS (European Commission Home Affairs webpage)

Although Italy and Greece signed the Schengen Implementation Convention in 1990 and 1992 respectively, they were not allowed to join the Schengen zone until 1997 in the case of Italy and 2000 in the case of Greece, since they could not fulfill all the preconditions listed above earlier. Austria signed the convention in 1995 and started to implement it towards the end of 1997. Denmark, Sweden, Finland, Iceland and Norway all became signatories to the convention in 1996 and Schengen *acquis* became operational in all the five Nordic Passport Union countries in 2001. On 1 May 2004 nine of the ten countries that acceded to the EU on that day also became signatories to the convention automatically, since Schengen *acquis* has already been incorporated into the EU framework with Amsterdam Treaty by then, and they started to apply the Schengen regime on December 27<sup>th</sup>, 2007 at their land borders and seaports and on March 30<sup>th</sup>, 2008 at their airports. The other country that joined the EU on the same day, Cyprus, is also obliged to join the Schengen zone eventually, but currently Cyprus’ accession is delayed due to the Cyprus dispute. Switzerland started to apply the Schengen rules at its land borders on December 12<sup>th</sup>, 2008 and at its airports on March 29<sup>th</sup>, 2009. Liechtenstein joined the area on December 19<sup>th</sup>, 2011, becoming Schengen’s latest member. Table 3.1 lists below the

current twenty-six members of the Schengen Zone, together with the date they signed the Schengen Agreement and the date they started to implement it.

**Table 3.1: The Enlargement of the Schengen zone**

<b>Country</b>	<b>Date Signed</b>	<b>First Implementation</b>
France <sup>a</sup>	14 June 1985	26 March 1995
Germany	14 June 1985	26 March 1995
Belgium	14 June 1985	26 March 1995
Netherlands <sup>b</sup>	14 June 1985	26 March 1995
Luxembourg	14 June 1985	26 March 1995
Italy	27 November 1990	26 October 1997
Spain <sup>c</sup>	25 June 1991	26 March 1995
Portugal	25 June 1991	26 March 1995
Greece <sup>d</sup>	6 November 1992	26 March 2000
Austria	28 April 1995	1 December 1997
Denmark <sup>e</sup>	19 December 1996	25 March 2001
Sweden	19 December 1996	25 March 2001
Norway <sup>f</sup>	19 December 1996	25 March 2001
Iceland	19 December 1996	25 March 2001
Finland	19 December 1996	25 March 2001
Czech Republic	1 May 2004	21 December 2007 <sup>g</sup> / 30 March 2008 <sup>h</sup>
Estonia	1 May 2004	21 December 2007 <sup>g</sup> / 30 March 2008 <sup>h</sup>
Hungary	1 May 2004	21 December 2007 <sup>g</sup> / 30 March 2008 <sup>h</sup>
Latvia	1 May 2004	21 December 2007 <sup>g</sup> / 30 March 2008 <sup>h</sup>
Lithuania	1 May 2004	21 December 2007 <sup>g</sup> / 30 March 2008 <sup>h</sup>
Malta	1 May 2004	21 December 2007 <sup>g</sup> / 30 March 2008 <sup>h</sup>
Poland	1 May 2004	21 December 2007 <sup>g</sup> / 30 March 2008 <sup>h</sup>
Slovakia	1 May 2004	21 December 2007 <sup>g</sup> / 30 March 2008 <sup>h</sup>
Slovenia	1 May 2004	21 December 2007 <sup>g</sup> / 30 March 2008 <sup>h</sup>
Switzerland	26 October 2004	12 December 2008 <sup>g</sup> / 29 March 2009 <sup>h</sup>
Liechtenstein	28 February 2008	19 December 2011

<sup>a</sup> Overseas departments and territories of France are excluded

<sup>b</sup> Aruba, Curaçao, Sint Maarten, Bonaire, Sint Eustatius and Saba are excluded

<sup>c</sup> Border checks are in force when departing from Ceuta and Melilla to Spain or other Schengen countries

<sup>d</sup> Mount Athos is part of the Schengen area, although its special spiritual and religious status is taken into account when applying Schengen rules

<sup>e</sup> Greenland and Faroe Islands are excluded

<sup>f</sup> Svalbard is excluded

<sup>g</sup> Schengen regime started to be implemented only at overland borders and seaports on this date

<sup>h</sup> Schengen regime started to be implemented at the airports as well from this date on



When a country joins the Schengen zone, this generally happens in two steps. In the first step, the acceding country ratifies the 1985 and 1990 conventions and adopts the Schengen *acquis* in its entirety. However, border controls are not abolished immediately after the first step has been completed. This happens after the second step, when all the other members of the Schengen zone reach the conclusion that the acceding country is technically capable of controlling the external borders in the desired level (Grabbe 2000, 526).

It is a fact that the decision to join the Schengen zone brings forth both costs and benefits for the acceding countries. If reaching the second step is prolonged after the candidate country adopted the Schengen *acquis*, then there is a risk that the country has to incur the costs for a long time before it can be able to harvest the benefits, since during the intermediary period between the first and the second step, the acceding country is bound to apply the strict rules of the Schengen regime at its external borders, but the existing members of the Schengen zone do not abolish border controls with this country. These costs include strained relations with neighbors as a result of the tightening of the borders and/or abolishing visa-free travel regimes and economic costs that have to be incurred especially by the firms which export their products to the EU, because of the continuation of border checks during entry into the Schengen zone from this country. Bulgaria and Romania are currently the two members of the EU which are in this intermediary period. The two countries are waiting for the Council decision which will allow them to become a fully operational member of the Schengen zone. Initially, they were to join the

Schengen zone in the first half of 2012; however, the Netherlands and Finland were not convinced that the two countries were doing enough to reach the Schengen standards especially in fighting organized crime and corruption. Consequently, their accession was delayed at least till September 2012, and naturally Bulgaria and Romania is frustrated about this decision and they are thinking that they are being discriminated in the EU<sup>2</sup>.

Another interesting issue that surfaced after the enlargement of the Schengen zone is the fact that most of the old and more prosperous states of the EU do not possess any external land borders now. The countries that are currently located on the external border of the Schengen zone, mostly new member states, assume the role of a shield in controlling and blocking the migration flows targeting old and more prosperous EU states. It is natural to expect that the old EU member states as well would like to have a say in managing the external borders. However, the border guards on duty at the external borders of the Schengen zone are not supranational. It is a fact that after the launch of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) in 2004, the cooperation between the national border authorities has developed. Nevertheless, border guards are still national and there is not a supranational European border control force yet. So, the amount of pressure

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<sup>2</sup> On this point, see for example the press article “Romanians angry at Schengen ‘double standards’” on the Euronews webpage (<http://www.euronews.com/2011/10/14/romanians-angry-at-schengen-double-standards/>).

that is put on the border control capabilities of the new members of the EU and the Schengen zone is immense.

### *3.1.3. Schengen Zone: Current State*

As of 2012, Schengen area includes twenty-six states which are listed in Table 3.1. The total population of the members of the Schengen zone exceeds 400 million people (European Commission Home Affairs webpage). With the latest enlargement, the total area of the Schengen countries added up to 4.312.099 square kilometers, close to half of the total area of the whole geographical European Continent<sup>3</sup>.

Four of the members of the Schengen Area, namely Norway, Iceland, Switzerland and Liechtenstein, are not EU members. Switzerland is not a member of the European Economic Area (EEA), either. Furthermore, two of the EU member states are not signatories to the Schengen agreement: the UK and Ireland. During the time of the Schengen *acquis*' incorporation into the EU law with the signing of the Amsterdam Treaty, these two countries managed to obtain opt-outs from that specific part of the treaty. The case of Denmark is also worth paying attention. Though Denmark has signed the Schengen Agreement, it has obtained the right to individually choose to apply or not any new measures that are undertaken under Title IV (Visas, asylum, immigration and other policies related to free movement of persons) of the EC Treaty (Treaty Establishing the European Community) within the

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<sup>3</sup> This should not lead to confusion regarding the total area of the Schengen states, since almost 40% of the territory of the continent Europe belongs to Russian Federation.

EU framework, including the ones concerning the Schengen *acquis* (Europa: Summaries of EU Legislation webpage, *The Schengen Area and Cooperation*).

The case of the European microstates is also worth attention. There are five microstates in Europe: Andorra, Liechtenstein, Monaco, San Marino and Vatican. Except for Liechtenstein, these microstates are not formally members of the Schengen Zone. Since Liechtenstein is a very small country, it does not have foreign missions except for in a handful of countries. According to the arrangement between Liechtenstein and Switzerland, Liechtenstein's consular representation for all affairs is under the responsibility of Switzerland (Official website of the Government of the Principality of Liechtenstein, Ministry of Foreign Affairs section) which effectively means that Swiss embassies issue Schengen visas in the name of Liechtenstein.

San Marino and Vatican are entirely surrounded by the territory of Italy, they do not have airports and seaports and they maintain open borders with Italy. So they can be considered *de facto* members of the Schengen zone. Monaco is a city state enclosed by the territory of France from three sides and by the Mediterranean Sea on the other side. It is also considered as a *de facto* member of the Schengen zone, since it has open borders with France and its external borders (Monaco-Héliport and Monaco Port de la Condamine) and customs are accepted as part of France. Therefore, at these external borders, French and Monegasque authorities carry out border controls according to the Schengen rules (SCH/Com-ex (98) 19).

The case of Andorra is different from the other microstates. Andorra is considered outside the Schengen zone and it maintains border controls with both Spain and France. Andorra does not require any kind of visas from travelers who want to visit the country. According to the official rules of Andorra, a national passport is sufficient for this purpose. However, since Andorra is a landlocked country between Spain and France and the only way to access Andorra is either through Spain or France, somehow paradoxically, holding a multi-entry Schengen visa is *de facto* compulsory for the nationals of third countries that need a visa to travel into the Schengen zone who would like to visit Andorra, because leaving Spain or France and entering Andorra means leaving the Schengen zone and in order to exit Andorra, someone has to enter into the Schengen zone again since there is no other way of exiting the country.

#### *3.1.4. Schengen Zone as a Gated Community*

When first created, Schengen was thought as a project in which a balance would be established between the aims of free movement and security and the public was quick to embrace the idea of the necessity of a trade-off between free movement and security which was actually constructed by the politicians. However, over the course of time, the balance has shifted increasingly in favor of the security objective (Zaiotti 2011, 17). Actually, Schengen zone was doomed to become a gated community even before it was born. As every gated community, Schengen zone also has its own

desired and unwanted persons and when deciding on who is wanted or not, the single most important determinant is the nationality of the 'intruder'. The instrument used to deter the unwanted nationalities from entering the Schengen zone is the obligation imposed on them to possess a visa.

As a rule, the citizens of the EU member states can enter and take residence in all the member states with only minimum limitations in exceptional cases. The citizens of the European states who are not members of the EU, but of the EEA and/or European Free Trade Association (EFTA) enjoy the same rights with the citizens of the EU member states in terms of visiting and taking residence in each other's territory. So by definition, the citizens of the countries of the EU plus EEA plus EFTA do not need any visas neither for their short term nor long term visits into each other's territory. However, some temporary restrictions may apply for the citizens of the new EU members in terms of their right to work in old and/or more prosperous member states. For instance currently, member states like Germany, France and Austria apply temporary restrictions to Bulgarian and Romanian citizens who would like to work in these countries. These restrictions are expected to end in the year 2014.

After the signing of the Schengen Agreement and the Schengen Implementation Convention, the challenge for the participating states was to agree on a common list of countries whose citizens should and should not be allowed into the Schengen territory without possession of uniform visas. This was not an easy task, since some of the members had special relationships with some third countries such

as their former colonies and they wanted to allow the citizens of some of these countries without visas into the Schengen territory, whereas some other members objected this. The European Community<sup>4</sup> started to issue the list of third countries whose citizens have to possess visas in order to enter the territory of the Union as early as in 1993 (Bigo and Guild 2007, 235) and until 1998, a grey list was also issued as a temporary solution to the problem of deciding whom to include in which list, including countries whose citizens need visas to enter only some of the EU countries. Gradually, the participating countries managed to agree on a common list of countries whose citizens are to be allowed or not without visas.

Currently, it is possible to distinguish between two groups of third countries in terms of their citizens' visa obligation when passing the EU's external border<sup>5</sup>: 1) countries whose citizens do not normally need visas to enter the Union for their short term visits up to 90 days within a period of 180 days (known as the Schengen white list or positive list countries), and 2) countries whose citizens must be in possession of visas when entering the EU (listed in the so called Schengen black list or negative list). Tables 3.2 and 3.3 display Schengen white list and black list respectively.

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<sup>4</sup> According to the Lisbon Treaty, The European Community was abolished and incorporated into the EU.

<sup>5</sup> These groupings are not valid for the UK and Ireland. The UK and Ireland maintain their own visa regimes due to the opt-outs they have bargained and have their own white and black lists.

**Table 3.2: Nationals of third countries who shall be exempt from the requirement to be in possession of a visa when crossing the external borders of the Schengen States for stays of no more than 90 days in a 180 day period (Schengen white list)**

<b>1. STATES</b>		
Albania <sup>a</sup>	Croatia	Nicaragua
Andorra	El Salvador	Panama
Antigua and Barbuda <sup>b</sup>	Guatemala	Paraguay
Argentina	Honduras	Saint Kitts and Nevis <sup>b</sup>
Australia	Israel	San Marino
Bahamas <sup>b</sup>	Japan	Serbia <sup>a,c</sup>
Barbados <sup>b</sup>	Macedonia (FYR) <sup>a</sup>	Seychelles <sup>b</sup>
Bosnia and Herzegovina <sup>a</sup>	Malaysia	Singapore
Brazil	Mauritius <sup>b</sup>	South Korea
Brunei Darussalam	Mexico	United States of America
Canada	Monaco	Uruguay
Chile	Montenegro <sup>a</sup>	Vatican
Costa Rica	New Zealand	Venezuela
<b>2. SPECIAL ADMINISTRATIVE REGIONS OF THE PEOPLE'S REPUBLIC OF CHINA</b>		
Hong Kong SAR <sup>d</sup>	Macao SAR <sup>e</sup>	
<b>3. BRITISH CITIZENS WHO ARE NOT NATIONALS OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE PURPOSES OF COMMUNITY LAW</b>		
British Nationals (Overseas)		
<b>4. ENTITIES AND TERRITORIAL AUTHORITIES THAT ARE NOT RECOGNISED AS STATES BY AT LEAST ONE MEMBER STATE</b>		
Taiwan <sup>f</sup>		

Source: Council Regulation (EC) No 539/2001

<sup>a</sup> The exemption from the visa requirement applies only to holders of biometric passports.

<sup>b</sup> The exemption from the visa requirement will apply from the date of entry into force of an agreement on visa exemption to be concluded with the European Community.

<sup>c</sup> Excluding holders of Serbian passports issued by the Serbian Coordination Directorate

<sup>d</sup> The visa requirement exemption applies only to holders of a 'Hong Kong Special Administrative Region' passport.

<sup>e</sup> The visa requirement exemption applies only to holders of a 'Região Administrativa Especial de Macau' passport.

<sup>f</sup> The exemption from the visa requirement applies only to holders of passports issued by Taiwan which include an identity card number.



**Table 3.3: Nationals of third countries who shall be required to be in possession of a visa when crossing the external borders of the Schengen States (Schengen black list)**

<b>1. STATES</b>			
Afghanistan	Egypt	Malawi	Sierra Leone
Algeria	Equatorial Guinea	Maldives	Solomon Islands
Angola	Eritrea	Mali	Somalia
Armenia	Ethiopia	Marshall Islands	South Africa
Azerbaijan	Fiji	Mauritania	South Sudan <sup>a</sup>
Bahrain	Gabon	Micronesia	Sri Lanka
Bangladesh	Gambia	Moldova	Sudan
Belarus	Georgia	Mongolia	Surinam
Belize	Ghana	Morocco	Swaziland
Benin	Grenada	Mozambique	Syria
Bhutan	Guinea	Namibia	Tajikistan
Bolivia	Guinea-Bissau	Nauru	Tanzania
Botswana	Guyana	Nepal	Thailand
Burkina Faso	Haiti	Niger	The Comoros
Burma/Myanmar	India	Nigeria	Timor-Leste
Burundi	Indonesia	North Korea	Togo
Cambodia	Iran	Oman	Tonga
Cameroon	Iraq	Pakistan	Tri. and Tobago
Cape Verde	Jamaica	Palau	Tunisia
Central African Rep	Jordan	Papua New Guinea	Turkey
Chad	Kazakhstan	Peru	Turkmenistan
China	Kenya	Philippines	Tuvalu
Colombia	Kiribati	Qatar	Uganda
Congo	Kuwait	Russia	Ukraine
Côte d'Ivoire	Kyrgyzstan	Rwanda	UAE
Cuba	Laos	Saint Lucia	Uzbekistan
DR Congo	Lebanon	St. Vin. and the Grenadines	Vanuatu
Djibouti	Lesotho	Samoa	Vietnam
Dominica	Liberia	São Tomé and Príncipe	Yemen
Dominican Rep	Libya	Saudi Arabia	Zambia
Ecuador	Madagascar	Senegal	Zimbabwe
<b>2. ENTITIES AND TERRITORIAL AUTHORITIES THAT ARE NOT RECOGNISED AS STATES BY AT LEAST ONE MEMBER STATE</b>			
Palestinian Authority		Kosovo <sup>b</sup>	

<sup>a</sup> Not included in the latest list, inferred from Article 1/3 of Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement

<sup>b</sup> As defined by the United Nations Security Council Resolution 1244 of 10 June 1999

<b>3. BRITISH CITIZENS WHO ARE NOT NATIONALS OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE PURPOSES OF COMMUNITY LAW</b>
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British overseas territories citizens who do not have the right of abode in the UK British overseas citizens British subjects who do not have the right of abode in the UK British protected persons
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Source: Council Regulation (EC) No 539/2001

When deciding which third countries should be included in the white and black lists, the EU claims that it evaluates each country separately using multiple criteria based on the irregular immigration risk of the country, public policy and security concerns, the EU's external relations, reciprocal relations with the country and regional coherence (European Council 2001, 3). However, in the framework of visa regimes, in sharp contrast with the Cold War years, it is no longer the relationship between the states that determine the treatment of the citizens of a particular third country by the EU member states. A state is considered as a threat if its population constitutes a migratory risk for the EU, not because of its regime. So it is the relationship between the EU states and citizens of the third countries that is being more and more relevant in this context (Bigo and Guild 2007, 240). State-people relationships gained importance over state-state relationships in shaping visa regimes, especially that of the EU.

The members of the EU whose membership to the Schengen zone is pending, namely Bulgaria, Romania and Cyprus, also adopted the same white and black lists in the course of harmonizing their visa regime with that of the Schengen countries.

The two member states who did not adopt the Schengen visa regime, the UK and Ireland, have their own white and black lists, which can be found in the Tables A1, A2, A3 and A4 in the appendix. Table A5 of the appendix makes a comparison of the three visa regimes currently in force in the territory of the EU, listing the countries that are treated differently in at least one of the visa regimes.

When determining the riskiness of individuals, first of all visa issuing authorities sort the individuals according to their nationality in a straightforward manner. Those people who hold the passport of a country which is in the black list is automatically considered to pose a threat. The bottom line is that if someone is a national of a high risk country, then he or she needs to possess a visa irrespective of his or her personal traits and qualifications. To further sort the people who need a visa to enter the Schengen zone for the purpose of deciding whether to grant them a visa or not, the Common Consular Instructions equip the authorities with a risk intensity scale (Bigo and Guild 2007, 239).

Nationality is the single most important criteria when deciding on which individuals need a visa in order to be allowed into one's territory in today's migration systems. Further discrimination within a nation may only be made through the different types of passports a country issues for its citizens, such as diplomatic, service, special, official and ordinary passports. It has to be underlined that Schengen black list concerns citizens of the listed countries who are holders of ordinary passports. Regarding the holders of the other types of passports listed above, each Schengen country may have their own policy. They are officially allowed to do so

within the Schengen *acquis*. For instance a service passport holder of a certain country may be allowed to enter a certain Schengen country without a visa, whereas this may not be the case when visiting another Schengen country.

Another interesting issue is the case of the airport transit visas. There is a common list of countries whose nationals need this kind of visas when transiting through the airports of the Schengen zone. The list currently consists of 12 countries, which are Afghanistan, Bangladesh, DR Congo, Eritrea, Ethiopia, Ghana, Iran, Iraq, Nigeria, Pakistan, Somalia and Sri Lanka (Regulation (EC) No 810/2009 [Visa Code], 33). However, there is room for discretion if a member state individually wants to subject the citizens of another third country which is not in the common list to such a requirement when they transit through its own airports, meaning each member state has a right to demand airport transit visas from the nationals of any additional third country. For example, although Turkey is not in the common airport transit black list, Turkish citizens need airport transit visas to enter the international transit zones of the airports of Czech Republic, Germany and Switzerland.

Common Consular Instructions group the visas that the EU authorities can issue under five categories: 1) Uniform visas, which is further divided into four subgroups: a) Airport transit visas, b) Transit visas, c) Short-stay visas and d) Group visas; 2) Long-stay visas; 3) Visas with limited territorial validity; 4) Visas issued at the border and 5) Documents having the same value as a visa, authorizing the crossing of external borders: Facilitated Transit Document (FTD) / Facilitated Rail Transit Document (FRTD). The type of the visa has to be denoted on the visa sticker

by a letter. Table 3.4 lists the letters used for this purpose and the corresponding types of visas.

**Table 3.4: Schengen Visa Types**

A	Airport Transit Visa
B	Transit Visa
C	Short-stay Visa
D	Long-stay National Visa
D+C	National Long-stay Visa valid concurrently as a short-stay visa

For group visas and visas with limited territorial validity, the letters A, B or C has to be used accordingly as well.

### *3.1.5. Exporting the EU's Migration and Visa Regime to Its Near Abroad*

Since the days the EU first considered Eastern enlargement, there has been an ongoing tension in the EU between the interior and foreign ministers regarding the export of the migration, border management and visa regimes of the EU to the candidate countries. On the one hand, the interior ministers try to press the applicants to apply the EU norms at their eastern borders to tackle migratory pressures coming from other further third countries in order to prevent the nationals of those countries from entering the EU through the territories of the candidate countries. On the other hand, the foreign ministers worry that tightening the eastern borders of these candidate countries may result in the deterioration of the relationships between them and their neighbors in the region, thus it may be contrary to the EU's aim of regional

stabilization. Therefore, Eastern accession policy of the EU concerning border management and the visa issue is pulled in different directions by different ministries (Grabbe 2000, 524). However, as a direct result of the current dominance of securitization policies in the European policy making sphere, the arguments of the interior ministers supporting the tightening of borders have always been ahead of those of the foreign ministers which generally favor more liberal policies in terms of travel and trade relations. Moreover, the candidate countries are not the only ones that are subject to the securitization agenda of the EU regarding migration management. Increasingly, countries in the region which have no clear membership perspective in the near future, like the ENP and EaP countries, face this pressure.

Turkey, as a candidate country to join the EU, increasingly feels this pressure of aligning its visa regime with that of the Schengen countries. To understand better what the EU expects from Turkey, the peculiarities of the Turkish visa regime have to be elaborated on. Thus, the chapter will continue with a discussion of the history, evolution and current state of the Turkish visa regime. In the next section, the main rules of the Turkish visa regime will be highlighted and the current differences between the Turkish and Schengen visa regimes will be underlined in the conclusion of the chapter.

### **3.2. Turkey's Visa Regime**

Turkish visa regime is generally accepted by the EU as very liberal and flexible compared to that of the EU countries. Although it is a fact that this flexible visa policy is very beneficial for Turkey especially in economic terms, it has also been subject to criticism since it is thought to lead to an increase in human trafficking, prostitution, illegal employment and security risks. In broad terms, the EU demands Turkey to tighten its visa regime according to the Schengen *acquis* and the EU standards.

Since Turkey is a candidate country to join the EU, the EU monitors the changes in the Turkish visa policy very closely and the harmonization of the Turkish visa regime with that of the EU is projected to be discussed and assessed during the negotiations of Chapter 24 of the *acquis* which is entitled 'Justice, Freedom and Security'. Chapter 24 is currently frozen; it is yet to be opened to negotiations. However, the EU states its official opinions about the developments in the Turkish visa regime in the progress reports that the Commission issues annually.

Turkish visa regime and the visa requirements that the third countries apply to Turkish nationals have been historically shaped by some political developments. The most relevant of these are the 1980 Coup d'État, the end of the Cold War, the EU integration process accelerated by the decision of the Council to grant Turkey candidacy status, and Justice and Development Party's (in Turkish Adalet ve Kalkınma Partisi, AKP) recent initiatives in order to boost Turkey's influence in the

region which are conceptualized by some spheres as a ‘shift in the orbit’ of Turkey. So basically, it is possible to analyze the history of the evolution of the Turkish visa regime in five periods and the next section will engage in periodizing the Turkish visa regime.

### *3.2.1. Periodization of the Turkish Visa Regime*

#### *3.2.1.1. Before the Coup d’État of 12 September 1980*

Until 1980, the main factor that shaped the Turkish visa regime was reciprocity, meaning Turkey demanded visas from the nationals of the countries which in turn demanded visas from Turkish nationals for entering their territory. In accordance with the spirit of the principle of reciprocity, Turkey signed the European Agreement on Regulations Governing the Movement of Persons between Member States of the Council of Europe on 13 December 1957 in Paris. Article 1 of the agreement declares that:

Nationals of the Contracting Parties, whatever their country of residence, may enter or leave the territory of another Party by all frontiers on presentation of one of the documents listed in the Appendix to this Agreement, which is an integral part thereof. (Article 1.1)

The facilities mentioned in paragraph 1 above shall be available only for visits of not more than three months’ duration. (Article 1.2)

Valid passports and visas may be required for all visits of more than three months’ duration or whenever the territory of another Party is entered for the purpose of pursuing a gainful activity. (Article 1.3)



This agreement created the possibility for the nationals of Turkey and the other members of the Council of Europe who are parties to the agreement to visit the territories of each other without the obligation to have a visa. It played an important role in defining the Turkish visa regime up to 1980. After the 1980 Coup d'État in Turkey, some parties to the agreement started to demand visas from the Turkish citizens – a practice subsequently followed by most of the signatories.

An important development of the period was the introduction of the guest worker regimes directed towards Turkish workers in some of the Western European countries led by Federal Germany, encouraging Turkish citizens to migrate into their countries in order to deal with the problem of severe labor shortages that these countries have been encountering after the World War II. Turkey signed a guest worker recruitment agreement with Federal Germany in 1961, which enabled the movement of considerable numbers of Turkish nationals into this country. This movement was initially thought of as a temporary one by both states: when the German economy would be no more in need of foreign labor supply, Turkish guest workers would return home. However, over the course of time, although with a reluctant attitude on the part of Germany, it was understood and accepted that this temporary labor migration turned into permanent settlement.

Turkey signed similar agreements including more or less same clauses with the Netherlands, Belgium and Austria in 1964, with France in 1965 and with Sweden in 1967. Similar but less comprehensive agreements were signed with the UK in

1961, with Switzerland in 1971 and with Denmark in 1973. Today, in all these nine European countries, there are sizeable permanent Turkish communities. Although these agreements did not directly affect Turkish visa regime at the time, they had a huge impact on both the European countries' visa requirements vis-à-vis Turkish nationals and Turkish visa policy in the forthcoming decades.

In addition, Turkey has signed bilateral agreements in 1960s with Eastern European countries in order to make traveling possible between the two sides under visa schemes. An exception to this was the visa-free travel agreement signed with Romania in 1968, which was in force until Romania had to put into force visa requirements for Turkish nationals in 2004 as a result of its obligations to the EU during its pre-accession period. During the time, Bulgarian and Yugoslavian citizens enjoyed facilitated transit travel through the Turkish territory as well (Kirişci 2007, 33). Turkey also had restricted visa schemes towards most of the Middle East countries during this period because of the generally tense relations between the governments. These countries in turn had strict visa requirements for Turkish nationals as well. An exception to this was Iran, with which Turkey has signed a visa-free travel agreement in 1964. This agreement is still in force.

The fact that most European countries did not demand visas from Turkish citizens until 1980 should not imply per se that travelling abroad, especially to Europe, was easy for Turkish citizens during the time since obtaining a passport was a major difficulty for Turkish nationals back then due to bureaucratic obstacles. In

sharp contrast with what is observed today, at the time European countries had not restricted the movement of Turks, but ironically the Turkish state had done so.

### *3.2.1.2. From the 1980 Coup d'État till the End of the Cold War*

The 1980 Coup d'État prompted the European countries which did not have visa requirements for Turkish citizens to demand visas from Turks, mainly because of the rising numbers of Turkish asylum seekers applying for refugee status in Europe as a direct result of the political pressures following the Coup d'État. By the time, the guest worker programs targeting Turkish labor migrants had already been ended. Consequently it had become extremely hard for Turkish citizens to migrate legally to Western Europe, unless they would like to migrate on the grounds of family reunification. After the guest worker programs had been terminated, the almost impossibility of long-term legal migration into Europe also resulted in an increase in the irregular migration originated from Turkey and in the abuse of the asylum system at the time, which created another incentive for the European countries to introduce mandatory visas for Turkish citizens. Sweden and Finland started to demand visas from Turkish citizens even earlier than the military coup, in 1976; France, Germany and the Benelux countries shortly after the military coup, in 1980 and Denmark in 1981 (Groenendijk and Guild 2011, 80). Turkey expected that the European countries would abolish the visa obligation on Turkish citizens by the time the military returned the power to civilians, but this has never happened.

Although reciprocity has always been and still is an important factor in determining the visa regime of Turkey, Turkish authorities could not and cannot demand visas from the European countries that subjected Turkish citizens to such a requirement, mainly out of economic concerns and the tourism income generated by the visits of the nationals of those countries, which Turkey desperately needs to sustain its economy which is traditionally characterized by very high deficits. Thus, at the time, Turkey did not demand visas from the European countries which started requiring visas from Turkish travelers. Turkey's soft retaliation to this came about only in the early 1990s by the introduction of the 'sticker visa' policy. A sticker visa is a visa type that can be obtained at the border crossing points of Turkey by the citizens of the eligible countries upon the payment of a predetermined amount of money without additional difficulties. However, the nationals of all the European countries that demanded visas from Turkish citizens were not required to obtain sticker visas. Citizens of some countries in which many Turkish nationals live and obtained the citizenship of that particular country, like Germany, were exempted from the sticker visa requirement, partly due to an attempt to make visiting Turkey easy for the Turks who had to renounce their Turkish citizenship and became citizens of those countries.

### 3.2.1.3. *From the End of the Cold War till the Candidacy for the EU in 1999*

Turkish visa regime changed drastically after the end of the Cold War, especially with the efforts of Turgut Özal, the former President and Prime Minister of the Republic of Turkey (Kirişci 2007, 33). He was a politician committed to liberal values, not only in the economic sphere, but in other policy domains as well, including in the foreign policy and international relations. He tried to reflect his liberal vision on the Turkish visa policy, too. First of all, the visa obligation for the citizens of Greece was annulled in 1988. Later on, he played a very important role in the foundation of the Organization of the Black Sea Economic Cooperation (BSEC) on 25 June 1992, an organization which aimed at establishing and strengthening the almost nonexistent ties between the countries of the Black Sea region and Turkey during the time of the Cold War.

The birth and consolidation of the sticker visa policy, which has become a defining characteristic of today's Turkish visa regime, corresponds to this period. The original aim of introducing such a policy was facilitating the visits of the nationals of especially the BSEC countries to Turkey (Kirişci 2007, 33). BSEC consists of twelve member states, which are: Albania, Armenia, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Serbia, Turkey and Ukraine. Turkey currently does not demand visas from the citizens of Albania, Azerbaijan, Bulgaria, Georgia, Greece, Romania, Russia and Serbia. Nationals of the remaining there countries – Armenia, Moldova and Ukraine – can obtain their sticker visas at the international airports of Turkey upon their arrival. Furthermore, immediately

after the collapse of the Soviet Union, Turkey wanted to strengthen its ties with the newly emerged Turkic republics in Central Asia and the Caucasus and the citizens of these countries also benefitted from the sticker visa policy at the time. The relations with the Middle East countries were also tried to be improved and the sticker visa policy was extended to many of the countries in the region as well.

It is for sure that the sticker visa policy has been contributing immensely to the tourism revenues since its launch. In addition, it also made possible the ‘suitcase trade’ between Turkey and especially the post-Soviet states (Kirişci 2007, 34), which has become an important source of revenue for the Turkish economy since the early 1990s. The suitcase trade can be described as a phenomenon which gained massive socioeconomic importance after the collapse of the Soviet Union. This trade is performed by individuals mostly from the post-Soviet states, who travel mainly to Istanbul in order to purchase goods, which they later sell in the home countries. The suitcase trade goods are generally shipped as personal luggage in order to avoid customs duties.

An interesting point to note here is that the sticker visa policy and the subsequent birth of the suitcase trade may have diverted the citizens of the former Eastern bloc from migrating irregularly to Europe into engaging in trading activities with Turkish entrepreneurs and earning their living this way (Kirişci 2007, 34). At the time, Western European countries were afraid of a huge influx of migrants escaping from the collapsed economies of the former Communist countries, and it is

possible to argue that Turkey's liberal visa policy reduced the burden on the shoulders of Europe greatly at the time.

#### *3.2.1.4. Early Years of the EU Integration (1999-2006)*

This period in the evolution of the Turkish visa regime is characterized by Turkey's extensive efforts to align with the EU's white and black visa lists, which intensified after Turkey was declared an official candidate to join the EU. The Council granted Turkey the candidate status on 12 December 1999 at the Helsinki Summit. Later on, the EU adopted its first Accession Partnership Strategy in 2001 and renewed it in 2003. In these accession partnership strategies, among others, the EU listed the adjustments that Turkey has to carry out in the domain of justice, freedom and security including the harmonization of the Turkish visa policy with that of the Schengen countries. Subsequently, the Turkish Government adopted the National Program for the Adoption of the Acquis in 2003. This program in turn outlined a timetable for the adoption of Schengen black list. According to the program, Turkey planned to end its visa-free travel arrangements with the countries on the Schengen black list by the end of 2004 (Kirişci 2007, 35). In fact, Turkey had already started to align with the EU white list as early as 1999, by signing bilateral visa-free travel agreements with Latin American countries, most of which are on the Schengen white list. The attempts to adopt the Schengen black list has started in the late 2002 and by the end of 2004, which was the target date set in the National Program for the

Adoption of the Acquis, the gap between the Schengen black list and Turkish black list was as low as six countries (Regular Report on Turkey's Progress Towards Accession 2004, 139). The changes that were observed in this period in the Turkish visa regime will be elaborated on in detail in the fourth chapter of this thesis.

#### 3.2.1.5. *Recent Changes (2006-...)*

Although Turkey was very enthusiastic to align its visa obligations list with that of the Schengen countries in the early years of EU *acquis* adoption, later this enthusiasm decreased gradually due to certain reasons. One such reason is that Turkey observed that the countries that are to join the EU in the 2004 enlargement did not implement the Schengen *acquis* and align their visa obligation lists with those of the EU's until immediately before their accession date. As a result, the feeling of urgency to adopt the EU visa obligation list disappeared among the Turkish policy makers (Kirişci 2007, 38). The benefits of aligning with the Schengen black list as late as possible are simply too great for Turkey, especially for its economy. Turkey attracts many tourists from countries like Russia and Ukraine which are on the Schengen negative list. Aligning with the Schengen black list means forfeiting an important portion of the revenue accruing from tourists coming from these countries, since it is logical to expect a dramatic decrease in the number of tourists coming from these countries once Schengen-like strict visa requirements are introduced for their nationals. A second reason is related to administrative difficulties to be



encountered if the EU black list is adopted and the sticker visa policy is abandoned. The problem is that Turkish missions abroad are not currently capable of dealing with high numbers of visa applications, in terms of both equipment and trained staff.

Once Turkey lost its interest in harmonizing its visa obligation list with that of the EU mainly due to the reasons cited above, it felt free to tailor its visa regime according to its own economic needs and political preferences. Consequently, this period is characterized by Turkey's efforts to sign new bilateral visa-free travel agreements with third countries most of which are in the black list of the Schengen visa regime and unilateral declarations by Turkey that enable the citizens of such countries to enter Turkey without visas or by obtaining sticker visas at the border crossing points, thus Turkey's drifting away from the Schengen *acquis* regarding the adoption of the Schengen black list. Nevertheless, Turkey simultaneously tried to align its white list with that of the EU in this period to a certain degree by moving some countries that are in the Schengen white and Turkish black list to Turkish white list. However, naturally the EU always pays more attention to the adoption of the black list, since it is that adoption that is expected to curb the irregular transit migration through Turkey to the EU.

It may be claimed that Turkey is very eager to eliminate visa requirements for third countries most of which are located in Turkey's immediate neighborhood in this current period and when doing this, it mostly does not take into account the Schengen black and white lists. When signing visa-free travel agreements with most countries, Turkey does not seem to be bothered by the concern to align its visa

regime with that of the Schengen countries. It is also important to underline that while bilateral visa-free travel agreements are signed with some third countries, for some others visa requirements are eliminated unilaterally by Turkey. The changes that have been occurring in Turkey's visa regime and visa obligation list during this period will be dwelled on in the fourth chapter as well, together with those that have happened in the previous period.

Due to the fact that overwhelming majority of the visa-free travel agreements are signed with countries that are on the EU negative visa list, in some spheres close to the opposition parties the government is criticized for drifting away from the goal of membership in the EU and for looking for alternative milieus for regional economic and political cooperation. Some criticism is also stemmed from the fact that some of these agreements are signed with countries from the Middle East like Syria, Jordan and Libya and that the government also unilaterally granted visa-free travel rights to some Gulf countries. The government is criticized of doing so because of its alleged Islamic roots. It is claimed that the government wants to strengthen Turkey's cultural ties with these countries, some of which are governed under strict Islamic rule. Turkish media attributed the term 'shift in the orbit' to this alleged political, economic and cultural movement in the Turkish foreign policy away from the EU towards the Middle East.

### *3.2.2. Turkey's Current Visa Regime*

Although Turkey has a very flexible visa regime compared to that of the EU countries, its structure is not that simple and it has its own specificities regarding the third country citizens' visa obligations. We can divide the third countries into two groups regarding whether their citizens should obtain a visa or not when entering the territory of Turkey: 1) Countries whose citizens can enter the country without a visa obligation for a predetermined time period; 2) Countries whose citizens need a visa to enter the country. Those countries whose citizens need a visa to visit Turkey can be further grouped into three: a) countries whose citizens should apply to Turkey's foreign missions to obtain a visa prior to their arrival; b) countries whose citizens can get their visas at the time of their arrival at the border posts of Turkey either for free or by paying a predetermined amount of money, benefitting from the sticker visa policy; and c) countries whose citizens should normally apply to Turkey's foreign missions to obtain a visa prior to their arrival, but can get stamp visas at Turkey's international airports only when they satisfy certain criteria. This is generally the case for most of the African countries whose citizens travel to Istanbul Ataturk Airport by Turkish Airlines and who are in the possession of a valid visa or residence permit of a Schengen or an Organization for Economic Cooperation and Development (OECD) country. The stamp visas are obtained for free and they are not much different from regular entry stamps sealing the date of the entry and the name of the entry point to the visitor's passport. To sum up, Turkey issues three types of visas for short visits: conventional visas issued at the foreign missions,

sticker visas issued at borders and stamp visas applied to passports at borders. Turkey does not have airport transit visas, but has conventional transit visas which are issued at Turkey's missions abroad for the citizens of countries who need to obtain such visas in order to transit through Turkey's territory.

In practice, the obligation to obtain a sticker visa at the frontier does not usually bear any additional effort or cost for the visitors other than the fee that has to be paid at the border. It is quite a straightforward process. At the international airports, just before passport checkpoints, there is another counter that issues visas for the nationals of the countries who can enter the Turkish territory with such visas. In this context, issuing means simply selling the sticker visa to the visitor and sticking it on his or her passport, without the need to fill any application form or to provide any kind of information on the visitor's part. The official who issues this type of visas does not carry out any screening activity. Neither does he ask any questions to the visitors. Most of the time there is no conversation between the official selling the sticker visas and the visitors. Immediately upon arrival, the visitors first obtain their visas at this counter and continue to the passport checkpoint. The practice is similar at the sea and land borders as well. Therefore, in practice, the visa obligation on the citizens of these countries is nothing more than a formality and a source of income for the Turkish government. Since it does not involve any kind of screening whatsoever, the practice of issuing sticker visas is continuously being criticized by the EU in every progress report and it is demanded that Turkey should abolish this policy.

Table 3.5 and 3.6 display the Turkish white and black lists respectively. When grouping the countries into white and black lists, as was done in the case of the Schengen countries, the UK and Ireland, the countries whose citizens can enter Turkey with a sticker visa that can be obtained at the border are placed in the white list, since due to the fundamental differences in the application and issuing procedures, sticker visas cannot be evaluated on equal terms with conventional visas and it does not actually make any sense to group the countries citizens of which can enter Turkey with sticker visas under the same category with those countries citizens of which have to obtain conventional visas at the foreign missions of Turkey. However, it is necessary to note here that in the official reports, the EU accepts the countries whose citizens can enter Turkey with sticker visas as though they are in the Turkish negative visa list. Although the EU is against the sticker visa policy, in the official reports at least, it is of the opinion that the requirement to obtain a sticker visa still constitutes a visa obligation. Table A6 of the appendix lists the countries whose citizens can benefit from the sticker visa policy.

**Table 3.5: Turkish White List (including the countries that can benefit from the sticker visa policy)**

Albania	Haiti <sup>a</sup>	Norway <sup>a</sup>
Andorra	Honduras	Oman <sup>a</sup>
Antigua and Barbuda <sup>a</sup>	Hong Kong SAR <sup>a</sup>	Panama
Argentina	Hungary <sup>a</sup>	Paraguay
Armenia <sup>a</sup>	Iceland	Poland <sup>a</sup>
Australia <sup>a</sup>	Indonesia <sup>a</sup>	Portugal <sup>a</sup>
Austria <sup>a</sup>	Iran	Qatar <sup>a</sup>
Azerbaijan	Ireland <sup>a</sup>	Romania
Bahamas <sup>a</sup>	Israel	Russia
Bahrain <sup>a</sup>	Italy	Saint Kitts and Nevis <sup>a</sup>
Barbados <sup>a</sup>	Jamaica <sup>a</sup>	Saint Lucia <sup>a</sup>
Belarus <sup>a</sup>	Japan	Saint Vincent and the Grenadines <sup>a</sup>
Belgium <sup>a</sup>	Jordan	San Marino
Bolivia	Kazakhstan	Saudi Arabia <sup>a</sup>
Bosnia and Herzegovina	Kosovo	Serbia
Brazil	Kyrgyzstan	Seychelles
Brunei	Kuwait <sup>a</sup>	Singapore
Bulgaria	Latvia	Slovakia <sup>a</sup>
Canada <sup>a</sup>	Lebanon	Slovenia
Chile	Libya	South Africa <sup>a</sup>
Costa Rica	Liechtenstein	South Korea
Croatia	Lithuania	Spain <sup>a</sup>
Cyprus <sup>a</sup>	Luxembourg	Sweden
Czech Republic	Macao SAR	Switzerland
Denmark	Macedonia	Syria
Dominica <sup>a</sup>	Malaysia	Tajikistan
Dominican Republic <sup>a</sup>	Maldives <sup>a</sup>	Trinidad and Tobago
Ecuador	Malta <sup>a</sup>	Tunisia
El Salvador	Mauritius <sup>a</sup>	Turkmenistan
Estonia	Moldova <sup>b</sup>	Ukraine <sup>a</sup>
Finland	Monaco	United Arab Emirates <sup>a</sup>
France	Mongolia	United Kingdom <sup>a</sup>
Georgia	Montenegro	United States <sup>a</sup>
Germany	Morocco	Uruguay
Greece	Netherlands <sup>a</sup>	Uzbekistan
Grenada <sup>a</sup>	New Zealand	Venezuela
Guatemala	Nicaragua	Vatican

<sup>a</sup> Nationals of these countries can benefit from the sticker visa policy.

<sup>b</sup> Nationals of Moldova can get sticker visas only at the international airports.

**Table 3.6: Turkish Black List (excluding the countries that can benefit from the sticker visa policy)**

Afghanistan	Gambia <sup>a</sup>	Palestinian Territories
Algeria	Ghana <sup>a</sup>	Papua New Guinea
Angola <sup>a</sup>	Guinea <sup>a</sup>	Peru
Bangladesh <sup>b</sup>	Guinea-Bissau <sup>a</sup>	Philippines
Belize	Guyana	Rwanda <sup>a</sup>
Benin <sup>a</sup>	India <sup>c</sup>	Samoa
Bhutan	Iraq <sup>d</sup>	São Tomé and Príncipe <sup>a</sup>
Botswana <sup>a</sup>	Côte d'Ivoire <sup>a</sup>	Senegal <sup>a</sup>
Burkina Faso <sup>a</sup>	Kenya <sup>a</sup>	Sierra Leone <sup>a</sup>
Burma/Myanmar	Kiribati	Solomon Islands
Burundi <sup>a</sup>	North Korea	Somalia <sup>a</sup>
Cambodia	Laos	South Sudan
Cameroon <sup>a</sup>	Lesotho <sup>a</sup>	Sri Lanka
Cape Verde <sup>a</sup>	Liberia <sup>a</sup>	Sudan <sup>a</sup>
Central African Republic <sup>a</sup>	Madagascar <sup>a</sup>	Surinam
Chad <sup>a</sup>	Malawi <sup>a</sup>	Swaziland <sup>a</sup>
China	Mali <sup>a</sup>	Taiwan
Colombia	Marshall Islands	Tanzania <sup>a</sup>
The Comoros <sup>a</sup>	Mauritania <sup>a</sup>	Thailand
Congo <sup>a</sup>	Mexico <sup>e</sup>	Timor-Leste
Cuba	Micronesia	Togo <sup>a</sup>
DR Congo	Mozambique <sup>a</sup>	Tonga
Djibouti <sup>a</sup>	Namibia <sup>a</sup>	Tuvalu
Egypt	Nauru	Uganda <sup>a</sup>
Equatorial Guinea <sup>a</sup>	Nepal	Vanuatu
Eritrea <sup>a</sup>	Niger <sup>a</sup>	Vietnam
Ethiopia <sup>a</sup>	Nigeria <sup>a</sup>	Yemen
Fiji	Pakistan <sup>c</sup>	Zambia <sup>a</sup>
Gabon <sup>a</sup>	Palau	Zimbabwe <sup>a</sup>

<sup>a</sup> Only the nationals of these countries who traveled with Turkish Airlines to Ataturk airport and who hold Schengen or OECD visas or residence permits can get stamp visas at this airport.

<sup>b</sup> Only the Bangladeshi nationals who hold Schengen or OECD visas or residence permits can get sticker visas at the border stations.

<sup>c</sup> Only the nationals of these countries who hold Schengen, UK or US visas can get sticker visas at the border stations.

<sup>d</sup> Only the Iraqi nationals who fly from Baghdad, Erbil, Suleymaniye and Amman airports to Istanbul Atatürk or Antalya airports can get their stamp visas at these airports if they satisfy certain criteria.

<sup>e</sup> Only the nationals of Mexico with Schengen, UK, US, Canada or Japan visas or residence permits can get sticker visas.

It will be relevant here to make a comparison between the visa obligation list of the Schengen countries and that of Turkey in order to see the up-to-date situation in the discrepancy between those two lists. Table 3.7 depicts the countries which are treated differently in terms of visa obligations in the Schengen zone and in Turkey. The countries whose nationals can enter Turkey with sticker visas are again accepted as if they have no visa obligation when entering Turkey in the preparation of this table. Another interesting fact is that these lists, especially that of Turkey, are evolving fast and during the preparation of this thesis, I had to update these tables several times. The latest alignments with the EU visa lists that Turkey carried out was the abolition of the visa requirements on the citizens of Seychelles via the signature of a bilateral visa-free travel agreement on 14 September 2011, and on the citizens of Panama via a unilateral declaration by Turkey on 29 March 2012. The agreement and decision were published in the Official Gazette on 22 December 2011 and 27 April 2012 respectively.



**Table 3.7: Comparison of the visa obligation lists of the Schengen Zone and Turkey (the necessity to obtain sticker visas are not accepted as visa obligations)**

Country	Whether there is visa obligation or not	
	Schengen Zone	Turkey
Armenia	Yes	No <sup>a</sup>
Azerbaijan	Yes	No
Bahrain	Yes	No <sup>a</sup>
Belarus	Yes	No <sup>a</sup>
Bolivia	Yes	No
Dominica	Yes	No <sup>a</sup>
Dominican Republic	Yes	No <sup>a</sup>
Ecuador	Yes	No
Georgia	Yes	No
Grenada	Yes	No <sup>a</sup>
Haiti	Yes	No <sup>a</sup>
Indonesia	Yes	No <sup>a</sup>
Iran	Yes	No
Jamaica	Yes	No <sup>a</sup>
Jordan	Yes	No
Kazakhstan	Yes	No
Kosovo	Yes	No
Kyrgyzstan	Yes	No
Kuwait	Yes	No <sup>a</sup>
Lebanon	Yes	No
Libya	Yes	No
Maldives	Yes	No <sup>a</sup>
Mexico	No	Yes
Moldova	Yes	No <sup>b</sup>
Mongolia	Yes	No
Morocco	Yes	No
Oman	Yes	No <sup>a</sup>
Qatar	Yes	No <sup>a</sup>
Russia	Yes	No
Saint Lucia	Yes	No <sup>a</sup>
Saint Vincent and the Grenadines	Yes	No <sup>a</sup>
Saudi Arabia	Yes	No <sup>a</sup>
South Africa	Yes	No <sup>a</sup>
Syria	Yes	No
Tajikistan	Yes	No
Trinidad and Tobago	Yes	No

<sup>a</sup> Nationals of these countries can benefit from the sticker visa policy.

<sup>b</sup> Nationals of Moldova can get sticker visas only at the international airports.

Tunisia	Yes	No
Turkmenistan	Yes	No
Ukraine	Yes	No <sup>a</sup>
United Arab Emirates	Yes	No <sup>a</sup>
Uzbekistan	Yes	No

According to Table 3.7, 41 countries are treated differently in terms of the visa requirement in the Schengen zone and in Turkey. 40 of them are in the Schengen black list and Turkish white list. Only one of them, Mexico, is in the Schengen white list and Turkish black list.

Since in the official EU documents the obligation to obtain a sticker visa is nevertheless accepted as a visa obligation as indicated before, when the EU talks about the discrepancy between the visa obligation lists of the EU and Turkey, it takes Table 3.8 below as its reference.

**Table 3.8: Comparison of the visa obligation lists of the Schengen Zone and Turkey (the necessity to obtain sticker visas are accepted as visa obligations)**

Country	Whether there is visa obligation or not	
	Schengen Zone	Turkey
Antigua and Barbuda	No	Yes <sup>b</sup>
Azerbaijan	Yes	No
Australia	No	Yes <sup>b</sup>
Austria	No (member)	Yes <sup>b</sup>
Bahamas	No	Yes <sup>b</sup>
Barbados	No	Yes <sup>b</sup>
Belgium	No (member)	Yes <sup>b</sup>
Bolivia	Yes	No
Canada	No	Yes <sup>b</sup>
Cyprus <sup>a</sup>	No	Yes <sup>b</sup>
Ecuador	Yes	No
Georgia	Yes	No
Hong Kong SAR	No	Yes <sup>b</sup>
Hungary	No (member)	Yes <sup>b</sup>
Iran	Yes	No
Ireland <sup>a</sup>	No	Yes <sup>b</sup>
Jordan	Yes	No
Kazakhstan	Yes	No
Kosovo	Yes	No
Kyrgyzstan	Yes	No
Lebanon	Yes	No
Libya	Yes	No
Malta	No (member)	Yes <sup>b</sup>
Mauritius	No	Yes <sup>b</sup>
Mexico	No	Yes
Mongolia	Yes	No
Morocco	Yes	No
Netherlands	No (member)	Yes <sup>b</sup>
Norway	No (member)	Yes <sup>b</sup>
Poland	No (member)	Yes <sup>b</sup>
Portugal	No (member)	Yes <sup>b</sup>
Russia	Yes	No
Saint Kitts and Nevis	No	Yes <sup>b</sup>
Slovakia	No (member)	Yes <sup>b</sup>
Spain	No (member)	Yes <sup>b</sup>
Syria	Yes	No

<sup>a</sup> Members of the EU, but not of the Schengen zone

<sup>b</sup> Sticker visa obligation

Tajikistan	Yes	No
Trinidad and Tobago	Yes	No
Tunisia	Yes	No
Turkmenistan	Yes	No
United Kingdom <sup>a</sup>	No	Yes <sup>b</sup>
United States	No	Yes <sup>b</sup>
Uzbekistan	Yes	No

According to Table 3.8, 43 countries are treated differently under the two visa regimes. Of these 43 countries, nine countries are members of both the EU and the Schengen zone, one country is member of the Schengen zone but not of the EU and three countries are members of the EU but not of the Schengen zone. The nationals of these thirteen countries need to obtain sticker visas at the border when entering Turkey. Of the remaining 30 third countries, 20 countries which are on the EU black list do not need any kind of visa to enter Turkey. So from the viewpoint of the Commission, the official discrepancy between the visa obligation list of the EU and Turkey is currently accepted as 20 countries, meaning Turkey should move these 20 countries from its white list to its black list. This is the number that has to be used in order to be able to make a longitudinal comparison between the numbers reported in the progress reports in different years, although the practical gap is 40 countries as depicted in Table 3.7 above. The citizens of only ten third countries (plus the thirteen EU and/or EEA members obviously) can enter the Schengen zone but not Turkey without visas. Out of these ten, nine countries can benefit from the sticker visa policy. All the thirteen EU and/or EEA members can enter Turkey with sticker visas as well. In practice, the only country whose citizens can enter the Schengen zone

without visas but not Turkey is Mexico. However, again, according to the perspective of the EU which assesses sticker visas on equal foot with conventional visas for reporting purposes, in order to align its white list with that of the EU, Turkey should transfer these 23 countries from its black list to its white list.

As indicated before, reciprocity has always been a critical factor in determining the Turkish visa regime towards third countries. Table A7 of the appendix compares the reciprocal relations in terms of visa requirements between Turkey and the rest of the world. This table reveals that out of 198 countries/entities in question, the reciprocity principle works for 148 of them when sticker visas are considered on equal terms with conventional visas (it should be kept in mind that some of the countries/entities on the list apply sticker visas to Turkish citizens as well). If every country/entity is assessed on equal terms, the reciprocity principle accounts for nearly 75 per cent of the Turkish visa regime. Regarding these 148 countries, Turkey applies visa to their nationals only if they apply visa to Turkish citizens and Turkey does not demand visas from the citizens of the countries/entities which do not require visas from Turkish citizens. Among the 50 countries/entities with which Turkey does not stand on an equal basis with regards to visa obligations, Turkey does not apply visas to the citizens of 29 of them while they apply visas to Turkish citizens; and 21 of these countries/entities do not apply visas to Turkish citizens while Turkey applies visas to their citizens. Among the 29 countries/entities which apply visas to Turks unilaterally, 21 of them are Schengen members and/or European microstates. Of course, when sticker visas are not considered real visa

obligations, Turkey is on unequal terms with all the EU countries plus members of the Schengen zone who are not EU members plus Monaco, San Marino and Vatican, which adds up to 34 countries, since all of them have visa obligations in force for Turkish citizens. When we look at the broadest possible picture in the European continent which includes the Council of Europe Members plus Belarus and Vatican – 48 countries excluding Turkey – Turkey does not apply conventional visas to any of them. It applies sticker visas to 17 of them, while the citizens of the remaining 31 can enter Turkey without any visas. In return only nine of them do not apply visas to Turkish citizens while three of them apply sticker visas. The remaining 36 countries all have conventional visa requirements for Turkish citizens. To sum up, within the context of the EU and the Europe in general, where Turkey tries to integrate itself in politically, economically and culturally, the reciprocity principle in visa regimes does not work for Turkey.

## **Conclusion**

This chapter engaged in the discussion of the pivotal characteristics of the Schengen and Turkish visa regimes. The origins of the Schengen visa regime were explained and the Turkish visa regime in different periods of the recent history was investigated.

The results of the analysis conducted in this chapter proved that Turkey's visa regime is very liberal and flexible compared to that of the EU. The most fundamental

difference between the Turkish and Schengen visa regimes, at the same time the main reason behind the flexibility of the Turkish visa regime, seems to be the Turkish practice of issuing sticker and stamp visas for the nationals of certain third countries at the borders. Turkey was called in many occasions to end this policy, however terminating this policy may mean huge losses of tourism revenues for Turkey, therefore, naturally Turkey wants to continue its liberal visa policy as long as it can. Moreover, Turkish white and black lists differ from those of the EU a great deal and Turkey does not prioritize harmonizing its visa obligation list with that of the EU. Turkey's performance in specific areas regarding the adoption of the EU rules, practices and standards in the area of migration and visa policy will be discussed in the next chapter.

## **CHAPTER 4**

### **AN ANALYSIS OF TURKEY'S READINESS AND WILLINGNESS TO ADOPT THE EUROPEAN MIGRATION AND VISA REGIME**

#### **Introduction**

This chapter will investigate and analyze the relationship between the EU and Turkey in the area of migration management, concentrating especially on the issue of visa regimes. As it is already emphasized, Turkey's EU candidacy brings along many responsibilities and duties that Turkey has to fulfill in order to align its body of law with the EU *acquis* and become a member of the EU. Among others, the EU closely observes the progress shown in the area of migration management and visa regimes as well. Each year, the EU lists the achievements and shortcomings of the candidate countries with regards to their efforts in adopting the *acquis communautaire* in the progress reports it issues. In these reports, the Commission comments on the progress achieved by the candidates and highlights the areas that need improvement in the thirty five chapters of the *acquis*. Issues related to migration management and visa regimes are grouped under Chapter 24, which is titled 'Justice, Freedom and Security'.

In this chapter, the EU's concerns and demands regarding Turkey's visa regime and Turkey's responses to these demands will be analyzed. The opinions of



the officials from both the EU and the Turkish side on this matter as expressed during the fieldwork conducted will also be incorporated into the analysis.

#### **4.1. Amendments in the Turkish Visa Regime due to EU Conditionality after 1999**

The main change after 1999 in the Turkish visa regime came in the form of bilateral visa-free travel agreements signed with third countries. This trend started towards the end of the 1990s when the 57<sup>th</sup> Government of the Turkish Republic formed by the coalition of Democratic Left Party (in Turkish Demokratik Sol Parti, DSP), Motherland Party (in Turkish Anavatan Partisi, ANAP) and Nationalist Action Party (in Turkish Milliyetçi Hareket Partisi, MHP) started to sign such agreements predominantly with the countries in Latin America, mainly due to EU conditionality. During the time, the government did not have much trouble in concluding these agreements with the countries in question, since the stakes involved were not very high for either side. After all, these countries are located far away from Turkey and the cultural and economic ties between these countries and Turkey are relatively weak. Thus, the volume of travel between Turkey and these countries was and still is not very high. Consequently, these agreements were not echoed very much in the press and did not attract much attention from the public at the time. They were generally thought of as merely symbolic agreements which helped Turkey to align with the Schengen white list.

Having gained prominence during the term of the previous government, signing visa-free travel agreements with third countries has turned into an important policy tool for the AKP government as well. The signing of bilateral visa exemption agreements with various Latin American countries continued till 2006. However, the second AKP government shifted the focus area of these agreements to closer regions and especially after 2007, Turkey started to sign visa exemption agreements with the countries in its immediate neighborhood, located in Eastern Europe, the Balkans and the Middle East, such as Montenegro, Kosovo, Albania, Russia, Serbia Syria, Lebanon, Libya and Jordan, most of which are included in the Schengen black list. These agreements were signed mainly due to Turkey's efforts to strengthen its ties with the countries in the region and arguably due to Turkey's intentions to become a regional super power. Naturally, Turkey has more developed economic and cultural relationships with these countries and the volume of travel between these countries and Turkey is very high. By the help of these agreements, the contact between the people of Turkey and of these countries has been increasing and Turkey's tourism revenues have been rising. Moreover, these agreements serve the AKP government for electoral purposes to a certain extent as well. The government tries to take the credit for increasing Turkey's prestige in the region and as a matter of fact, the public's reaction to these visa-free travel arrangements seems to be positive.

During this period, apart from the bilateral visa exemption agreements, the government took unilateral decisions to exempt the citizens of certain countries, most of which are located in Central Asia, from the visa requirement when visiting

Turkey. In addition, with some more distant countries, especially with some African countries, the government signed bilateral visa-free agreements valid only for the holders of diplomatic and/or service, special and official passports. The agreements signed and the decisions granted by the government related to the visa obligations on the citizens of third countries since 1999 are listed in the appendix through the tables A8 to A19.

A very recent change that brought about major implications for the Turkish visa regime concern the limitation of the duration of stay of foreigners visiting Turkey. According to the decision of the Council of Ministers no. 2011/2306 dated 10 October 2011, published in the Official Gazette no. 28094 dated 24 October 2011, every foreigner who entered the country either with a visa or without a visa benefitting from visa exemption can stay in Turkey for a maximum of 90 days in a period of 180 days, irrespective of his or her nationality. If a foreigner would like to stay in Turkey more than 90 days in a period of 180 days, he or she should apply for a residence permit. This decision has been in force since 1 February 2012. This new policy is said to target the foreigners who abuse the conditions of their stay and work illegally in Turkey after entering the country as a tourist. Theoretically, it was possible before for a foreigner to stay in Turkey for an indefinite period without obtaining a residence permit. A foreigner could exit the country when his or her visa or permission of stay ends for just one day and could return back on the next day, even on the same day. With the limitation introduced by the new decision, this is no longer possible. This decision is supposedly aimed to regulate the job market by

cutting the number of foreigners working irregularly in the country. It can also be considered as a step to align the Turkish visa regime with that of the EU, since the 90/180 rule is strictly applied in the Schengen visa regime for the nationals of third countries both on the white and black lists.

The changes that have been happening in Turkey's visa regime have been assessed in the progress reports prepared by the Commission as well. The first ever progress report for Turkey was issued in 1998 by the Commission; however, in this very first report there is no explicit reference to the visa issue. The visa issue is mentioned for the first time in the 2000 Report – the first one after Turkey's official candidacy was declared. In this report, it is pointed out that Turkish visa regime is not in line with that of the EU. The example of Iran is given as a country on the EU visa black list, but whose citizens can enter Turkey without the need to obtain a visa. Furthermore, it is underlined that no alignment can be recorded since the previous year in this area. In the 2001 Report, the Commission noted that Turkey ended the visa-free regime with Kazakhstan and Bosnia and Herzegovina in that period and the right to visa-free travel to Turkey was granted for Bulgarian citizens. The decision of Turkey to introduce airport transit visas for some origin countries was praised as well. In the 2002 Report, the Commission praises Turkey for its efforts to harmonize its visa regime with that of the EU by introducing visa requirements for the citizens of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and United Arab Emirates. The Commission underlines that the discrepancy between the EU common visa list and that of Turkey is twenty one countries at the time the report was prepared. Moreover,

the practice of granting sticker and stamp visas at the borders and the lack of airport transit visas in the Turkish visa system is criticized. In the 2003 Report, it is noted as a positive development that Turkey's efforts to align with the EU visa list continues. In the period covered by this report, Turkey ended the visa exemption for the citizens of the Bahamas, Barbados, Belize, Fiji, Grenada, Indonesia, Jamaica, Kenya, Maldives, Mauritius, Saint Lucia, Seychelles and South Africa. The 2004 Report praises Turkey for its further alignment with the Schengen negative visa list, by introducing a visa requirement for citizens of Azerbaijan. It is underlined that the discrepancy between the visa obligations lists of the EU and Turkey has fallen to six countries. During the period, Turkey and Brazil signed a visa-free travel agreement, which constitutes a positive step towards alignment with the EU positive list. In the 2005 Report, it is admitted that Turkey is continuing its alignment with the EU positive visa list by eliminating the visa requirement for citizens of Guatemala and Czech Republic. In this period, Turkey introduced visa requirements for the nationals of Marshall Islands and Micronesia, which is seen as a positive step towards alignment with the EU negative visa list. However, the discrepancy in the visa obligations list between the two sides still continues to be six countries.

During the reporting period of the 2006 Report, visa-free travel agreements with Paraguay and Venezuela entered into force, and Andorran citizens were exempted from the visa requirement. However, no progress with regards to the negative list was observed. A positive development was that Turkey started to harmonize its visa stickers with the uniform EU visa sticker. However, the fact that

nationals of 35 countries, 17 of which are EU members, can still apply for visas at the borders is criticized and Turkey is called once again to end this procedure and to issue all kinds of visas through its consular posts. In the 2007 Progress Report, it is acknowledged that Turkey has achieved some progress in the domain of visa policy. The lifting of the sticker visa requirement on Italian citizens is accepted as a positive step. It is claimed that eight countries should be added to the Turkish positive list for achieving a complete alignment with that of the EU. During the period, Turkey lifted the visa obligation on the citizens of Azerbaijan, Mongolia, Tajikistan, Turkmenistan and Uzbekistan, which is a development contradicting with the harmonization efforts with the Schengen *acquis*. Turkey is urged once again to introduce airport transit visas and stop issuing visas at the borders. In the 2008 Report, the Commission stresses that there is no progress on the Turkish side in the domain of visa policy. Airport transit visas have not been introduced and the issuing of visas at the borders continues. Nationals of sixteen EU member states are still under visa obligation when travelling to Turkey. Furthermore, no progress was made regarding alignment with the EU black and white lists. In the 2009 Report, the fact that Turkey does not apply a uniform visa policy towards the nationals of different members of the EU is criticized. At the time, nationals of fifteen member states were under the obligation to obtain a visa to enter Turkey. Nevertheless, Turkish efforts to align with the EU visa lists continued in this period. Turkey lifted the visa obligation on the citizens of Brunei in April 2009. It is also underlined in this progress report that Turkey, in line with its regional vision, has a visa-free travel regime in force with some South

European countries although they are on the EU black list, the latest addition to this group of countries being Kosovo. The continuing practice of issuing sticker and stamp visas at the borders is called to be ended once more. In addition, the fact that airport transit visas and new Turkish visas with high security features have not yet been introduced is criticized. In the 2010 Report, Turkey's introduction of a new regulation which limits the duration of stay of all foreigners in the country by 90 days within a period of 180 days, which is in line with the Schengen *acquis*, is considered a positive development, although this limitation will be binding for the EU citizens as well. Moreover, in this period the number of the EU countries whose citizens require visas to enter Turkey has fallen from fifteen to twelve. However, the issue of the introduction of the airport transit visas is still pending and no steps were taken to gradually abolish the issuance of sticker and stamp visas at the borders. During the period, Turkey moved further away from the EU visa lists, by agreeing on visa-free travel with Libya, Jordan, Lebanon, Syria and Russia. Turkey signed a visa exemption agreement with Serbia and lifted the visa restrictions on Albanian citizens during the period<sup>6</sup>. In addition, the EU underlines the fact that Turkey is trying to revive its economic relations with some countries in the region by the way of granting visa exemption to their citizens, which means Turkey has increasingly started to use visa-free travel agreements and unilateral declarations of visa exemption as policy tools. In the 2011 Report, criticisms concentrate on the same points: airport transit visas have not yet been introduced and sticker and stamp visas

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<sup>6</sup> Albania was on the EU black list till December 2010, so this was accepted as a step away from the harmonization efforts during the time.

are still issued at the borders for the citizens of 48 countries. Furthermore, the EU openly criticizes Turkey for concluding visa-free travel agreements with the countries that are on the EU's negative visa list. It is also noted that no alignment with the EU common visa lists has taken place during the period. The only positive development recorded in this period is that in August 2010 Slovenia became the latest EU member to which visa exemption is granted by Turkey. In addition, the report once again stresses the fact that Turkey is trying to improve its regional economic ties by utilizing visa-free travel agreements.

According to a high ranking official at the Turkish Ministry of Foreign Affairs, the reason why citizens of some members of the EU/EEA need sticker visas while others do not is simply 'historical coincidence', although this explanation does not seem convincing because when the sticker visa policy was introduced in 1990, almost all the then members of the EU/EEA demanded visas from Turkish citizens, so the differentiation could not have been made depending on whether a country has required visas from Turkish citizens at that time or not. The date when these countries started to demand visas from Turkish citizens is not an explaining factor, either. For instance, Sweden began requiring visas from Turkish nationals in 1976 and is one of the first European countries which started demanding visas from Turks, whereas the UK introduced compulsory visa requirements for Turkish citizens only in 1989. However, today Turkey demands sticker visas from British citizens whereas Swedish nationals do not have to obtain such visas when entering Turkey. Thus, in this sense, historical factors do not seem to play a decisive role, either.



Furthermore, according to the information given by him, the EU/EEA countries whose citizens need this kind of visas to enter Turkey strictly demand that Turkey should abolish requiring visas from their nationals. However, Turkey is reluctant to do so, since these countries do not offer Turkey anything in return (Interview, 05.12.2011).

#### **4.2. Turkey's Migration System: Towards Supranational Control?**

If Turkey is serious in its bid to join the EU, it will eventually have to relinquish its sovereignty in migration management and share it with appropriate EU bodies once it fully aligns its national law on migration with the EU *acquis*. Once the sovereignty on migration control is handed over to the EU, Turkey will no longer have direct control on its visa regime, like the Schengen countries. Turkish white list and black list have to be replaced by those of the EU and this is expected to have a significant impact on Turkish economy by depressing tourism revenues. As explained in the previous section, especially since 2007 Turkey has started to drift away from the EU negative list by signing bilateral visa exemption agreements with some third countries and by granting unilateral visa exemption decisions targeting some others which are in the Schengen negative visa list. This drift away from the common Schengen visa obligations list to a certain degree reveals the unwillingness on the Turkish side to give up national control on its visa regime. The reasons and institutional dynamics beyond this resistance put up by the relevant Turkish

authorities against handing over control in this area will be analyzed in the next chapter.

Apart from the unwillingness in Turkey to give up the right of determining its own white and black list, another major obstacle in the way of supranationalization of the control in the Turkish migration regime stems from the fact that several different bodies within the Interior and Defense ministries, including military ones, are responsible for the management and control of different sectors of Turkey's borders and every unit that is part of this structure has its own opinions and priorities. As a result, it is very hard to convince all these units that supranationalism in this domain should be the ultimate goal. As early as 1999, the Commission started to criticize this aspect of Turkish border control system in the progress reports. The idea that Turkey should establish a unified border control authority to achieve better coordination and efficiency is first voiced in this progress report. At the time, Turkey's sea borders were controlled by the Coast Guard under the Ministry of Interior, whereas the land borders were controlled by the Land Forces under the Ministry of Defense and Gendarmerie under the Ministry of Interior. Moreover, the border crossing points and airports were controlled by the Police under the Ministry of Interior. As a matter of fact, this fractured structure in the Turkish border management system still continues as of today. The Commission made it clear in this progress report that the EU is against this multi-layered structure in the control of Turkey's borders. In the 2000 Report, this scattered control structure in the domain of border management and control is criticized again. The lack of civilian command

on border management is listed as a drawback as well. The first tangible development in this area occurred during the period encompassed by the 2001 Report, in which it is pronounced as a positive development that a coordination process has actually begun between the various ministries and bodies involved in the border control area and in the 2002 Report, Turkey's continuing efforts towards integrated border management were supported by the EU. The 2003 Report welcomes the plans that seem to be underway for the creation of a new body within the Ministry of Interior for managing the borders, consisting of non-military, professional officials.

The EU continued to recommend in the following progress reports that Turkey should establish a civilian and unified integrated border law enforcement authority since adopting an integrated approach to border management and control is a crucial step that Turkey has to take in order for the negotiations to be successful in the chapter of 'Justice, Freedom and Security' (2004 Regular Report on Turkey's Progress towards Accession). Furthermore, the Commission repeatedly stressed that till this new authority is established, developing the cooperation between the agencies responsible for the management of different types and sectors of borders is of utmost importance (Turkey 2008 Progress Report). Actually, Turkey issued a National Action Plan regarding the adoption of an integrated border management strategy in March 2006. However, the EU is critical of the fact that Turkish border management staff does not show enough attention neither to the Turkish national

strategy on integrated border management nor to the action plan to implement it (Turkey 2008 Progress Report).

As a matter of fact, in the last couple of years Turkey increased its efforts in harmonizing its border management system with that of the EU. In 2010, a coordination board was set up with the duty of monitoring the progress towards the goal of integrated border management (Turkey 2010 Progress Report) and the drafting of Roadmap on Integrated Border Management and the Protocol for Inter-Agency Cooperation has been finished (Turkey 2011 Progress Report). However, the ongoing discontent of the EU regarding the military control over some segments of the borders continues and this issue surfaced during the interview conducted with the Delegation of the European Union in Turkey as well. According to an official there, the Coast Guard resists the idea of integrated border management and as a result of this resistance, the draft law on integrated border management is stuck at the Ministry of Interior. Although he accepts that a military border patrol under the responsibility of the Ministry of Interior is needed in Turkey's conditions, this unit should have special training on the procedures and it should consist of professional military staff, not of conscripts. And military's involvement should be limited to patrolling and security. It should not take part in the control of border crossing (Interview, 06.12.2011).

During the interview, he further underlined that it is very hard for them to work with the Turkish military, since the military officials prefer discussing this kind of issues with military attaches only. According to him, although it is a fact that

Turkish Military has been weakened in the recent years vis-à-vis the government, it was still able to block the draft law on integrated border management, which points out to the fact that it still has considerable influence in these matters. He thinks that it is a pity that the EU cannot work with Turkish military on this issue. He is of the opinion that it would have helped if Turkish military had more personnel who served abroad and get involved in joint projects. Then, according to him, the military personnel would be more open and easier to work with within the framework of EU projects. Furthermore, he is of the opinion that it is not easy to work with the Turkish Ministry of Interior either, since the Ministry of Interior has a different agenda and it does not have staff capable of discussing these issues with their counterparts in the EU member states (Interview, 06.12.2011).

These findings suggest that Turkey is not yet ready to hand over its sovereignty in migration management and control to the EU, mainly because of the economic advantages that Turkish flexible visa regime provides Turkey with and the current multi-layered control structure in the border control domain. The economic benefits harvested from an almost open border policy are too great to forfeit for Turkey at the current stage. Furthermore, it seems hard to reach a consensus between the different agencies responsible for the border control on the issue of integrated border management, especially because of the objections coming from the military related to handing over its responsibility to a possible unified civilian border law enforcement agency, which is yet to be established.

### **4.3. Securitizing Migration in Turkey**

Since Turkey has not been a traditional migrant receiving country, the securitization of migration discourse has not yet developed to the full extent in the Turkish context. The threat of mass immigration into Turkey is not imminent at least for the time being and thus securitization of migration is not an urgent topic on Turkey's agenda. The current open and flexible visa regime of Turkey is a reflection of this fact. However, with the Europeanization process, it can be observed that the idea started to flourish in the policy circles, perhaps not because of the threat of irregular migration targeting Turkey as its final destination at this stage, but because of the pressure from the EU urging Turkey to curb the irregular transit migration of other third country nationals through its territory.

The subject of irregular transit migration through Turkey into the EU is one of the most frequently echoed topics in the progress reports in the section devoted to Chapter 24, entitled 'Justice, Freedom and Security'. Starting from the very first progress report in 1998, the Commission underlines that Turkey has turned into a transit country for migration into the EU. Similarly to the previous report, the 1999 Report attracts attention to the fact that Turkey has become an important transit route for illegal<sup>7</sup> immigrants on their way to Europe and as evidence to this claim, the Commission stresses that the number of illegal immigrants caught while transiting

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<sup>7</sup> Although the term 'irregular migration' is used in this thesis instead of 'illegal migration' for ethical concerns, the progress reports chose to use the word 'illegal' to define the same phenomenon until 2008 (the word irregular appeared in one phrase in the 2002 report and then disappeared until the 2008 report), therefore I preferred to stay loyal to the original wording in this part of the thesis when making references to the progress reports. Starting with the 2008 report, the two words started to be used interchangeably by the Commission.

through Turkey is on the rise. The report welcomes the fact that Turkey and Greece started talks on fighting against illegal immigration in 1999. Turkey's participation in the Budapest Process and cooperation with the International Organization for Migration in training activities is praised as well. The 2000 Report urges Turkey to accelerate its efforts to stop the illegal migration through Turkish territory targeting the EU. Similarly, the 2001 Report stresses the increasing trend of illegal migration flows in Turkey. The EU is also critical of the fact that Turkey has not yet ratified the 2000 United Nations (UN) Convention against Transnational Organized Crime and its Protocol Against the Smuggling of Migrants by Land, Sea and Air although being a signatory to it. Nevertheless, the EU acknowledges that Turkey has been taking some steps in order to fight illegal migration such as establishing new check points and increasing the capacity of sea patrols. Furthermore, suspicious vessels at the harbors were started to be monitored with increased attention and pursued when necessary. Another positive development is that construction of watchtowers began at the border with Iran. Moreover, the training program organized by the Ministry of Interior on the prevention of forgery and detection of forged documents in order to fight against illegal border crossings was praised as well.

During the period covered by the 2002 Report, Turkey increased the personnel working at the busy border crossing points and the training programs for the border staff on detecting forged identity documents and visas continued. The efforts to control the movements of suspicious vessels have increased and Turkey contacted the neighboring countries with the intention of jointly establishing an early

warning system. Turkey continued to train sniffer dogs for the purpose of detecting irregular migrants hidden in vessels. However, the ratification of the 2000 UN Convention was still pending at the time. The EU acknowledged for the first time in the 2003 Report that the illegal migration through the territory of Turkey is in decline. It is underlined that illegal migration routes were diverted elsewhere in 2002 and 2003 as a direct result of Turkey's increased effort and intensified cooperation with the EU in combating illegal migration flows. This fact was re-emphasized in the 2004 Report as well. Moreover, negotiations on a Joint Action Programme on Illegal Migration between the EU and Turkey continued during 2003 and 2004. In 2004, the coast guard has increased its surveillance efforts in the Aegean and Mediterranean Seas. The number of both the boats and personnel involved in these surveillance activities was increased. In the 2007 and 2008 Reports, it is stressed that Turkey has been increasing its capacity to shelter illegal migrants. In the 2008 Report, the Commission welcomes the formation of a working group with the aim of carrying out joint risk analyses which made it possible for different agencies responsible for tasks related to irregular migration to collaborate. In the 2009 Report, it is underlined that there has been a slight increase in the number of illegal migrants apprehended in 2008 compared to the previous year. Although the capacity to accommodate illegal immigrants is rising, it is still being considered as inadequate by the Commission. In the period covered by the 2010 Report, the Ministry of Interior issued a circular and a coordination board was established in order to combat irregular migration. The aim of this coordination board is to enhance the cooperation between the different bodies



involved and monitor the operations conducted with the aim of fighting irregular migration. Turkey's efforts to increase its capacity to shelter irregular immigrants continued during this period as well. It is also pointed out that in 2009, irregular migration flows through Turkey sharply declined compared to the previous year. In the 2011 Report, it is once again stressed that Turkey is an important transit country for irregular migrants on their way to the EU. During the year, Turkey continued to increase its capacity to host irregular migrants.

The interviews carried out with the relevant officials in both the Turkish and the EU side reveal how prominent the issue of irregular transit migration currently is. A high ranking official at the Delegation of the European Union in Turkey admits that recently Turkey has indeed been increasing its efforts to stop irregular migration into the EU. He is of the opinion that the cooperation between the Turkish and the EU authorities has increased and Turkey has started to set up more checkpoints at its Western borders. Moreover, he added that Turkish authorities are getting more successful in stopping the irregular migrants targeting the EU and the number of people apprehended on the Turkish side while attempting to cross the EU border is increasing. However, although he acknowledged that Turkey is increasing its border checks on the Greek border, he underlined that there is still room for improvement. For instance he believes that although the number of troops that are deployed in the Edirne region is increasing, the issues related to their coordination and organization

are yet to be solved<sup>8</sup> (Interview, 06.12.2011). As a matter of fact, the officials at the Turkish Ministry of Foreign Affairs also find truth in this criticism by accepting that there is an insufficiency of authority on the Turkish side at the Greek border (Interview, 05.12.2011).

According to the officials at the Ministry of Foreign Affairs, the EU urges Turkey to accomplish three main tasks in order to stop the irregular immigration into the EU through Turkey: 1) the introduction of biometric passports; 2) the implementation of integrated border management; and 3) the signing of a readmission agreement with the EU. They stated that biometric passports were already introduced and the old passports will not be used after 2015, the efforts to implement integrated border management are on the move and the terms of the readmission agreement are almost finalized (Interview, 05.12.2011). Actually, as a very recent development, a readmission agreement between the EU and Turkey was initialed on 21 June 2012. The implications of this will be discussed below in the section devoted to the readmission agreements.

The Ministry of Foreign Affairs officials further argue that Turkey has taken important steps in combating irregular migration. For instance, Turkey is participating in some international fora, like the Budapest Process encompassing 51 countries from both the East and the West. Turkey has been chairing it since 2006.

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<sup>8</sup> An interesting example that the official at the Delegation gave regarding the organizational issue was that land forces that are responsible on the Greek border stand on duty facing Greece rather than looking the other way to check who is approaching to cross the border irregularly. He is of the opinion that more guards should monitor the possible irregular exit points on the Turkish side of the border.

Another similar forum in which Turkey participates is the Circular Routes Working Group that brings together countries of origin and destination. Moreover, according to the information provided by the officials, bilaterally Turkey works closely with the UK on preventing irregular migration and recently Switzerland has shown some interest in collaborating with Turkey in this domain (Interview, 05.12.2011).

The findings point out to the fact that although Turkish public does not feel directly threatened by irregular migration since Turkey is not the ultimate target of most of these flows at the time being, due to the EU conditionality the government has recently accelerated its efforts to combat it. Contrary to the practice in Europe, the issue of securitization of migration is not politicized in Turkey and cannot be used as an instrument to gain electoral support since anti-immigrant sentiments are not pronounced in the public, at least for the time being. However, the government has recently started to spend a great deal of effort to develop policies and tools to be utilized in the process of securitization of migration. In this respect, the government's efforts to digitalize migration, sign readmission agreements with source countries and enhance its remote control capabilities will be analyzed in the next sections.

#### **4.4. Efforts to Digitalize Migration in Turkey**

As indicated earlier, the whole migration process in Europe has already been digitalized almost completely and the search for new technologies that are believed

to improve the efficiency and performance of the migration control procedures continues at an increasing pace. In the progress reports, the Commission constantly urges Turkey to keep up with the EU member states in the process of digitalization of migration and praises Turkey when developments are recorded. For instance, in the very first progress report of 1998, Turkey's launch of new passports matching with the standards of the International Civil Aviation Organization is welcomed. During the period, Turkey started the optical scanning of passports as well, a practice that could prove useful in the fight against irregular migration according to the Commission. In the 2001 Report, the Commission acknowledges Turkey's preparations for participating in the SIS as a positive development in this domain. Another positive development that the EU noted was the completion of the Integrated Communication System Project which enables all Gendarmerie units to quickly share information related to border control. Similarly, in the 2002 Report Turkey is praised since it has continued to install optical readers at border crossing points in order to detect forged identity documents throughout the year. During this period, Turkey started to take part in the Center for Information, Discussion and Exchange on the Crossing of Frontiers and Immigration (CIREFI) Early Warning System, to exchange information with CIREFI countries and to send statistical data to CIREFI Center. It is stressed that Turkey continued its preparations to harmonize its visa stickers with those of the EU. In addition, it is underlined that Turkey uses an online link connecting the central authorities, border crossing points and most of the foreign missions and that Turkey has a national visa register unit under the

responsibility of the Ministry of Interior. In 2003, the Commission advised Turkey to train its staff in the foreign missions for better detection of forged documents. Turkey also ensured participation in the Facilitation Information System of the Member States of the European Civil Aviation Conference for early warning against illegal migration at its airports. The continuing training activities on anti-forgery have brought about positive results, the number of forged documents detected at the borders increased. Turkey continued to take part in the activities carried out by CIREFI in 2003, 2004 and 2005. In the 2006 Report, the EU highlights the deficiencies in the infrastructure and the lack of document checking equipment at some of the border crossing points. Moreover, according to the Commission, surveillance equipment at the border crossing points and land borders should be adapted to Turkey's circumstances. Similarly, the 2007 Report underlines the necessity to modernize the checking equipment as well. In the 2008 Report, the Commission criticizes Turkey for not having a compatible data system on migration. The rising trend in the detection of forged documents continued during this period as well.

The EU demanded for the first time in the 2009 Progress Report that Turkey should incorporate biometric features in the passports, travel documents and visas it issues. Turkey acted rapidly upon the recommendation. New Turkish passports with biometric security features were quickly introduced and they were started to be used in June 2010. Moreover, the 2009 Report praises Turkey since it continued its efforts to modernize the border crossing points during the period. Although giving credit to

Turkey for its quick launch of the biometric passports in the 2010 Report, the Commission criticized Turkey for delaying the introduction of the new visa stickers with higher security features. The Commission was concerned that the databases are not used efficiently at the Turkish borders and the amount of risk analysis conducted is insufficient. The need of additional technical equipment at the borders was also underlined. The introduction of the high security visa stickers came in 2011 and the Commission commented positively about this development in the 2011 Report. However, the EU demanded that these new visa stickers should be used by the foreign missions and they should replace the stamp visas issued at the borders as soon as possible, which is a goal yet to be achieved by Turkey. In addition, the EU recommends that Turkey should use more surveillance equipment such as infrared cameras and sensor systems in the fight against irregular migration.

Although the Commission was positive about the introduction of the new biometric passports in Turkey, during the interview a high ranking official in the Delegation of the European Union to Turkey indicated his doubts about the security features of the new biometric passports of Turkey. He told that he had visited the facility where the biometric passports are produced and observed that the production procedures are not fully automated and not guided by the European standards. For instance, he observed that different people assemble different parts of the passports which may, according to him, occasionally cause problems in the areas that contain the name and photograph of the owner of the passport (Interview, 06.12.2011).

#### **4.5. Readmission Agreements in the Turkish Migration System**

As previously discussed, signing readmission agreements with third countries is an important tool of the European migration regime in the fight against irregular migration. The issue of readmission agreements concerns Turkey in two ways. Firstly, in parallel to its own strategy, the EU encourages Turkey to sign readmission agreements with third countries, especially with the ones that have a high potential of sending irregular migrants into the EU through Turkish territory. Secondly, although Turkey is a candidate country with a real prospect of being a part of the EU in the near future, the EU nevertheless demands that Turkey should sign a readmission agreement with the EU and the granting of a possible visa-free travel right to the EU for Turkish citizens is tied to the signing and successful implementation of such an agreement. The EU gives utmost importance to the signing of a readmission agreement between Turkey and the EU and thus it is one of the most recurring topics in the annual progress reports.

Even in the first progress report of 1998, the EU criticizes Turkey for its unwillingness to sign readmission agreements neither with the origin nor the EU countries resorting on constitutional grounds and in the next year's report, the negative attitude of Turkey towards signing readmission agreements is criticized again. Similarly, in 2000 the Commission cited the importance of signing readmission agreements for Turkey. In the 2001 Report, it is welcomed that Turkey has started negotiating readmission agreements with both destination and origin countries. A readmission agreement was signed between Turkey and Syria on 10

September 2001. Turkey contacted Iran, Pakistan, China, Sri Lanka, India, Bangladesh, Bulgaria and Romania (all classified as countries of origin at that time) in order to negotiate bilateral readmission protocols during the period covered in this progress report. Moreover, according to the Commission, there is significant progress towards signing a readmission protocol with Greece. In the 2002 Report, the Commission indicated its positive opinion about the fact that the protocol on readmission between Turkey and Greece was put in force, however it is critical of the fact that Turkey does not apply the conditions of the protocol to the full extent. Moreover, Turkey's continuing efforts to sign readmission agreements with some destination and origin countries are welcomed by the EU once more. In this period, Turkey sent draft agreements to Egypt, Russia, Belarus, Georgia, Israel, Sudan, Nigeria, Ethiopia, Morocco, Tunisia, Libya, Algeria, Jordan, Lebanon, Kazakhstan, Uzbekistan, Kyrgyzstan and Mongolia. Although the readmission agreement signed with Syria has not been ratified by Turkey yet, it was put into force during this period. The Commission also underlined the importance of the signing of a readmission agreement between the EU and Turkey.

In the 2003 Report Turkey is again praised for its efforts to negotiate readmission agreements with third countries. Turkey concluded a readmission agreement with Kyrgyzstan, advanced the negotiations with Bulgaria, continued the negotiations with Uzbekistan, initialed an agreement with Romania and ratified the agreement signed with Syria during the period. However, it did not reply formally to the demand of the EU regarding the opening of the negotiations of an EU-Turkey



readmission agreement and the problems in the implementation of the readmission protocol between Turkey and Greece continued in this period. Up to this time, it is possible to observe that Turkey has been keen on signing readmission agreements or protocols with the countries to which expectedly Turkey would deport more irregular migrants than it would readmit. However, there has been a certain degree of reluctance and lack of interest on the part of Turkey when the question was whether to sign similar agreements with countries from which Turkey would have to readmit more migrants than it could send them.

This situation changed a bit when in March 2004 Turkey agreed to start negotiations with the EU on a readmission agreement and this development is welcomed by the Commission in the 2004 Report. Turkey's efforts to sign readmission agreements with some other countries continued during this period as well. Turkey concluded a readmission agreement with Romania and negotiations on an agreement continued with Bulgaria, Ukraine, Libya and Uzbekistan. The negotiations on a readmission agreement with the EU were opened in May 2005 and Turkey went on to negotiate and conclude readmission agreements with third countries during the period covered by the 2005 Report as well. The agreement with Romania was ratified and an agreement with Ukraine was signed. Negotiations continued with Bulgaria and Russia as well in 2005.

The urgency of signing a bilateral readmission agreement with Turkey for the EU is evident in the attitude of the EU towards the issue. Although the negotiations started in May 2005 and it is known that the case of Turkey is more sensitive

compared to other third countries mainly because of its geographic location, the Commission did not lose time to criticize Turkey in the 2006 Report for being slow in the process of the readmission agreement negotiations with the EU. Similarly in the 2007 Report, it is emphasized that no progress was achieved in the negotiations of a readmission agreement between the EU and Turkey.

Turkey stopped negotiating with the EU on a readmission agreement in December 2006 and as expected, this decision was criticized in the 2008 Report by the Commission. In the 2009 Report, Turkey's decision to resume the negotiations on the readmission agreement with the EU is listed as a positive development. The Commission underlined as a positive development that the negotiations on a readmission agreement between the EU and Turkey are close to being finalized in the 2010 Report. Turkey was also praised in this report since it continued its efforts to sign readmission agreements with third countries. The negotiations with Pakistan were finalized and agreements with Azerbaijan, Bangladesh, Belarus, Bosnia and Herzegovina, Macedonia, Georgia, Lebanon, Libya, Moldova, Russia and Uzbekistan were being discussed. The finalization of the negotiations on a readmission agreement between the EU and Turkey was seen as a positive development in the 2011 Report and Turkey's efforts to conclude readmission agreements with third countries are praised once more. In this period, Turkey concluded readmission agreements with Nigeria and Russia. Negotiations continue with Serbia and Belarus and the talks are going on in order to start the negotiations

on a readmission agreement with Azerbaijan, Bangladesh, Bosnia and Herzegovina, Macedonia, Georgia, Lebanon, Libya, Moldova, Sri Lanka and Uzbekistan.

The interviews conducted with the officials and specialists reflected the importance attributed to this issue by both sides. In parallel to the views of the Commission expressed in the progress reports, one of the officials interviewed at the Delegation of the European Union to Turkey is of the opinion that there is a lack of realism in Turkey regarding a possible EU-Turkey readmission agreement. According to him, Turkish officials are afraid that signing a readmission agreement with the EU will turn Turkey into a detention center for those irregular immigrants who cannot pass through the EU border or who are sent back. He further continued that he is of the opinion that an EU-Turkey readmission agreement will be beneficial for Turkey as well, since this agreement will break the route of irregular migration passing through Turkey. When potential irregular migrants realize that they are not able to enter the EU through Turkish territory or waters and that Turkey's controls are getting tighter, their numbers will reduce. As a positive comment regarding this matter, he admits that Turkey is doing better in recent years in implementing the bilateral readmission clause it signed with Greece (Interview, 06.12.2011).

Looking at the issue at stake from a different angle, the officials at the Ministry of Foreign Affairs claim that the implementation of an EU-Turkey readmission agreement will take time, mainly because of Turkey's dimensions. They acknowledge the fact that the EU sees visa facilitation as a prize for the signing of a readmission agreement, however they are of the opinion that what the EU defines as

facilitated visa procedures is actually bounded by the visa code, so it does not entail a real facilitation (Interview, 05.12.2011). It can be deduced from their comments that the carrot that the EU offers to Turkey for signing a readmission agreement is not enough at the current state of affairs to persuade Turkey and that Turkey expects more from the EU in this respect.

Furthermore, according to the officials at the Ministry of Foreign Affairs, Turkey is ready to talk and bargain with the EU; however, unless the Council gives the Commission a clear mandate outlining a road map targeting visa exemption for Turkish nationals as the ultimate goal, Turkey will not initial the readmission agreement. But, some member states, led by France, Germany and Austria object the mandate strongly. Turkey desires the sequence of events to be as: 1) Clear mandate from the Council to the Commission outlining a road map leading to visa exemption; 2) Turkey initials the readmission agreement; 3) Visa exemption talks start; and 4) Then Turkey will “maybe” sign, ratify and implement the readmission agreement depending on the progress achieved in the talks. Furthermore, the Ministry of Foreign Affairs officials think that the EU should not be afraid of granting visa exemption to Turkish nationals. They believe that it will not lead to an increase in the irregular migration targeting the EU, since Turkish border regulations are strict (Interview, 05.12.2011).

On this issue Turkish Foreign Minister Egemen Bağış voiced similar opinions in a meeting organized at the Ministry for EU Affairs on 29 December 2011, claiming that Turkey will sign the readmission agreement when a mandate that

pronounces visa exemption for Turkish nationals as its end goal is given by the Council to the Commission and the agreement will be ratified and implemented simultaneously when the visa exemption for Turkish nationals begins.

As indicated before, Turkey and the EU initialed the readmission agreement on 21 July 2012 after the Commission was given a mandate to start visa exemption talks with Turkey. This recent development reveals that the EU finally agreed on Turkey's demands that the initialing of the readmission agreement should be simultaneous with the issuance of the mandate by the Council to the Commission aiming visa exemption for Turkish nationals as its final goal. It is expected that the Commission will present an action plan towards visa exemption in a year and the signing of the readmission agreement will take place simultaneously with the presentation of the action plan (Anadolu Agency website). In light of this positive development, it is possible to claim that the lose-lose situation characterizing the relations between the EU and Turkey in this area is expected to be transformed into a win-win situation, provided both parties will stay loyal to the commitments they have undertaken.

#### **4.6. Turkey's Efforts to Enhance its Remote Control Capabilities**

As explained earlier, the EU has developed an extensive body of remote control policies over time in the area of migration. The EU's remote control network encompasses among others consulates, embassies, immigration liaison officers,

airline carriers and private security companies. It is a fact that Turkey has a long way to go in order to match the remote control capabilities of the EU countries. In this respect, the main factor that hinders Turkey's progress is the fundamental differences in the visa regimes of the EU and Turkey regarding the procedures to be followed by third country nationals in order to obtain visas. The option for the nationals of some third countries to benefit from sticker visas that can be obtained at the border crossing points in Turkey is by definition not compatible with the idea of remote control since when issuing such visas, Turkish authorities do not engage in screening the visitors. In other words, the sticker visa policy acts as a disincentive in enhancing Turkey's remote control capabilities. Basically, for those who can benefit from this option there is no visa application process. As emphasized earlier, the Commission requires in almost every progress report that Turkey should abandon the policy of issuing sticker and stamp visas at its borders and utilize its foreign missions such as consulates and embassies for visa issuing purposes.

Naturally, for Turkey to abandon the sticker and stamp visa policy and put the visa application and issuing procedures for all third country nationals under the responsibility of its foreign missions, tremendous costs have to be incurred since Turkey currently has neither enough trained staff at its embassies and consulates to deal with the huge number of potential visa applicants expected after the abolishment of the sticker and stamp visa policy nor the technical equipment to be used in the issuance of visas in accordance with the EU standards. With regards to the technical capabilities of the Turkish remote control authorities, almost every progress report

urges Turkey to train its staff at the foreign missions for detecting forged identity documents.

Recently, training sessions have started to be organized on issues related to passports and visas for the consular staff of the Ministry of Foreign Affairs and the staff from the Ministry of Interior also took part in these sessions. However, in the 2009 Report, these training activities were criticized for not focusing enough on document security. It is also underlined that most Turkish foreign missions are connected to the Ministry of Foreign Affairs database on people who have to be denied entry to Turkey (Konsolosluk.net) which could be considered a basic and national version of the SIS, and this database is linked with the police database 'Polnet' as well. The latest progress report which was published in 2011 underlines the necessity of the intensification of training activities for the consular staff on document security as well.

#### **4.7. Turkey's Exclusion from the EU Migration and Visa regime**

In Turkey, there is a strong feeling among the policy spheres that Turkey is being treated differently and unfairly compared to the other candidate states, and even compared to states which have no clear membership perspective ahead. This is true in the area of migration and visa regimes as well. For instance, the EU has visa facilitation agreements with countries like Russia and Ukraine and lifted the visa requirement on the citizens of countries like Bosnia and Herzegovina and Albania

which have not reached the candidacy stage yet, but Turkey is still waiting for the EU to start a visa dialogue that would lead to visa exemption for Turkish citizens.

The fact that the EU treats Turkey harsher than some ENP or EaP states in terms of visa policy causes a serious feeling of discontent among both Turkish politicians and public. The EU's response to these allegations comes in the form of underlining that all the countries in Eastern Europe and Western Balkans who obtained either visa facilitation or the right to travel visa-free to the EU has first signed readmission agreements with the EU. Turkey in turn claims that it has a special relationship with the EU as a candidate country and signing a readmission agreement with the EU for Turkey should not be evaluated on equal terms with the agreements signed by other countries, since because of Turkey's geographical position and closeness to the areas of origin of irregular migration, potential signing of a readmission agreement with the EU is expected to be very costly for Turkey. It will definitely put a great amount of burden on Turkey's shoulders since the number of irregular migrants that are to be accepted back to Turkey when the agreement is fully implemented is guessed to be significant.

Some EU member states also underline Turkey's population size as a potential problem if Turkish nationals are ever granted a right to travel visa-free to the EU. The number of people who will benefit from this right is high and this causes concerns related to a possible mass influx of migrants from Turkey and economic, social and cultural adjustment problems that will follow, especially in the member states where sizeable Turkish communities are present. On this point, the Minister



for EU Affairs Egemen Bağış criticized the EU in the NGO meeting organized at the Ministry for EU Affairs on 29 December 2011. He said that the EU always cites Turkey's size as a problem regarding the visa issues, but nevertheless it offers Brazil benefits. According to him, if size is a concern for the EU, then it should be a universal concern, not only in the case of Turkey.

The interviews conducted with the Turkish officials evidenced to the feeling of discrimination concerning visa requirements, which is pronounced widely among both the Turkish public and politicians. Officials at the Turkish Foreign Ministry claimed that some EU states have recently started applying very unfair procedures in order to make it hard for Turkish citizens to migrate to Europe and that Turkey as a candidate country to join the EU does not deserve such a harsh treatment. For instance, they told that the obligation for the spouse of a Turkish citizen living in Germany to take a language test in order to join him/her is against human rights. Moreover, they are of the opinion that 'Schengen Wall' is a non-tariff barrier for Turkish businessmen and companies. Considering the fact that Turkey is in the Customs Union since 1996 and that Turkey is the fifth largest export market and seventh largest commercial partner of the EU, they find the strict application of the Schengen visa requirements to Turkish citizens unfair (Interview, 05.12.2011). It is also notable that they prefer to use the term 'Schengen Wall' when they would like to refer to the Schengen visa regime and this may be accepted as evidence to the hard feelings among the Turkish officials caused by the EU's approach.

Furthermore, the officials at the Ministry of Foreign Affairs voiced their discontent that the Council has not yet given a mandate to the Commission to start a visa dialogue with Turkey which will lead to 'visa exemption'. They underlined that they are critical of the usage of the term 'visa liberalization' since it may mean making the visa procedures more liberal for bona fide travelers. Instead, they would like to hear the term 'visa exemption' from the EU officials. Currently, the EU embassies talk about harmonization, standardization and simplification of the visa application process of Turkish nationals, but the Ministry of Foreign Affairs is not content with this. According to them, what the EU offers is limited with standard fees, standard papers and more visa application centers throughout Turkey and this actually leads to 'standardization of difficulties'. They believe that this is not enough for Turkey and that the political point of view and goal of Turkey is clear, which is visa exemption (Interview, 05.12.2011).

Moreover, the Ministry of Foreign Affairs officials believe that the EU has not done anything to encourage Turkey regarding the visa issue. They claim that Turkey is open to dialogue, but the EU has to be more convincing and frank. According to them, for instance if registry documents from the Chamber of Commerce were accepted as sufficient for businesspeople to obtain Schengen visas, this may constitute a good incentive for Turkey to trust the EU.

Similarly, at the roundtable meeting organized at TEPAV on 6 December 2011 on the visa issue, a member of the Turkish Parliament from AKP indicated that the real problem is that the EU states cannot even mention the term 'visa exemption'

when discussing issues related to Turkey. He further continued to claim that the EU is applying more generous visa policies ‘even’ towards Latin American countries. He replied to the accusations that Turkey is trying to evade the road map by claiming that it is actually the other way around: the EU does not have the political will to offer Turkey a road map leading to visa exemption. During the same meeting, regarding this issue an official from the Ministry of European Affairs pointed out to the fact that unanimity is needed in order for the Council to grant the Commission a mandate to start the visa dialogue and outline a road map for Turkey, thus Turkey is *de facto* trapped in a dead end. She backed the idea that it is wrong to conclude that Turkey does not want a road map. The truth is that the Commission cannot proceed with a road map without serious political commitment on the EU side.

According to an official at the Delegation of the European Union to Turkey, Turkey has to understand that visa-free travel and membership to the EU are separate things. He furthermore claimed that Turkey’s bashing attitude on this matter harms the EU-Turkish relations a great deal (Interview, 06.12.2011). Moreover, the officials working at the embassy of a member state which is generally known as supportive of the Turkish cause are of the opinion that in Turkey, the officials find it culturally humiliating to lobby for a cause, which is a factor that inhibits Turkey from reaching what it could potentially reach in its relations with the EU (Interview, 06.12.2011).

The mood in the official policy circles in Turkey was very pessimistic as evidenced by the interviews conducted; however, the EU finally authorized the Commission to start talks on visa exemption with Turkey as indicated before, which

could be accepted as an example that proves that in the EU-Turkey relations, the course of events have the potential to take a quick turn.

## **Conclusion**

This chapter has provided an overview of Turkey's performance in its efforts to align its visa and migration regime with that of the EU by analyzing mainly the annual progress reports that the Commission issues. What Turkey did and did not do in the areas of visa policy, securitization of migration, readmission agreements, remote control policies, digitalization of migration have been assessed. Furthermore, Turkey's readiness to hand over migration control to supranational authorities has been debated. The exclusionary practices of the EU concerning the migration and visa policies directed towards Turkey have also been elaborated on.

The analysis in this chapter revealed that according to the EU, Turkey should improve its efforts in aligning its visa regime with that of the EU, fighting irregular migration, digitalizing its migration control system, enhancing its remote control capabilities and launching integrated border management. Turkey has been keen on signing readmission agreements with the origin countries; however it did not show the same level of determination in negotiating a readmission agreement with the EU. Nevertheless, the recent initialing of the readmission agreement between Turkey and the EU and the consequent mandate given to the Commission to start a visa dialogue with Turkey that is expected to lead to visa exemption for Turkish citizens are

promising steps that will definitely have important implications for both sides. This chapter laid the ground for the next chapter in which the institutional dynamics behind both the implemented changes and the persistence of the old rules in the domain of migration and visa policy in Turkey will be discussed.

## **CHAPTER 5**

### **ANALYZING TURKEY'S ADJUSTMENTS IN ITS VISA REGIME FROM THE PERSPECTIVE OF INSTITUTIONAL THEORY**

#### **Introduction**

Making Turkish visa regime compatible with that of the EU may seem a simple task at the beginning, however it does not only consist of simply bringing Turkish white and black lists in line with those of the EU. It requires a tremendous amount of transformation on the part of Turkey's institutions. There are many institutions involved in the process and each institution has different preferences, opinions and working methods.

It is well known that Turkey has been transforming its institutions since the Europeanization process started, although at a slow pace. What has been happening in Turkey's institutions due to the EU conditionality since Turkish candidacy for joining the EU was officially recognized can be considered 'evolutionary institutional change', a phenomenon that has started to attract the attention of scholars only recently. Traditionally, the institutional change literature has mostly concentrated on the change during moments of crisis and rapid and entire transformation. However, it is doubtful whether this approach can explain the most common ways that institutions, especially political ones, undergo transformations. An increasing amount of recent studies points out to the fact that significant changes

may happen in a gradual and incremental way. Small adjustments may indeed add up to significant institutional change (Mahoney and Thelen 2010, xi). According to this new line of thought, institutional change does not only strike at periods of crisis. It is oftentimes a continuous phenomenon and an external shock may not always be necessary in order for change to happen. Campbell defines evolutionary institutional change as the change in only a few critical dimensions of the institution in question over a certain period of time (2004, 32). In this respect, specifying the dimensions of an institution stands out as an important task in order to understand and measure institutional change. According to Scott, institutions embody three basic dimensions: 1) regulative dimension: “legal, constitutional, and other rules that constrain and regularize behavior”; 2) normative dimension: “principles that prescribe the goals of behavior and the appropriate ways to pursue them”; and 3) cultural-cognitive dimension: “culturally shaped, taken-for-granted assumptions about reality and the frames through which it is perceived, understood, and given meaning” (Campbell 2004, 35-36; Scott 2001). In evolutionary institutional change, “change is evolutionary in the sense that today’s institutional arrangements differ from but still closely resemble yesterday’s because they have inherited many of their predecessor’s characteristics” (Campbell 2004, 33).

In this chapter, the developments in Turkey’s institutions in the domain of migration and visa policy since Turkey’s Europeanization has started will be analyzed from a theoretical perspective. Several questions will be posed when conducting this analysis: 1) Has Turkey already undergone a profound institutional

change in this domain or is it still at the beginning of the process? 2) Is comprehensive institutional change possible in this domain? Or is there a limit beyond which it seems currently impossible that Turkey will dare to go beyond? If the latter is the case, which institutions and practices seem to be most resistant to change towards further alignment with the EU *acquis*? On what grounds do they oppose the change? 3) Does the gradual change in these institutions only move towards Europeanization? Or are there some other factors which pull the momentum of change to other directions, possibly away from the EU *acquis*?

The analysis conducted in this chapter supports the idea that it does not make sense to try to fit the institutional changes observed in this area in Turkey in one of the three well-known paradigms of institutionalism, namely rational choice, organizational and historical institutionalism. Limiting the analysis to only a single paradigm of institutionalism may result in an overlook of some of the most important dynamics present in this domain. Therefore, a broader approach encompassing elements from each of the three paradigms is used in this chapter. That is to say, when explaining the institutional dynamics in this field, concepts from all these three paradigms have been utilized. For instance, normative and cognitive informal institutions are borrowed from organizational institutionalism, logic of instrumentality from rational choice institutionalism and path dependency from historical institutionalism. This way, the analysis possesses significantly better explanatory power when elaborating on the institutional change and inertia happening in the domain of migration and visa regimes in Turkey.



Elaborating on the extent of the institutional change being observed in Turkey's migration and visa regime powered by the Europeanization project could help us to understand the dynamics of Turkey's relevant institutions and enable us to suggest certain policy implications regarding the possible future transformations in this domain. Looking at the actual and future adaptations and changes in the domain of migration and visa policy through the window of institutional theory is a completely new approach. To the best of my knowledge, institutional analysis has not yet been extended to this policy area and this study is thought to constitute a first step towards such analysis.

### **5.1. Institutions in Institutional Theory**

It will be relevant here to define what is meant by an 'institution' in institutional theory, since its meaning in this theory differs from the meaning of the term in daily speech and in other contexts. In the broadest sense, 'institutions are the foundation of social life' (Campbell 2004, 1). Institutions embrace formal and informal rules and vigilance and enforcement mechanisms. They are formed through episodes of bargaining and struggle. Moreover, they display the power and resources of those who formed them and they shape the distribution of power and resources in a society (Campbell 2004, 1).

The word 'institution' is lexically reminiscent of stability since the words stable, state and institution were derived from a single Latin word 'status' which

means 'standing condition' (Aoki 2005, 16). In line with the term's original meaning, an institution's life cycle is generally characterized by periods of stability and these periods usually last for a very long period of time. However, institutions do not always stay stable during the course of their life; they tend to change. They sometimes change radically and fast, at other times incrementally and slow.

The literature distinguishes between two general categories of institutions: formal and informal. Formal institutions consist of the laws and regulations introduced by the relevant state authorities. Basically, they are accepted as the "rules of the game" (North 1999, 4). They act as the fundament on which the behavior of the agency is built on and they determine the response of the agency. Informal institutions in turn emerge as a response to the formal institutions and they affect them either by generating institutional change or causing institutional inertia. They are characterized by norms, values and social perceptions (North 1999, 4).

In this thesis, formal institutions in the context of migration management are accepted as the policies, legal rules and laws adopted by the relevant state organizations responsible in the field of migration control and visa policy and their outcomes; whereas informal institutions are described as the responses to these policies, rules and laws which came in the form of cognitive, normative and cultural perceptions and they in turn affect these formal policies, rules and laws. Although their role may not be as visible as that of formal institutions, informal institutions, i.e. normative and cognitive institutions (Scott 2001), actually have important functions in determining the state policy with regard to migration and visas. For instance, the

opinion of the agents in the tourism sector on Turkey's visa policy acts as a powerful informal institution. The tourism sector in Turkey is supportive of Turkey's current open visa policy and practice of issuing sticker visas at the border crossing points, since this policy increases Turkey's tourism revenues significantly and it is a well-known fact that under the current economic conditions, Turkey is in need of these tourism revenues to finance its current account deficit to a certain degree.

This example concerning the opinion and behavior of the agents in the Turkish tourism sector on Turkish visa policy clearly reveals the interaction between the structure, agency and institution in this domain. Turkey's chronic current account deficit is a structural economic problem which informs and affects the normative ideas and behavior of the agency, i.e. law, rule and policy makers, on visa policy and regime in Turkey. Guided by this structural condition, the agency in turn acts in ways which reinforces and sustains Turkey's current visa regime, thereby creating institutional inertia in Turkey's institutions in the domain of visa policy. The prominence of this informal institution in shaping the official visa policy of Turkey was confirmed by the Minister for EU Affairs Egemen Bağış in the NGO meeting organized at the Ministry for EU Affairs on 29 December 2011. During the meeting, a participant from the floor supported the idea that as a retaliation to the Schengen visa requirement on Turkish nationals, Turkey should also demand conventional visas from the nationals of the EU countries who want to visit Turkey. Bağış responded that he would also like that to happen, but the tourism groups should be convinced first. This example clearly demonstrates that this normative informal

institution plays an important role in shaping Turkey's visa policy. As indicated earlier, at the moment it creates institutional inertia by blocking further institutional change towards harmonization with the Schengen visa regime. Institutional inertia implies creation of firm and inflexible institutions supported by the existing structural factors, which also partly prevent these institutions from changing (Hayward 1976). Consequently, this informal institution inhibits Turkey's retaliation capabilities regarding visa requirements as well and it stands as a strong obstacle on the way of the elimination of the sticker visa policy.

Normative and cognitive institutions played a tremendous role during the creation of a community migration and visa policy in the European context as well and today they continue to shape the formal institutions in this policy domain. Normative institutions that are formed among the European public, such as the idea of a right of free movement, was one of the main drives of the institutional change leading to the creation of the free movement area in the European continent, i.e. the Schengen zone, by opening a 'window of opportunity' for politicians to move towards the goal of supranationalism in migration management. Furthermore, cognitive institutions such as the fear of third country nationals among the European public, which formed the perception that immigrants from third countries are dangerous and undesirable affected significantly 'the rules of the game', leading to the emergence of the phenomenon known as 'securitization of migration' in Europe, which was discussed in detail in the second chapter of this thesis.

It would be relevant here to investigate the change that has happened in the European migration control and visa regime when the Schengen project was launched. After this analysis, it will be easier to figure out whether Turkey's institutions are ready to undergo similar transformations in this policy domain.

## **5.2. The Movement from the Westphalian to the Schengen System in the EU**

When the history of the EU is investigated, it can be easily seen that the necessity of undertaking institutional change is not unique to Turkey. It should not be forgotten that each founding member country had to undergo a tremendous amount of institutional change when they established the EU. Moreover, in every step of the enlargement, the joining states have to accomplish an even greater amount of change since the EU *acquis* is a body of law which is rapidly evolving towards the direction of ever increasing supranationalism and with each passing year, more laws to be adopted by the newcomers accumulate. This is especially true in the domain of migration management as evidenced by the fact that the Schengen process has introduced radical and unprecedented changes in the visa regimes and migration control systems of the participating states. Furthermore, the Schengen *acquis* is not a static body of law. The Schengen zone is expanding and the rules and regulations governing the free movement of people inside the Schengen zone are gradually evolving with the participation of new countries and the introduction of new regulatory practices, such as those utilizing new forms of technology.

The movement from the Westphalian system of migration control in which state sovereignty and individuality were the dominant principles, to the Schengen system in which supranationalism and mutual trust are the key aspects did not happen rapidly and the final implementation of the Schengen Convention came after many years of bargaining and compromising by the member states. There is no doubt that this transformation is among the most significant institutional changes in the history of the EU; however, it is surprising that the reasons to why the Schengen visa and border management regime emerged in the first place have not yet attracted much attention in the literature. According to Zaiotti, there are two main reasons for that. Firstly, the EU is considered as a well functioning polity by many specialists and their attention is concentrated on how this polity functions rather than on why this unique supranational body and the systems that characterize it, like that of Schengen, emerged. Secondly, though some academics are interested in the origins of the EU in general, they accepted Schengen as “just a variation of the traditional intergovernmental game characterizing world politics” (Zaiotti 2011, 7), meaning that they did not consider the Schengen system as a unique phenomenon the creation of which should attract extra attention and they did not bother to explain its origins and emergence.

Though not very comprehensive, a literature on the origins of the Schengen visa regime nevertheless exists. It is possible to encounter two mainstream hypotheses explaining the origins of the Schengen system in the literature. These are the ‘logical response’ and ‘normative shift’ hypotheses, as Zaiotti names them

(2011). According to the logical response hypothesis, the Schengen regime is the product of a negotiated compromise between the participating governments who were trying to create solutions to the problems encountered in the domain of border control at the time by acting rationally and trying to maximize their self-interest (Zaiotti 2011, 7). Arguments connected to this hypothesis were put forward in the works of Moravcsik (1998), Monar (2001) and Guiraudon (2003) among others. On the contrary, the advocates of the normative shift hypothesis support the idea that the Schengen regime emerged as a result of the change in the ideas of the key actors responsible with the management of borders. After this ideational transformation occurred, decision makers in the participating countries as well have changed their ideas about how the borders should be managed, and their practices and identities have also tilted towards the direction of an increasing supranationalism (Zaiotti 2011, 10). Wiener (1999) and Bigo (1998) are among the scholars that favor this hypothesis.

Regardless of which hypothesis is closer to better explain what has happened, it is a fact that the creation of the Schengen zone was a major structural change in the domain of migration management for the EU and it caused major institutional change in both the formal and informal institutions of every single joining country in the subsequent enlargements.

### **5.3. Explaining the Institutional Change and Inertia in Turkey in the Domain of Migration and Visa Policy**

#### *5.3.1. Has Turkey Already Undergone a Profound Institutional Change in This Domain?*

As emphasized in the third chapter, starting from the second half of the 1980s Turkey's priorities in the area of foreign policy started to be reconsidered. During the period the mindset of both the public and the politicians was changing, albeit slowly and gradually. Turgut Özal, the then Prime Minister of Turkey, paved the way for a more liberal, outward oriented Turkey not only in the domain of economy but in foreign policy as well. In Turkey's liberalization in the 1980s, Özal was at the forefront as the main actor that brought about many institutional changes in a variety of policy areas. Moreover, Turkey applied for membership in the EU on 14 April 1987, which corresponds to the Özal period as well. It was an important and controversial decision for Turkey, since joining the EU would mean handing over certain parts of national sovereignty – one of the cornerstones that the Republic was built upon – to a supranational body in many policy areas.

Since the beginning of the Europeanization process, more precisely after Turkey was declared an official candidate to join the EU in 1999, Turkey has been transforming its institutions in accordance with the EU's expectations and demands with varying degrees depending on the policy area in question. Usually, these transformations came gradually after long negotiations and re-negotiations with the



EU side; they did not happen as the consequence of an unexpected external shock, they did not take place suddenly in a short time period.

Though it is beyond doubt that a certain amount of institutional change took place in Turkey by the help of EU conditionality, Turkey still has to undergo many more changes. Moreover, the extent and the speed of the gradual institutional change that is taking place in Turkey varies among the policy areas a great deal. In some policy areas it is possible to claim that no institutional change took place at all whereas in some others almost complete alignment with the EU *acquis* is reached.

After the findings of the fourth chapter is analyzed, it is hard to claim that Turkey's institutions have gone under serious transformations in the domain of migration and visa policy since the Europeanization process has started. The most important change that has been observed in the formal institutions towards harmonization with the Schengen *acquis* is the introduction of the '90 days within 180 days' rule in 2012, the details of which were explained in the third chapter of this thesis. Ending the policy of granting sticker and stamp visas at the border crossing points, perhaps the most important institutional change that the EU would like Turkey to accomplish in this area, is still pending. Furthermore, Turkey currently has at best an ambiguous stance in the issue of harmonizing its black and white lists with those of the EU. Although some progress was achieved in the adoption of the white list with the latest inclusions of Panama and the Seychelles, Turkey is simultaneously increasing the gap between its black list and that of the EU,

especially by the way of signing bilateral visa-free travel agreements with the neighboring countries that are on the Schengen black list.

Moreover, Turkey does not seem to be keen on increasing its consular capabilities regarding the issuance of visas. Although it is true that some training programs targeting the consular staff is being carried out, this issue is not very urgent in Turkey's agenda since Turkey is not willing to abolish the sticker visa policy very soon. It seems that currently Turkey does not feel any incentive to invest in its consular missions in terms of both human resources and technology. Turkey's unwillingness in this issue could be seen from its slow efforts to align its visa stickers with those of the EU.

Turkey's multi-layered structure in the domain of border management is another issue that has to be abolished according to the EU. Although Turkey demonstrated some willingness towards ending this dispersed control structure by establishing a new civilian border agency, the progress in this area is still very slow and far from satisfying the EU.

After analyzing the findings of the investigation conducted for this thesis, it cannot be claimed that Turkey has changed its institutions profoundly in the domain of migration and visa policy. Though it is true that Turkey is trying to align its policies with that of the EU, in the areas where fundamental differences exist not much has been achieved so far. The major practical difference between the visa policies of Turkey and of the EU is that Turkey continues to issue sticker and stamp

visas at its border crossing points, whereas no such practice exists in the Schengen visa regime. The fact that Turkey is gradually liberating the EU member states from the obligation to obtain sticker visas, the latest such country being Slovenia, is a positive development; nevertheless, abolishing the requirement to obtain sticker visas for the nationals of certain countries does not imply *per se* that the sticker visa policy will be terminated soon. Moreover, Turkey's termination of the sticker visa policy will not be enough for the EU on its own. The countries that would be liberated from the sticker visa obligation should be sorted according to the Schengen black and white lists, such that Turkey should start to demand conventional visas as well from the countries that are in the Schengen black list, like Russia and Ukraine.

The changes recorded in the institutions in the domain of visa and migration regimes in Turkey up to now can be considered institutional layering, one of the four modal types of institutional change as defined by Streeck and Thelen (2005), the others being displacement, drift and conversion. Institutional layering can be defined as "the introduction of new rules on top of or alongside existing ones" (Mahoney and Thelen 2010, 15). The contention of this thesis is that what is actually needed in order for Turkey to perfectly align its visa regime with that of the EU is institutional displacement, which is defined by Mahoney and Thelen as "the removal of existing rules and the introduction of new ones" (2010, 15). Layering is different from displacement, since "layering does not introduce wholly new institutions or rules, but rather involves amendments, revisions, or additions to existing ones" (Mahoney and Thelen 2010, 16).

In institutional layering, if the logic of the institution could be modified and “the stable reproduction of the original ‘core’” could be hindered by newly introduced amendments or revisions, substantial change could follow indeed (Mahoney and Thelen 2010, 17); however, this seems unlikely in the case of the Turkish visa regime. Nevertheless, it is a fact that during institutional layering, though powerful veto players at the institutions at stake are able to protect the old institutions, they cannot always oppose the addition of new aspects and dimensions (Mahoney and Thelen 2010, 20) and this is exactly what is currently happening in the Turkish visa regime. Though frequent modifications to the list of countries whose citizens need to obtain sticker visas are carried out, Turkish officials insist on the continuation of the practice of issuing sticker visas and it seems unlikely that this practice will be abandoned in the near future.

The alignment of Turkey’s black and white lists with those of the EU remains to be a problematic issue as well. Turkey’s performance in this domain is altering without a clear direction. For instance, since Turkey’s official candidacy to join the EU was declared, in certain periods of time Turkey’s black list differed from that of the EU by a very small number of countries; however, at other times, this difference has increased and currently it is 20 countries if sticker visas are accepted as genuine visa obligations and 40 countries if they are not.

To sum up, in the area of migration and visa policy, the examination conducted for this thesis revealed that so far only a very limited amount of institutional change has taken place due to the EU conditionality in Turkey. The

changes that happen mostly come in the form of institutional layering and it is doubtful whether the change will follow the direction preferred by the EU in the future.

### *5.3.2. Logic of Appropriateness or Logic of Instrumentality?*

It is also debatable whether the officials at the relevant state institutions that make the laws governing the management and control of migration and determining Turkish visa policy are acting on the logic of appropriateness or the logic of instrumentality when deciding on whether to change or modify these laws or not. Analyzing the functioning of another informal institution may prove useful in finding an answer to this question. The principle of reciprocity, which was underlined as the single most defining feature of the Turkish visa regime by the officials at the Ministry of Foreign Affairs (Interview, 05.12.2011), can be accepted as a normative informal institution as well. It is not a formal institution, since there is no written law or official rule making its application compulsory and as documented in the third chapter, Turkey does not concern itself with this principle in its relationship with 25 percent of the countries in the world regarding bilateral visa requirements, overwhelming majority of which are the developed countries of the OECD. Nevertheless, it is an important informal institution that has massive effects on Turkey's current visa policy. For instance, even if it is in the benefit of Turkey in economic terms to abolish the visa requirement on the citizens of a certain third

country, Turkey may be reluctant to do so if the country at stake does not plan to reciprocate Turkey's movement or does not offer Turkey anything in return directly and officially that can be evaluated on equal terms with what Turkey offers. It may be true that when the citizens of that country visit Turkey, Turkish tourism revenues will increase and this alone definitely could be accepted as an incentive for Turkey to unilaterally abolish the visa requirement. However, this does not constitute an official response by this third country and such a response by the country at stake that can be considered more or less on par with what Turkey offers is often accepted more important than economic gain in this respect. This illustrates the fact that at least a portion of the transformations that Turkey plans to undertake in the domain of visa policy are guided more by the logic of appropriateness than by the logic of instrumentality.

Another relevant informal institution is the feeling among the Turkish public that the EU severely discriminates Turkey from other, even non-candidate, states in terms of visa requirements among others. This cognitive informal institution constrains government action in many policy areas, including in that of the visa regime. Even though there are clear benefits to be harvested if some of the formal institutions of the migration and visa policy undergo transformations in the direction of harmonization with the EU institutions, in some cases the relevant state officials are reluctant to proceed with the changes that indeed prove to be beneficial after an objective cost-benefit analysis is carried out, since they are afraid that the steps they take may be interpreted by the opposition parties as donating without getting

something in return and this creates electoral worries on the part of the current government. This point surfaced during the interview with a high ranking official at the Ministry of EU Affairs. He claimed that Turkey cannot initial the readmission agreement at the current state of affairs, since the politics in Turkey would not allow such a movement. He admitted that at the moment they cannot be sure that Turkey will obtain a roadmap towards visa liberalization after the initialing since the EU let down Turkey more than once in the past under similar circumstances and if Turkey goes forward and initials the agreement in such a situation, the opposition parties would exploit this compromise for their electoral purposes (Interview, 7 December 2011). In other words, Turkish officials find it inappropriate to take the first step even though this step could be beneficial for Turkey regardless of the EU's response. Again, this example reveals the dominance of the logic of appropriateness over the logic of instrumentality in certain parts of Turkey's behavior in the context of the EU-Turkey relationship in this policy domain.

Nevertheless, it is also true that logic of instrumentality is dominant over the logic of appropriateness in some of the institutional change and inertia that can be observed in the relevant institutions of the Turkish visa policy. Turkey's resistance to abolish the sticker visa policy can serve as an illustration to that. As indicated, the EU has been urging Turkey to end this policy ever since the declaration of Turkey's candidacy to join the EU, but since the material benefits to be forfeited if this policy is terminated are too great compared to the benefits that its abolishment will possibly bring, Turkey insists on sticking to the sticker visa policy. So, it would be best to

approach the cases of institutional change and inertia in this domain on a case by case basis, without making a generalization on whether the logic of appropriateness or instrumentality is always dominant over the other.

### *5.3.3. Path Dependency*

There are strong elements of path dependency present in Turkish institutions in the domain of migration and visa regimes and their presence acts as a factor that inhibits institutional change to a certain degree. Campbell defines path dependence as

a process whereby contingent events or decisions result in the establishment of institutions that persist over long periods of time and constrain the range of actors' future options, including those that may be more efficient or effective in the long run (2004, 65).

According to Pierson, path dependence reveals itself through several feedback mechanisms by the help of which actors benefit from behaving consistently with their previous actions (1993; 2000a; 2000b) and consequently, institutions and agents' behaviors follow the tracks of a specific historical development path. Firstly, in order to set up institutions large initial costs have to be incurred, so actors do not often attempt to change them after their establishment. Secondly, some institutions are built in such a way that transforming them later becomes difficult. Thirdly, once a policy and decision making style is adopted in an institution, this creates a loyalty in relevant actors towards that particular style, they get used to it and they do not want to abolish it for something new and unknown. And fourthly, those who benefit



from current institutional settings resist institutional change and tend to favor the behaviors that are consistent with the status quo (Campbell 2004, 67).

Turkish military's presence in the domain of border control in Turkey is an excellent example. Due to the geopolitical position and conditions of Turkey, more specifically due to the situation in the southeast threatening the collective security of the whole country, the military assumed an important responsibility in controlling some portions of Turkey's land borders. However, as indicated before the EU opposes the persistence of the military command in this domain and instead suggests Turkey to establish a civilian border control authority, which will serve as an important step in launching integrated border management. The military in turn is not very content with the idea that its duties regarding the border control will be limited only with surveillance activities under this projected new approach, so it voices its opposition when it sees appropriate, as indicated by the officials at the Delegation of the European Union to Turkey at the interview. In this respect, the military is an example of an organization/institution whose behavior constrains the options of the government and whose historical presence and persistence in the domain of border control acts a factor reinforcing the status quo and creates difficulties for the government to follow the recommendations of the EU. Through the feedback mechanisms explained in the previous paragraph, Turkish military tries to resist the institutional change in this area.

As the findings of this section indicate, there are significant differences among Turkey's relevant institutions in the area of migration and visa policy

regarding the extent of the institutional change that has been carried out up to now. The changes and resistance that has been observed in Turkey's most relevant institutions in this domain after the Europeanization project had started are listed in Table 5.1 below.

**Table 5.1: Change and/or Resistance in the Most Significant Institutions of Turkish Visa and Migration Policy since the Europeanization Process Began**

	<b>Has There Been Institutional Change?</b>	<b>Comments</b>
<b>Formal rules regarding</b>		
Duration of Stay of Foreigners	Yes	Changed according to the Schengen rules by the adoption of the 90/180 rule
Sticker Visa Policy	No	Strong institutional inertia, no alignment with the EU rules
Harmonization with the Schengen Black and White Lists	Gradual, but the direction of change is altering, in some periods towards Europeanization and in others away from it	Rapid alignment in the beginning, serious drifting away recently
Remote Control Capabilities	No	No significant institutional change mainly due to the projected continuation of the sticker visa policy
Integrated Border Management	Gradual, strong resistance put up by the Turkish military to maintain the status quo.	Current efforts are not sufficient for a major institutional change
<b>Informal Institutions</b>		
The Opinion of the Tourism Sector (Normative)	No	Agents in the tourism sector is supportive of Turkey's liberal visa regime
The Feeling of Discrimination among the Turkish Public (Cognitive)	No	The EU has to take certain steps in order to eliminate the negative opinions in the Turkish public towards the EU

#### **5.4. Is Further Change Possible? Does the Change Move Towards Europeanization?**

Since Turkey is a candidate country to join the EU, the EU tries to guide the gradual institutional change that is taking place in Turkey's institutions according to its own preferences. By giving feedback and advice to Turkey on how to make its body of law harmonious with the EU *acquis* in the annual progress reports it issues as well as in other realms, the EU tries to assure that the EU conditionality is the single most important aspect motivating the change in Turkey's institutions.

As many authorities both in the EU countries and Turkey accept, Turkey is a country with a unique background, history and culture and this uniqueness is also reflected in Turkey's institutions, both formal and informal. Historically, Turkey has always been a country that has one of its feet in the West and the other in the East. This situation contributed to the creation of an ambiguous institutional setting regarding Europeanization in Turkey. Though some of Turkey's institutions have been quite positive about Turkey's possible EU membership, some others have always had their doubts. Even in a single institution, it is not uncommon to encounter a clash of ideas on this issue. Depending on factors such as the political climate and context and developments in the foreign and domestic policies of both Turkey and the EU, Turkey's Europeanization process has been chronically having its ups and downs. Nevertheless, the necessity for Turkey to align its body of law with that of the EU *acquis* is a theme that is recurring in almost every government program since the Europeanization process started.

Though incrementally and slowly, Turkish migration and visa policy is evolving. However, it is debatable whether Turkey's institutions in this domain is evolving towards the direction preferred by the EU, especially after the recent bilateral visa-free travel agreements that Turkey has signed with certain countries in the Middle East. In Turkey's institutions that control and shape its visa and migration regime, it is evident that some institutional change has taken place as evidenced by the progress reports that were analyzed in the fourth chapter. Although it may be slow and incremental, there is no doubt that further institutional change will happen in the domain of migration and visa policy in Turkey since it is a dynamic policy area in which the institutions, formal and informal, have to be updated periodically depending on political, economic and cultural circumstances. Although further institutional change is inevitable, will it lead to further Europeanization in this area or will it carry Turkey's institutions away from those of the EU? The answer to this question depends on several factors related to the relationship between the EU and Turkey.

It is doubtful whether in Turkey further substantial institutional change will be observed towards the direction preferred by the EU, since factors reinforcing the status quo in this policy domain seem to outweigh those encouraging further change. Currently, the status quo in this domain is such that Turkey is unwilling to move towards further Europeanization in its visa policy before being offered something tangible in return and the EU is reluctant to offer anything concrete before Turkey further aligns its visa regime with that of the EU. An example of such

tangible incentives could be the right of visa-free travel for Turkish nationals. The fact that the EU does not offer strong incentives to Turkey to harmonize its visa regime with that of the EU acts as a factor which reinforces the status quo. Nevertheless, the relations in this area have a potential to gain momentum with the recent initialing of the readmission agreement and the promised start of visa exemption talks for Turkish nationals.

The cultural and normative legacy of the anti-Western doctrine in Turkey still persists and it reveals itself in the form of lack of trust to the Western institutions. This legacy acts as a factor which slows down Turkey's efforts to harmonize with the EU *acquis* in all areas, including that of migration and visa policy. This informal institution has been inhibiting the institutional change in the formal institutions towards Europeanization.

Furthermore, it is beyond doubt that there is a lack of will to change in Turkey based on the EU conditionality in general, partly because of the current political climate in Turkey. While presumably trying to become a member of the EU, Turkey is simultaneously looking for alternative ways of regional cooperation, mostly in the Middle East and the post-Soviet space. During its search for alternative regional bodies, Turkey tries to establish and maintain good relationships in areas such as visa policy and trade with the countries in question. Most of these countries are in the EU black list and Turkish white list and Turkey does not intend to demand visas from the citizens of these countries for political, cultural and economic reasons.

Another important factor that contributes to the maintenance of the status quo has to do with the issue of trust. There is lack of trust to the EU on the Turkish side and this prevents Turkey to engage in serious commitments that carry the potential to be detrimental for Turkey if the EU does not stay loyal to the promises it undertook in the past. In this regard, the Ministry of Foreign Affairs officials claim that Turkey was disappointed more than once by the EU in the past, such as in the Customs Union and Cyprus issues and there is no guarantee that it will not be disappointed again (Interview, 05.12.2011). The unanimity principle which still governs the rulings of the Council on the most critical issues reinforces this lack of trust, since some member states made it clear on the outset that they are against Turkey's membership.

Regarding the visa policy domain, first of all, the fact that Turkey was upset since the visas that were introduced by the European states after the 1980 Coup d'État were not abolished later and turned into permanent visa requirements for Turkish citizens creates mistrust in both Turkish policy makers and public. Secondly, if Turkey makes its visa regime compatible with that of the EU and if the EU disappoints Turkey again and rejects to move forward in Turkey's accession negotiations, reverting the adjustments that it had undertaken will be too costly for Turkey and at that point, Turkey's option of undertaking a serious retaliation will be limited. It is not very easy to revert back once serious commitments are undertaken and the agreements are signed, since cancelling these agreements would lower

Turkey's international credibility and this might prove too costly for Turkey in a variety of fora.

It will be very difficult for Turkey to give up some of its practices in the visa policy domain. For instance, Turkey has to incur huge costs if it abolishes the sticker visa policy. The institutional setting has to be redefined and reformed almost from scratch. There will be uncertainty since it will be hard to guess what kind of a new institutional setting will follow. Furthermore, it is nearly impossible to calculate the amount of decrease in the revenues generated by tourists if the sticker visa policy is abolished and the Schengen black list is adopted. Because of these reasons, there is expectedly a high level of institutional persistence and resistance to institutional change in the domain of visa policy in Turkey.

Furthermore, AKP's current political stance reinforces and compliments the current Turkish visa regime, since the government seems to be content with the fact that Turkey has open borders with most of the countries in the Middle East. AKP also tries to extract electoral gains out of this situation. It is frequently cited in the media close to the government that Turkish nationals can travel visa-free to an ever increasing number of countries and that this became possible in the term of the AKP government.

It also has to be emphasized that Turkey uses the current divergences between its visa and migration regime and that of the EU as a bargaining instrument in its relationship with the EU. Turkey's resistance to sign a readmission agreement with

the EU is an excellent example. The officials at the Ministry for European Affairs think that this is Turkey's last bargaining chip and Turkey will not have anything else to bargain with the EU if it signs the agreement (Interview, 07.12.2011). Although signing a readmission agreement with the EU may be in Turkey's interests even if the EU does not offer anything in return, Turkey is reluctant to do so at the current stage.

Moreover, it is generally perceived by the Turkish officials that the adoption of the Schengen *acquis* and the Schengen visa obligations list in particular without being a member of the Schengen zone does not benefit Turkey *per se*. It can be beneficial to a certain extent only indirectly, since the adoption of the Schengen *acquis* will result in the further integration of Turkey into the EU. Turkey is aware of the fact that once it adopts the Schengen black list, Turkey's borders with Iran, Iraq and Syria will turn into permanent hard and sealed borders. Turkey seems to be the furthestmost limit on the southeast that the Schengen zone can encompass in the foreseeable future. These countries will most likely never be included in the Schengen zone and their citizens will never be granted a right to travel visa-free into the Schengenland. It seems inevitable that Turkey's participation in the Schengen zone will reveal permanent negative effects on Turkey's relations with its neighbors in the Middle East and the government does not want such a deterioration of relations with the countries in this region. In this context, it should not be forgotten that some other countries that joined the EU, especially those that became members during the Eastern enlargement of 2004, had experienced similar problems with their



eastern neighbors when they joined the Schengen zone. The example of Poland and Ukraine is a case in point. Before Poland joined the EU and the Schengen zone, Ukrainian citizens could travel to Poland without a visa requirement. However, since Ukraine was and still is in the Schengen black list, this practice had to be terminated close to Poland's accession although neither country wanted it to end since the two countries share strong cultural, historical and economic ties. However, the case of Turkey and its neighbors in the Middle East is much more complicated compared to the Polish and Ukrainian case, since Turkish officials know that once Turkey enters into the Schengen zone, the erected hard borders between Turkey and these countries will be permanent. On the contrary, although Poland was reluctant to require visas from Ukrainian citizens, Polish and Ukrainian officials knew that this practice will end sooner or later since Ukraine is a country with a European perspective. Although it does not seem very likely that Ukraine will join the EU soon, obtaining the right of visa-free travel for its citizens, like that obtained by Serbia and Bosnia and Herzegovina, is not an impossible task for the Ukrainian government. In fact, Ukraine is a country which currently benefits from the visa facilitation arrangement of the EU. Both countries were aware of this fact at the time of the compulsory introduction of visas by the Polish side, so although reluctantly, they accepted the short term costs since they knew that this newly constructed obstacle will be a temporary one.

In Europe, an informal normative institution was established among the constituency that free movement of people in the territory of the European Union is a

right and it has to be obtained. The benefits of this were clear to the public. However in Turkey, although people may accept that the right of free movement is something desirable, it has never been an urgent entry on the public's agenda. According to the statistics released by the Ministry of Foreign Affairs, only 5 million Turkish citizens have passports, including the ones who only travel to Saudi Arabia for the purpose of pilgrimage (Interview, 05.12.2011). In short, not every Turkish citizen travels. A normative institution similar to the one established in Europe is yet to be formed in this domain by the public and only then it may affect the formal institutions of the visa and migration policy.

Considering the facts mentioned above, the factors that reinforce the current Turkish visa regime seem very hard to be overridden. There are strong institutional complementarities present in the institutional framework of the Turkish visa regime that help maintain the status quo. Therefore, it seems unlikely that Turkey's institutions in the domain of migration and visa policy will undergo major transformations in the immediate future unless the EU takes strong action that would motivate Turkey to accomplish such a change. At least for the short term, the current mode of institutional change, i.e. institutional layering, seems to dominate the scene. It is logical to expect that Turkey will continue to only gradually transform its visa and migration regime; however, the direction of the possible institutional change in the domain of migration and visa policy in Turkey will depend on the actions and behavior of the agents in the EU bureaucracy towards Turkey as well as the domestic political conditions in Turkey. In some dimensions of the visa and migration policy,

Turkey is expected continue to close the gap with the EU, for instance by aligning its white list with that of the Schengen countries. Nevertheless in other dimensions, such as the adoption of the Schengen black list, it does not seem likely that the gap will be narrowed; it may even grow wider, meaning the institutional change may take the route which leads Turkey away from further Europeanization in this domain.

### **5.5. What Should the EU Do in Order to Guide the Institutional Change in Turkey's Migration and Visa Regime?**

Compared to their counterparts in most of the other member states, Turkish officials working in different levels of the state bureaucracy still prefer to work in closed, mostly national, circles. As emphasized by the officials at the Delegation of the European Union to Turkey, Turkish Military and Ministry of Interior are two very important entities with important responsibilities in the domain of migration and visa policy where this is the case (Interview, 06.12.2011). Consequently, they lack experience in exchanging information, working together and collaborating with the EU officials. Turkey's lack of trust to the EU institutions is an important reason why this is so. Unfortunately, this fact dramatically undermines the cooperation potential between Turkey and the EU in many areas, where a more fertile relationship could indeed be established once the trust is built up. One step that the EU officials can take in order to gain the trust of Turkish officials and to show that they respect and value the contribution that the Turkish officials could make in many areas including

the area of the migration and visa policy, is to invite their counterparts in Turkey more often to conduct official visits to the EU member states. Moreover, the number of training activities and joint projects carried out should be increased and their scope should be widened. This way, the socialization of Turkish officials with their colleagues in different member states will be accomplished and this will most certainly result in an improved and more fruitful EU-Turkey relationship.

Secondly, the EU should prove that it is sincere about granting Turkish nationals the right to travel visa-free into the EU. This will definitely motivate Turkey to align its visa regime with that of the Schengen countries since Turkey will feel that it is finally treated not as an outsider, but as a future member of the club. If the EU ends the visa obligation on Turkish citizens, it will be regarded by the public and politicians alike as one of the most important indicators that the EU treats Turkey on an equal basis with other candidates. Therefore, this undertaking by the EU has the potential of accelerating Turkey's adoption of the *acquis* not only in the area concerning migration and visa regimes, but also in other areas.

Yet another area that the EU has to demonstrate its sincerity is the infamous Cyprus issue that has been lacking a durable solution for decades. Despite the fact that Greek Cypriots rejected the Annan plan in 2004 whereas Turkish Cypriots accepted it, Cyprus acceded to the EU in 2004 and this created anxiety and disappointment at Ankara. It damaged Turkey's faith in the EU to a certain degree. The feeling of discrimination in Turkey reached the highest levels in the history of the EU-Turkish relationship. Besides, since Turkey rejects to open its ports and

airports into vessels and aircrafts from Cyprus, the Council decided to freeze the opening of eight chapters of the *acquis* in 2006. Moreover, due to the Cypriot veto in 2009 motivated by Turkey's rejection to ratify the additional Ankara protocol extending the Customs Union to Cyprus, negotiations in six more chapters of the *acquis* are frozen. In total, no progress can be recorded in the 14 out of 35 chapters of the *acquis* because of the Cyprus dispute. The EU should try to understand Turkey's position and the salience of the issue for Turkish domestic politics and show that it is committed to find a credible solution to the problem if it wants to gain Turkey's trust and therefore to guide the institutional change that is happening in Turkey.

Moreover, the EU should underline its pluralistic values more in its relations with Turkey. It is a fact that the EU officials are not very happy with the bashing attitude of Turkish politicians. Yet, Turkish officials are not very content with some of the EU politicians' discourses praising monoculturalism and emphasizing that Turkey does not have a place in the EU, either. These discourses create an aggravated lack of trust in the Turkish public and policy spheres towards the EU. Apart from not being beneficial for the EU, such discourses diminish Turkey's incentives to join the EU and its commitment to the European values. The EU should end treating Turkey as an ENP or EaP country and stop promoting alternatives other than membership such as privileged partnership, which only causes the relationship between the EU and Turkey to deteriorate.

## Conclusion

This chapter engaged in applying the concepts of institutional theory to the change and inertia in Turkey's institutions in the domain of migration policy and visa regimes. The findings of this chapter reveal that Turkey has not yet undertaken a major institutional change in this area. The small amount of transformations that has been taking place has an evolutionary, rather than a revolutionary character and the dominant form of institutional change recorded in this domain is institutional layering.

The incentives of the relevant agents in Turkey to preserve the status quo in the domain of migration and visa regimes are strong and this resistance to change could be mostly explained from a rational choice point of view. The agents that are responsible for policy making in this domain in the state bureaucracy are aware of the fact that adopting the Schengen *acquis* and thus abolishing the sticker visa policy will be too costly for Turkey, since this kind of a major institutional change is expected to decrease Turkish tourism revenues significantly and it will result in a deterioration in Turkey's economic, political, social and cultural relations with the countries located in its immediate neighborhood that are in the Schengen black list. Similarly, the behavior of the agents in the relevant EU institutions that promote institutional change in Turkey towards harmonization with the Schengen *acquis* could also be best explained by rational choice accounts. The EU officials and politicians are concerned with the fact that Turkey has turned into a favorite transit country for irregular migrants on their way to Europe and if Turkey tightens its visa

and migration regime by conducting the relevant institutional changes and adopting the Schengen rules and procedures, they hope that this irregular transit migration into the EU via Turkish territory will be curbed and the security of the EU will be enhanced.

In order to guide the institutional change taking place in this domain in Turkey, the EU has to encourage the socialization of Turkish officials and policy makers with their counterparts in the EU, prioritize the issue of exempting Turkish nationals from the visa requirement, prove its determination in reaching a fair solution in the Cyprus dispute and avoid discourses that sideline Turkey, like those related to Islamophobia and monoculturalism and the offer of privileged partnership for Turkey instead of full membership.

## **CHAPTER 6**

### **CONCLUSION**

After the Amsterdam Treaty has incorporated the Schengen *acquis* into the EU body of law, the candidates had to adopt the Schengen *acquis* in its entirety before joining the EU. Consequently, the alignment of migration regimes and visa policies of the candidate countries with the EU standards started to constitute an important part of the negotiations conducted between the aspirants and the EU before their accession. The adoption of the EU visa regime is a significant decision for the candidates, since in order for the country to be ready to apply these rules, significant technical costs have to be incurred. Furthermore, there is a risk that regional political, economic and cultural relations with the neighboring third countries may be disrupted and the number of foreign visitors may dramatically fall after the Schengen rules are strictly implemented. Nevertheless, switching to the Schengen visa regime brings about benefits as well. The countries that apply Schengen rules have better control over their borders. Moreover, once a country joins the Schengen zone, its social, economic and cultural relations with the core EU countries improve. Therefore, joining the Schengen zone has both pros and cons for the country at stake.

In this thesis, Turkey's position regarding the possible future application of the Schengen rules was analyzed. The main features of the Schengen and Turkish visa regimes were discussed, the discrepancies between the two regimes were put forward and Turkey's willingness and technical, political and institutional readiness to adopt the Schengen visa regime was elaborated on. This research attempted to



contribute to the literature on migration regimes, visa policies and the EU conditionality by analyzing the changes observed in the Turkish visa and migration regime since the beginning of the Europeanization project in Turkey. As a novel approach, it also engaged in applying institutional theory on both the transformations and resistance to change taking place in Turkey's migratory system.

The main findings of this research can be listed as follows. First of all, the comparison of the Turkish visa regime with that of the Schengen countries revealed that Turkey's current visa regime is very flexible and relaxed as opposed to the hard and strict Schengen visa regime and this is a major concern for the EU. Since Turkey is a candidate to join the EU and it is located on the main routes of irregular migration to the EU, Turkey is continuously urged to tighten its border controls, increase its capability to fight against irregular migration and align its visa regime with that of the EU. However, since there is a lack of trust between the EU and Turkey, Turkey is reluctant to adjust its current policies in the domain of migration and visa policies unless it sees a clear benefit in doing so. In other words, at the current state of affairs, Turkey is not willing to transform its institutions in this domain according to the demands of the EU simply because such a transformation could move Turkey one step closer towards becoming an EU member. The fact that Turkey is unable to receive membership guarantees unlike other candidate states undermines Turkey's enthusiasm to undertake serious institutional change which would Europeanize the country's institutions in this area.

Secondly, it is not possible to claim that Turkey has undertaken a major institutional change in this domain. The sticker visa rule, which currently is a very important component of the Turkish visa regime, is still in force regardless of the EU's pressure and it seems like it will continue to be the backbone of the Turkish visa regime for a long time. Furthermore, Turkish borders are currently controlled by a number of different bodies and the different opinions and reluctance to relinquish control within these bureaucratic organizations are major obstacles on the way towards the launch of integrated border management and a civilian border control authority in Turkey. Moreover, Turkey displays a shaky attitude on the matter of adopting the EU's black and white visa lists. Although it seemed in the early years of EU integration that Turkey would close the gap between its visa obligation list and that of the EU, especially after 2006 Turkey started to drift away from this objective, partly due to its neo-Ottoman politics which tries to economically, politically and culturally revive Turkey's ties with the countries in the Middle-East. According to the EU, another major defect in the Turkish visa policy is the technical shortage in the capacity of Turkish foreign missions to deal with all kinds of visa applications that would surface once the sticker visa policy is abolished. Turkey has to undertake a significant amount of investment in order to harmonize its visa stickers with those of the Schengen countries; however, currently this does not seem to be a priority for Turkey.

Thirdly, the adjustments that Turkey has been undertaking in the area of migration and visa regimes mostly come in the form of institutional layering; that is

adding certain new rules to the already existing structure while keeping its basis intact. Although engaging in institutional layering could bring about significant institutional change in the cases where the newly introduced rules could modify the intrinsic logic of the institution, currently this does not seem to be the case in Turkey's institutions determining its migration and visa policy.

Fourthly, it was demonstrated that applying the Schengen standards in Turkey will surely be socioeconomically detrimental for its relations with the countries in the Middle-East and the post-Soviet space. The number of tourists visiting Turkey will decrease and this will impact the Turkish economy negatively. The gains will most probably be in the form of undisrupted circulation of goods, services and people in the Schengen zone and increased foreign direct investment in Turkey, since this will act as a signal that Turkey's relations with the EU are already in an advanced and consolidated stage and thus the confidence of investors towards Turkey will significantly improve. Another potential gain is that Turkey's capability to curb the irregular migration will significantly increase after strict application of the Schengen rules even without necessarily joining the zone itself.

The recent developments in July 2012 concerning the readmission agreement between the EU and Turkey and the right of visa exemption for Turkish nationals proved once again that the stakes on the bargaining table could change rapidly in this domain. After the readmission agreement between the EU and Turkey has been initialed and the Commission has succeeded in receiving a mandate to start visa exemption talks with Turkey, the relationship between the EU and Turkey regarding

the issues of migration and visas entered into a new phase. As could be inferred from the interviews carried out for this thesis, a couple of months ago Turkish officials did not believe that the EU would allow the Commission to start a visa dialogue with Turkey which states visa liberalization as its end goal. Nevertheless, it happened and this very recent development is expected to contribute immensely to breaking the ice between Turkish officials and their counterparts in Brussels and in individual member states. Further academic studies that will be conducted in this field should closely monitor the performances of both Turkey and the EU in fulfilling their respective commitments in this context to each other. Moreover, the literature should be kept up-to-date by carrying out studies more often, since this area is a very dynamic one in which things may rapidly take a radical turn.

It is highly likely that Turkey will continue to behave reluctantly in adopting the Schengen visa obligation list and abolishing the sticker and stamp visa policy. The ideal, albeit temporary, solution beneficial for both sides in the short-term before Turkey's accession seems to be putting into force the readmission agreement between the EU and Turkey and granting the right of visa exemption for Turkish citizens in the Schengen zone without waiting for Turkey to achieve complete alignment with the Schengen rules. Considering the EU's lack of trust towards Turkish authorities, it is very likely that the EU will only let Turkey to join the Schengen zone after a very long transition period after Turkey adopts the Schengen *acquis*. Approving Turkey's accession to the Schengen zone would mean that the Turkish border police would claim the responsibility of defending the EU's external

border, since currently there is no supranational European police force and the border control is the duty of the national authorities in each member state. As indicated earlier, applying the Schengen rules without joining the zone, as is the case now in Bulgaria and Romania, is very costly for the acceding country. Consequently, it is highly logical for Turkey to delay the application of the Schengen rules as much as possible, knowing that the transition period for Turkey will be long and costly. Moreover, it makes sense to expect that Turkish efforts to further align with the Schengen *acquis* will decrease after it obtains the right of visa-free travel to Europe for its citizens. By this way, Turkish nationals will benefit from the visa exemption and Turkey will not have to break its cultural and economic ties with the neighboring countries towards the east. It is also highly probable that securing the right of visa exemption will fuel the European integration process in Turkey by acting as a catalyst in reviving the EU-Turkey relations, since it will increase the trust towards the EU among both Turkish politicians and public.

It is a fact that Turkey's liberal and flexible visa regime helped Turkey to develop extensive political, cultural and economic relations especially with the countries in its immediate neighborhood and to increase its tourism revenues. Furthermore, it acted as a major factor in the emergence of the suitcase trade which generates significant revenues for Turkey's economy and acts as a life-buoy in the periods of economic crises. It would be also true to claim that the flexible Turkish visa policy played a role in the increase in bilateral investments between third countries and Turkey. However, Turkey should also think of the negative aspects of a

flexible visa regime. Turkey's liberal visa policy causes an increase in illegal employment and human trafficking. Moreover, it is argued that it creates security deficiencies.

It should be emphasized that this research undertakes only a first step in extending the institutional theory to the area of migration and visa policy. Further academic studies should develop the analysis started here, by possibly penetrating deeper into the subject. Due to the limitations regarding the length of this thesis, it was not possible to engage in a more detailed discussion. When theoretical concepts of the institutional theory are applied to the institutions in the Turkish migration and visa regime, each concept was matched with an actual practice, organization or institution. In further studies, these examples can be broadened and the functioning of more institutions could be explained with the theory. Furthermore, as indicated before, the research in this area should be kept up-to-date and take into account new developments. The course of events that will possibly lead to visa exemption for Turkish nationals should be closely monitored. Some of the questions that future research should address are as follows: How will a possible visa exemption granted to Turkish nationals by the EU affect Turkey's decisions and motivation to adopt the *acquis* both in this and in other areas? What will be the possible impacts of the EU's deteriorating economy and demographics on its migration and visa regime? Will it lead to a more relaxed Schengen regime? What kind of effects will Turkey's economic success have on the exclusionary policies that the EU currently applies towards Turkish citizens in its migratory practices? Answering these questions will

significantly deepen academic and political understanding of the enlargement process and at the same time it will shed light on Turkey's political strategies regarding the EU.

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## APPENDIX

**Table A1: The UK White List**

Andorra	Hong Kong SAR	Paraguay
Antigua and Barbuda	Israel	Saint Kitts and Nevis
Argentina	Japan	Saint Lucia
Australia	Kiribati	Saint Vincent and the Grenadines
Bahamas	Macao SAR	San Marino
Barbados	Malaysia	Samoa
Belize	Maldives	Seychelles
Botswana	Marshall Islands	Singapore
Brazil	Mauritius	Solomon Islands
Brunei	Mexico	South Korea
Canada	Micronesia	Taiwan <sup>a</sup>
Chile	Monaco	Tonga
Costa Rica	Namibia	Trinidad and Tobago
Croatia	Nauru	Tuvalu
Dominica	New Zealand	United States
Timor-Leste	Nicaragua	Uruguay
El Salvador	Palau	Vanuatu
Grenada	Panama	Venezuela <sup>b</sup>
Guatemala	Papua New Guinea	Vatican
Honduras		

<sup>a</sup> Those nationals or citizens of Taiwan who hold a passport by Taiwan that includes the number of the identification card issued by the competent authority in Taiwan in it.

<sup>b</sup> Those nationals or citizens of Venezuela who hold a passport issued by the Republic of Venezuela that contains biometric information held in an electronic chip.

**Table A2: The UK Black List**

Afghanistan	Georgia	Oman <sup>a</sup>
Albania	Ghana	Pakistan
Algeria	Guinea	Palestinian Territories
Angola	Guinea-Bissau	Peru
Armenia	Guyana	Philippines
Azerbaijan	Haiti	Qatar <sup>a</sup>
Bahrain	India	Russia
Bangladesh	Indonesia	Rwanda
Belarus	Iran	São Tomé and Príncipe
Benin	Iraq	Saudi Arabia
Bhutan	Côte d'Ivoire	Senegal
Bolivia	Jamaica	Serbia
Bosnia and Herzegovina	Jordan	Sierra Leone
Burkina Faso	Kazakhstan	Somalia
Burma/Myanmar	Kenya	South Africa
Burundi	North Korea	South Sudan
Cambodia	Kosovo	Sri Lanka
Cameroon	Kuwait	Sudan
Cape Verde	Kyrgyzstan	Surinam
Central African Republic	Laos	Swaziland
Chad	Lebanon	Syria
China	Lesotho	Tajikistan
Colombia	Liberia	Tanzania
The Comoros	Libya	Thailand
Congo	Macedonia	Togo
Cuba	Madagascar	Tunisia
Democratic Republic of the Congo	Malawi	Turkey <sup>b</sup>
Djibouti	Mali	Turkmenistan
Dominican Republic	Mauritania	Uganda
Ecuador	Moldova	Ukraine
Egypt	Mongolia	UAE <sup>a</sup>
Equatorial Guinea	Montenegro	Uzbekistan
Eritrea	Morocco	Vietnam
Ethiopia	Mozambique	Yemen
Fiji	Nepal	Zambia
Gabon	Niger	Zimbabwe
Gambia	Nigeria	

<sup>a</sup> Nationals or citizens who hold diplomatic and special passports when travelling to the UK for the purpose of a general visit are exempt from the visa requirement.

<sup>b</sup> Nationals or citizens who hold diplomatic passports when travelling to the UK for the purpose of a general visit are exempt from the visa requirement.

**Table A3: Ireland White List**

Andorra	Guyana	Saint Lucia
Antigua and Barbuda	Honduras	Saint Vincent and the Grenadines
Argentina	Hong Kong SAR	San Marino
Australia	Israel	Samoa
Bahamas	Japan	Seychelles
Barbados	Kiribati	Singapore
Belize	Lesotho	Solomon Islands
Bolivia	Macao SAR	South Africa
Botswana	Malawi	South Korea
Brazil	Malaysia	Swaziland
Brunei	Maldives	Taiwan
Canada	Mexico	Tonga
Chile	Monaco	Trinidad and Tobago
Costa Rica	Nauru	Tuvalu
Croatia	New Zealand	United States
Dominica	Nicaragua	Uruguay
El Salvador	Panama	Vanuatu
Fiji	Paraguay	Venezuela
Grenada	Saint Kitts and Nevis	Vatican
Guatemala		



**Table A4: Ireland Black List**

Afghanistan	Guinea	Pakistan
Albania	Guinea-Bissau	Palau
Algeria	Haiti	Palestinian Territories
Angola	India	Papua New Guinea
Armenia	Indonesia	Peru
Azerbaijan	Iran	Philippines
Bahrain	Iraq	Qatar
Bangladesh	Côte d'Ivoire	Russia
Belarus	Jamaica	Rwanda
Benin	Jordan	São Tomé and Príncipe
Bhutan	Kazakhstan	Saudi Arabia
Bosnia and Herzegovina	Kenya	Senegal
Burkina Faso	North Korea	Serbia
Burma/Myanmar	Kosovo	Sierra Leone
Burundi	Kuwait	Somalia
Cambodia	Kyrgyzstan	South Sudan
Cameroon	Laos	Sri Lanka
Cape Verde	Lebanon	Sudan
Central African Republic	Liberia	Surinam
Chad	Libya	Syria
China	Macedonia	Tajikistan
Colombia	Madagascar	Tanzania
The Comoros	Mali	Thailand
Congo	Marshall Islands	Timor-Leste
Cuba	Mauritania	Togo
Democratic Republic of the Congo	Mauritius	Tunisia
Djibouti	Micronesia	Turkey
Dominican Republic	Moldova	Turkmenistan
Ecuador	Mongolia	Uganda
Egypt	Montenegro	Ukraine
Equatorial Guinea	Morocco	UAE
Eritrea	Mozambique	Uzbekistan
Ethiopia	Namibia	Vietnam
Gabon	Nepal	Yemen
Gambia	Niger	Zambia
Georgia	Nigeria	Zimbabwe
Ghana	Oman	

**Table A5: Comparison of Schengen, the UK and Ireland visa regimes**

<b>Country</b>	<b>Visa Obligation</b>		
	<b>Schengen</b>	<b>The UK</b>	<b>Ireland</b>
Albania	No	Yes	Yes
Belize	Yes	No	No
Bolivia	Yes	Yes	No
Bosnia and Herzegovina	No	Yes	Yes
Botswana	Yes	No	No
Dominica	Yes	No	No
Fiji	Yes	Yes	No
Grenada	Yes	No	No
Guyana	Yes	Yes	No
Kiribati	Yes	No	No
Lesotho	Yes	Yes	No
Macedonia (FYR)	No	Yes	Yes
Malawi	Yes	Yes	No
Maldives	Yes	No	No
Marshall Islands	Yes	No	Yes
Mauritius	No	No	Yes
Micronesia	Yes	No	Yes
Montenegro	No	Yes	Yes
Namibia	Yes	No	Yes
Nauru	Yes	No	No
Palau	Yes	No	Yes
Papua New Guinea	Yes	No	Yes
Saint Lucia	Yes	No	No
Saint Vincent and the Grenadines	Yes	No	No
Samoa	Yes	No	No
Serbia	No	Yes	Yes
Solomon Islands	Yes	No	No
South Africa	Yes	Yes	No
Swaziland	Yes	Yes	No
Timor-Leste	Yes	No	Yes
Tonga	Yes	No	No
Trinidad and Tobago	Yes	No	No
Tuvalu	Yes	No	No
Vanuatu	Yes	No	No

**Table A6: Sticker Visas**

Country	Duration of Stay	Fee
Antigua and Barbuda	3 months	\$20 / €15
Armenia	1 month	\$15 / €10
Australia	3 months	\$20 / €15
Austria	3 months	\$20 / €15 / £10
Bahamas	3 months	\$20 / €15
Bahrain	1 month	\$15 / €10
Bangladesh <sup>a</sup>	1 month	\$20 / €15
Barbados	3 months	\$20 / €15
Belarus	2 months	\$20 / €15
Belgium	3 months	\$20 / €15 / £10
Canada	3 months	\$60 / €45
Cyprus	1 month	\$20 / €15 / £10
Dominica	3 months	\$20 / €15
Dominican Republic	3 months	\$20 / €15
Grenada	3 months	\$20 / €15
Haiti	3 months	\$20 / €15
Hong Kong SAR	3 months	\$20 / €15
Hungary	3 months	\$20 / €15
India <sup>b</sup>	1 month	\$20 / €15
Indonesia	3 months <sup>5</sup>	\$25
Ireland	3 months	\$20 / €15 / £10
Jamaica	3 months	\$20 / €15
Kuwait	3 months	\$20 / €15
Maldives	3 months	\$20 / €15
Malta	3 months	Free of charge
Mauritius	1 month	\$15 / €10
Mexico <sup>c</sup>	3 months	\$20 / €15
Moldova <sup>d</sup>	1 month	\$30 / €20
Netherlands	3 months	\$20 / €15 / £10
Norway	3 months	\$20 / €15 / £10
Oman	3 months	\$20 / €15
Pakistan <sup>b</sup>	1 month	\$20 / €15
Poland	3 months	\$20 / €15

<sup>a</sup> The nationals of Bangladesh can get sticker visas at border stations only if they hold Schengen or OECD visas or residence permits.

<sup>b</sup> The nationals of these countries who are holders of Schengen, UK or US visas can get sticker visas at the border stations.

<sup>c</sup> Only the nationals of Mexico with Schengen, UK, US, Canada or Japan visas or residence permits can get sticker visas.

<sup>d</sup> Sticker visas can be obtained only at the airports by the nationals of Moldova.

<sup>e</sup> Although Indonesians can get three-month sticker visas, they can stay in Turkey for one month in each of their entries.

Portugal	3 months	\$20 / €15 / £10
Qatar	3 months	\$20 / €15
Saint Kitts and Nevis	3 months	\$20 / €15
Saint Lucia	3 months	\$20 / €15
Saint Vincent and the Grenadines	3 months	\$20 / €15
Saudi Arabia	3 months	\$20 / €15
Slovakia	1 month	\$20 / €15 / £10
South Africa	1 month	Free of charge
Spain	3 months	\$20 / €15 / £10
Ukraine	3 months	\$30 / €20
United Arab Emirates	3 months	\$20 / €15
United Kingdom	3 months	\$20 / €15 / £10
Unites States	3 months	\$20 / €15

**Table A7: Turkey's reciprocal relations in terms of visa requirements**

<b>Country</b>	<b>Whether it applies visa to Turkish Nationals</b>	<b>Whether Turkey applies visa to its nationals</b>
Afghanistan	Yes	Yes
Albania	No (90 days)	No (90 days)
Algeria	Yes	Yes
Andorra	No (90 days)	No (90 days)
Angola	Yes	Yes
Antigua and Barbuda	Yes	Yes (sticker)
Argentina	No (90 days)	No (90 days)
Armenia	Yes (sticker)	Yes (sticker)
Australia	Yes	Yes (sticker)
Austria	Yes	Yes (sticker)
Azerbaijan	Yes (sticker)	No (30 days)
Bahamas	No	Yes (sticker)
Bahrain	Yes	Yes (sticker)
Bangladesh	Yes	Yes
Barbados	No (90 days)	Yes (sticker)
Belarus	Yes	Yes (sticker)
Belgium	Yes	Yes (sticker)
Belize	No (90 days)	Yes
Benin	Yes	Yes
Bhutan	Yes	Yes
Bolivia	No (90 days)	No (90 days)
Bosnia and Herzegovina	No (60 days)	No (60 days)
Botswana	Yes	Yes
Brazil	No (90 days)	No (90 days)
Brunei	Yes	No (90 days)
Bulgaria	Yes	No (90 days)
Burkina Faso	Yes	Yes
Burma/Myanmar	Yes	Yes
Burundi	Yes	Yes
Cambodia	Yes (sticker)	Yes
Cameroon	Yes	Yes
Canada	Yes	Yes (sticker)
Cape Verde	Yes	Yes
Central African Republic	Yes	Yes
Chad	Yes	Yes
Chile	No (90 days)	No (90 days)
China	Yes	Yes
Colombia	No	Yes
The Comoros	Yes	Yes
Congo	Yes	Yes

Costa Rica	No	No (30 days)
Croatia	No (90 days)	No (90 days)
Cuba	Yes	Yes
Cyprus	Yes	Yes (sticker)
Czech Republic	Yes	No (90 days)
DR Congo	Yes	Yes
Denmark	Yes	No (90 days)
Djibouti	Yes	Yes
Dominica	No (21 days)	Yes (sticker)
Dominican Republic	Yes	Yes (sticker)
Ecuador	No (90 days)	No (90 days)
Egypt	Yes	Yes
El Salvador	No (90 days)	No (90 days)
Equatorial Guinea	Yes	Yes
Eritrea	Yes	Yes
Estonia	Yes	No (90 days)
Ethiopia	Yes	Yes
Fiji	No (90 days)	Yes
Finland	Yes	No (90 days)
France	Yes	No (90 days)
Gabon	Yes	Yes
Gambia	Yes	Yes
Georgia	No (90 days)	No (90 days)
Ghana	Yes	Yes
Germany	Yes	No (90 days)
Greece	Yes	No (90 days)
Grenada	Yes	Yes (sticker)
Guatemala	No (90 days)	No (90 days)
Guinea	Yes	Yes
Guinea-Bissau	Yes	Yes
Guyana	Yes	Yes
Haiti	No (90 days)	Yes (sticker)
Honduras	No (90 days)	No (90 days)
Hong Kong SAR	No (90 days)	Yes (sticker)
Hungary	Yes	Yes (sticker)
Iceland	Yes	No
Indonesia	Yes (sticker)	Yes (sticker)
India	Yes	Yes
Iran	No (90 days)	No (90 days)
Iraq	Yes (sticker in some cases)	Yes (sticker in some cases)
Ireland	Yes	Yes (sticker)
Israel	Yes	Yes (sticker)
Italy	Yes	No (90 days)
Côte d'Ivoire	Yes	No (90 days)
Jamaica	Yes	Yes

Japan	No (90 days)	Yes (sticker)
Jordan	No (90 days)	No (90 days)
Kazakhstan	No (90 days)	No (90 days)
Kenya	No (30 days)	No (30 days)
Kiribati	Yes (sticker)	Yes
Kosovo	Yes	Yes
Kyrgyzstan	No (90 days)	No (90 days)
Kuwait	No	No (30 days)
Latvia	Yes	Yes (sticker)
Laos	Yes	No (30 days)
Lebanon	Yes	Yes
Lesotho	No (90 days)	No (90 days)
Liberia	Yes	Yes
Libya	Yes	Yes
Liechtenstein	No (90 days)	No (90 days)
Lithuania	Yes	No (90 days)
Luxembourg	Yes	No (90 days)
Macao SAR	Yes	No (90 days)
Macedonia	No (30 days)	No (30 days)
Madagascar	No (60 days)	No (60 days)
Malaysia	Yes	Yes
Malawi	No (90 days)	No (90 days)
Maldives	Yes	Yes
Mali	No (30 days)	Yes (sticker)
Malta	Yes	Yes
Marshall Islands	Yes	Yes (sticker)
Mauritania	Yes	Yes
Mauritius	Yes	Yes
Micronesia	No (30 days)	Yes (sticker)
Mexico	Yes	Yes
Moldova	Yes	Yes
Monaco	Yes	Yes (sticker)
Mongolia	Yes	No (90 days)
Montenegro	Yes	No (30 days)
Morocco	No (90 days)	No (90 days)
Mozambique	No (90 days)	No (90 days)
Namibia	Yes	Yes
Nauru	Yes	Yes
Nepal	Yes	Yes
Netherlands	Yes	Yes
New Zealand	Yes	Yes (sticker)
Nicaragua	Yes	No (90 days)
Niger	No	No (90 days)
Nigeria	Yes	Yes
North Korea	Yes	Yes

Norway	Yes	Yes
Oman	Yes	Yes (sticker)
Paraguay	Yes (sticker)	Yes (sticker)
Poland	No	No (90 days)
Portugal	Yes	Yes (sticker)
Pakistan	Yes	Yes (sticker)
Palau	Yes	Yes
Palestinian Territories	No	Yes
Panama	No	Yes
Papua New Guinea	No	No
Peru	Yes	Yes
Philippines	Yes	Yes
Qatar	No (21 days)	Yes
Romania	Yes (sticker)	Yes (sticker)
Russia	Yes	No (90 days)
Rwanda	No (30 days)	No (30 days)
Saint Kitts and Nevis	Yes	Yes
Saint Lucia	Yes	Yes (sticker)
Saint Vincent and the Grenadines	No	Yes (sticker)
Samoa	No	Yes (sticker)
San Marino	No	Yes
São Tomé and Príncipe	Yes	No (90 days)
Saudi Arabia	Yes	Yes
Senegal	Yes	Yes (sticker)
Serbia	Yes	Yes
Seychelles	No (90 days)	No (90 days)
Sierra Leone	No	No
Singapore	Yes	Yes
Slovakia	No (90 days)	No (90 days)
Slovenia	Yes	Yes (sticker)
Solomon Islands	Yes	No (90 days)
Somalia	No	Yes
South Africa	Yes	Yes
South Korea	Yes (sticker)	Yes (sticker)
South Sudan	No (90 days)	No (90 days)
Spain	Yes	Yes
Sri Lanka	Yes	Yes (sticker)
Sudan	No (30 days)	Yes
Surinam	Yes (sticker)	Yes
Swaziland	Yes	Yes
Sweden	No (30 days)	Yes
Switzerland	Yes	No (90 days)
Syria	Yes	No (90 days)
Taiwan	No (90 days)	No (90 days)
Tajikistan	Yes	Yes



Tanzania	Yes	No (30 days)
Thailand	Yes	Yes
Timor-Leste	No (30 days)	Yes
Togo	Yes (sticker)	Yes
Tonga	Yes	Yes
Trinidad and Tobago	Yes	Yes
Tunisia	No (30 days)	No (90 days)
Turkmenistan	No (90 days)	No (90 days)
Tuvalu	Yes	No (30 days)
Uganda	No	Yes
Ukraine	Yes	Yes
United Arab Emirates	Yes (sticker)	Yes (sticker)
United Kingdom	Yes	Yes (sticker)
United States	Yes	Yes (sticker)
Uruguay	Yes	Yes (sticker)
Uzbekistan	No (90 days)	No (90 days)
Vanuatu	Yes	No (30 days)
Vatican	Yes	Yes
Venezuela	Yes	No (90 days)
Vietnam	No (90 days)	No (90 days)
Yemen	Yes	Yes
Zambia	Yes	Yes
Zimbabwe	Yes (sticker)	Yes
	Yes	Yes

**Table A8: Agreements providing reciprocal visa exemption for holders of ordinary passports**

<b>Country</b>	<b>Date and No. of the Official Gazette</b>	<b>Council of Ministers Decision No.</b>	<b>In line with Schengen <i>acquis</i> or not</b>
Seychelles	22.12.2011 / 28150	2011/2480	Yes
Serbia	02.10.2010 / 27717	2010 / 836	Yes
Russia	27.07.2010 / 27654	2010 / 610	No
Jordan	13.03.2010 / 27520	2010 / 198	No
Libya	24.02.2010 / 27503	2010 / 58	No
Lebanon	10.02.2010 / 27489	2010 / 84	No
Syria	23.12.2009 / 27441	2009 / 15684	No
Albania	11.12.2009 / 27429	2009 / 15639	No then, yes now
Kosovo	18.03.2009 / 27173	2009 / 14688	No
Montenegro	20.03.2008 / 26822	2008 / 13335	No then, yes now
Paraguay	05.06.2006 / 26189	2006 / 10443	Yes
Georgia	26.01.2006 / 26061	2006 / 9939	No
Venezuela	17.11.2005 / 25996	2005 / 9536	Yes
Guatemala	02.01.2005 / 25688	2004 / 8247	Yes
Nicaragua	09.01.2002 / 24635	2001 / 3451	Yes
Brazil	28.10.2001 / 24567	2001 / 3127	Yes
Honduras	28.02.2001 / 24332	2001 / 2042	Yes
Bolivia	22.01.2001 / 24295	2000 / 1834	Yes then, no now
Belize	14.09.1999 / 23816	99 / 13273	No
El Salvador	18.05.1999 / 23699	99 / 12751	Yes
Costa Rica	18.05.1999 / 23699	99 / 12752	Yes

**Table A9: Unilateral decisions taken by the Council of Ministers granting visa-free travel**

Country	Date Decision Taken	Date and No. of the Official Gazette	Council of Ministers Decision No.	In line with Schengen <i>acquis</i> or not
Panama	29.03.2012	27.04.2012 / 28276	2012 / 3044	Yes
Slovenia	27.07.2010	15.08.2010 / 27673	2010 / 763	Yes
Saudi Arabia <sup>a</sup>	17.12.2009	09.01.2010 / 27457	2009 / 15716	No
Romania	25.11.2009	31.12.2009 / 27449	2009 / 15644	Yes
Lithuania	02.10.2009	31.10.2009 / 27392	2009 / 15515	Yes
Syria <sup>b</sup>	12.10.2009	16.10.2009 / 27378	2009 / 15499	No
Brunei	31.03.2009	28.04.2009 / 27213	2009 / 14912	Yes
Azerbaijan	19.07.2007	29.07.2007 / 26597	2007 / 12441	No
Mongolia	19.07.2007	29.07.2007 / 26597	2007 / 12441	No
Uzbekistan	19.07.2007	29.07.2007 / 26597	2007 / 12441	No
Tajikistan	19.07.2007	29.07.2007 / 26597	2007 / 12441	No
Turkmenistan	19.07.2007	29.07.2007 / 26597	2007 / 12441	No
Andorra	30.09.2005	30.10.2005 / 25981	2005 / 9498	Yes
Czech Republic	27.12.2004	31.12.2004 / 25687	2004 / 8306	Yes
Bulgaria	14.05.2001	15.06.2001 / 24443	2001 / 2477	Yes

**Table A10: Bilateral agreements providing reciprocal visa exemption for holders of diplomatic passports only**

Country	Date of Signature	Date and No. of the Official Gazette	Council of Ministers Decision No.
Nigeria	16.12.2011	27.03.2012 / 28246	2012 / 2804
Mali	12.10.2011	23.03.2012 / 28242	2012 / 2854
Ethiopia	16.12.2011	09.03.2012 / 28228	2012 / 2787
Ghana	24.03.2011	25.08.2011 / 28036	2011 / 2072
Sudan	13.10.2010	25.12.2010 / 27796	2010 / 1136
India	08.02.2008	20.03.2008 / 26822	2008 / 13367
Afghanistan	29.09.2007	02.02.2008 / 26675	2008 / 13111
Uzbekistan	19.12.2003	24.01.2004 / 25356	2004 / 6734
Tajikistan	23.10.2003	10.01.2004 / 25342	2003 / 6506
Portugal	14.03.2000	24.05.2000 / 24058	2000 / 628
Russia	05.11.1999	30.12.1999 / 23922	99 / 13726

<sup>a</sup> For official passports only.

<sup>b</sup> Merely a preparation for the bilateral visa-free agreement encompassing all passports to be signed the next day on 13.10.2009.

**Table A11: Bilateral agreements providing reciprocal visa exemption for holders of diplomatic, service, special and official (where applicable) passports**

Country	Date of Signature	Date and No. of the Official Gazette	Council of Ministers Decision No.
Ecuador	06.07.2011	29.11.2011 / 28127	2011 / 2410
Cameroon	16.03.2010	28.07.2010 / 27655	2010 / 605
Tanzania	18.02.2010	02.07.2010 / 27629	2010 / 439
Qatar	17.08.2009	19.10.2009 / 27381	2009 / 15473
Kenya	20.02.2009	27.06.2009 / 27271	2009 / 15076
Djibouti	16.01.2009	03.05.2009 / 27217	2009 / 14864
United Arab Emirates	05.05.2008	28.06.2008 / 26920	2008 / 13799
St Vincent and the Grenadines	11.07.2007	11.10.2007 / 26670	2007 / 12610
Mauritania	19.06.2007	03.09.2007 / 26632	2007 / 12521
Kuwait	04.04.2007	26.06.2007 / 26564	2007 / 12249
Vietnam	26.01.2007	16.04.2007 / 26495	2007 / 11906
Colombia	17.05.2006	08.08.2006 / 26523	2006 / 10703
Azerbaijan <sup>a</sup>	08.09.2003	10.11.2003 / 25285	2003 / 6266
Yugoslavia	13.12.2001	09.02.2002 / 24666	2002 / 3600
Slovenia	29.11.1999	13.01.2000 / 23932	99 / 13824
Venezuela <sup>b</sup>	18.10.1999	02.01.2000 / 23924	99 / 13693
Philippines <sup>b</sup>	22.02.1999	13.09.1999 / 23815	99 / 13271

**Table A12: Bilateral agreements providing reciprocal visa exemption for holders of service and special passports (since diplomatic passports were already covered with previous agreements)**

Country	Date of Signature	Date and No. of the Official Gazette	Council of Ministers Decision No.
Portugal	14.07.2010	06.10.2010 / 27721	2010 / 870
Tajikistan	29.05.2009	12.12.2009 / 27430	2009 / 15618

<sup>a</sup> Holders of ordinary passports could get their 30 day visas at the borders of Turkey and Baku International Airport.

<sup>b</sup> For 30 days.

**Table A13: Bilateral agreement providing reciprocal visa exemption for holders of diplomatic and service passports**

Country	Date of Signature	Date and No. of the Official Gazette	Council of Ministers Decision No.
Indonesia	05.04.2011	24.08.2011 / 28035	2011 / 2139

**Table A14: Bilateral agreement providing reciprocal visa exemption for holders of service passports**

Country	Date of Signature	Date and No. of the Official Gazette	Council of Ministers Decision No.
Bulgaria <sup>a,b</sup>	26.05.2004	24.07.2004 / 25532	2004 / 7615

**Table A15: Reciprocal extension of visa-free days**

Country	Date of Signature	Date and No. of the Official Gazette	Council of Ministers Decision No.
Croatia <sup>c</sup>	02.07.2008	30.07.2008 / 26952	2008 / 13913

**Table A16: Unilateral extension of visa-free days by Turkey**

Country	Date of Decision	Date and No. of the Official Gazette	Council of Ministers Decision No.
Russia <sup>d</sup>	16.04.2012	04.05.2012 / 28282	2012 / 3077
Russia <sup>e</sup>	24.05.2011	02.07.2011 / 27982	2011 / 1922

<sup>a</sup> This is an amendment of a previous agreement.

<sup>b</sup> For 30 days.

<sup>c</sup> Visa-free days extended to 90 days within 180 days.

<sup>d</sup> Continuous visa-free days extended from 30 days to 60 days, not exceeding 90 days within 180 days till 31.12.2012.

<sup>e</sup> Continuous visa-free days extended from 30 days to 60 days, not exceeding 90 days within 180 days till 31.12.2011.

**Table A17: Bilateral agreements including unequal terms for the signatories**

Country	Date of Signature	Date and No. of the Official Gazette	Council of Ministers Decision No.
Estonia <sup>a</sup>	21.04.2008	12.06.2008 / 26904	2008 / 13675
Bulgaria <sup>b</sup>	23.03.2007	09.05.2007 / 26517	2007 / 12070
Latvia <sup>c</sup>	26.06.2006	11.10.2006 / 26316	2006 / 10994

**Table A18: Decisions ending right of visa exemption extended to some countries**

Country	Date of Decision	Date and No. of the Official Gazette	Council of Ministers Decision No.	In line with Schengen <i>acquis</i> or not
Indonesia	20.03.2003	02.04.2003 / 25067	2003 / 5360	Yes
Grenada	20.03.2003	02.04.2003 / 25067	2003 / 5360	Yes
South Africa	20.03.2003	02.04.2003 / 25067	2003 / 5360	Yes
Kenya	20.03.2003	02.04.2003 / 25067	2003 / 5360	Yes
Maldives	20.03.2003	02.04.2003 / 25067	2003 / 5360	Yes
Saint Lucia	20.03.2003	02.04.2003 / 25067	2003 / 5360	Yes
Seychelles <sup>d</sup>	20.03.2003	02.04.2003 / 25067	2003 / 5360	Yes
Slovenia	08.11.1999	15.12.1999 / 23907	99 / 13626	No
Canada	19.08.1999	11.09.1999 / 23813	99 / 13265	No
Australia	16.11.1998	05.12.1998 / 23544	98 / 12057	No

<sup>a</sup> Visa-free travel for ordinary Estonian passports in exchange for visa-free travel for service and special Turkish passports.

<sup>b</sup> Longer visas for Turkish businessmen and the right of 5 days of transit for holders of Schengen visas or residence permits.

<sup>c</sup> Visa-free travel for Latvian diplomatic and service passports (90 days), for ordinary passports (30 days within 180 days); visa-free travel for Turkish diplomatic, service and special passports (90 days).

<sup>d</sup> Seychelles was in the Schengen black list then. Now, it is in the Schengen white list. Turkey signed a bilateral visa-free travel agreement with Seychelles in 2011, so this decision is now null and void.

**Table A19: Decisions ending bilateral visa exemption agreements**

Country	Date of the bilateral visa exemption agreement	Date of Decision	Date of the Official Gazette	Council of Ministers Decision No.	In line with Schengen <i>acquis</i> or not
Azerbaijan <sup>a</sup>	28.02.1992	09.06.2003	03.07.2013	2003 / 5735	Yes
Bahamas <sup>b</sup>	01.03.1960	20.03.2003	02.04.2003	2003 / 5360	Yes
Barbados <sup>c</sup>	11.08.1970	20.03.2003	02.04.2003	2003 / 5360	Yes
Belize	26.02.1999	20.03.2003	02.04.2003	2003 / 5360	Yes
Jamaica	04.05.1970	20.03.2003	02.04.2003	2003 / 5360	Yes
Fiji	10.07.1972	20.03.2003	02.04.2003	2003 / 5360	Yes
Mauritius <sup>d</sup>	28.09.1970	20.03.2003	02.04.2003	2003 / 5360	Yes
Yugoslavia SFR	27.04.1992 <sup>e</sup>	08.11.1999 <sup>f</sup>	15.12.1999	99 / 13626	No
Afghanistan	27.09.1972	05.11.1999	04.12.1999	99 / 13599	Yes

<sup>a</sup> To be replaced by a new bilateral visa-free travel agreement providing reciprocal visa exemption for holders of diplomatic, service and special passports on 08.09.2003.

<sup>b</sup> Bahamas was in the Schengen black list then. Now, it is in the Schengen white list.

<sup>c</sup> Barbados was in the Schengen black list then. Now, it is in the Schengen white list.

<sup>d</sup> Mauritius was in the Schengen black list then. Now, it is in the Schengen white list.

<sup>e</sup> The existing agreement with Yugoslavia SFR was extended to Croatia and Slovenia on this date.

<sup>f</sup> The extension of the agreement for Slovenia is cancelled on this date.