

Have We Learnt from the Past? New But Uncertain Obstacles in the Balkan Route

Geçmişten Ders Çıkardık mı? Balkan Rotasındaki Yeni ancak Belirsiz Engeller

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Abstract

In order to stop the irregular influx in the Balkan route, some governmental and intergovernmental precautions were taken. As a result of the externalization of the migration policy of the EU, the EU-Turkey joint action plan was signed in order to tackle “the migration crisis”. The second factor which shaped the Balkan route relevantly is the establishment of the mandatory relocation system of asylum seekers. The third barrier is the infamous Hungarian border fence and the newly established transit zones. This paper will focus on to answer to what extent these new form of relations and regulations can be effective. These regimes would be able to survive without each other? In the long term, this might be interpreted that “migration crisis” cannot be solved without close cooperation between the EU and its key partners in the region as well as putting the concept of “burden and responsibility sharing” into practice.

Key words: EU-Turkey Deal, Western-Balkan Migration Route, Relocation, Readmission.

Özet

Balkan rotasındaki düzensiz akışı durdurmak için, hükümet çapında ve hükümetler arası bazı önlemler alınmıştır. AB'nin göç politikasının dışsallaştırılması sonucunda, “göç krizi” ile mücadele için AB-Türkiye ortak eylem planı imzalanmıştır. Balkan rotasını uygun şekilde şekillendiren ikinci faktör, sığınmacıların zorunlu yer değiştirme sisteminin kurulmasıdır. Üçüncü engel, ünlü Macar sınır çiti ve yeni kurulan transit bölgelerdir. Bu makale, bu yeni ilişkiler ağları ve düzenlemelerin ne ölçüde etkili olabileceğini cevaplamaya odaklanacaktır. Bu rejimler birbirleri olmadan hayatta kalabilir mi? Uzun vadede, bu durum “göç krizi”nin AB ile bölgedeki kilit ortakları arasında yakın işbirliği yapılmadığı ve AB'nin “yük ve sorumluluk paylaşımı” kavramını hayata geçirmediği sürece çözülemeyecek şeklinde yorumlanabilir.

Anahtar Kelimeler: AB-Türkiye Anlaşması, Batı-Balkan Göç Rotası, Yer Değiştirme, Geri Kabul.

INTRODUCTION

In today's world, the Europe is the center of the large part of the international migration movement. Majority of this movement is done in an irregular way. One of the most relevant routes in Europe has been the so-called Balkan route which was very busy in 2015 from the

Aegean Sea until Austria. Now, it is much less passable than it was earlier. In our paper, we would like to analyze the fact what has made the changes and will discuss further about their sustainability.

As a result of the externalization of the migration policy of the EU, the EU-Turkey joint action plan was signed in order to tackle ‘the migration crises’. The main objective of

the deal is to limit the inflows of refugees and irregular migrants as well as to prevent the unauthorized migrants from entering to Europe through illegal channels. The agreement based on 1:1 swap theory: all the new irregular migrants who arrive to Greece would be returned to Turkey; for every Syrian who is sent back, one registered Syrian in Turkey will be resettled. According to statistics, the EU-Turkey deal was successful to accomplish its goal of reducing the arrival number of the Europe. However, the plan has been criticized heavily by the international community particularly for the humanitarian reasons and concerns about its legality. After almost 2 years, there are still many missing checkmarks on the EU-Turkey mutual compromises. This paper will try to analyze the deal's implementation and effectiveness; last but not least it will try to figure out whether the plan would manage to survive in the long term with its legal bases.

The second factor which shaped the Balkan route relevantly is the establishment of the mandatory relocation system of asylum seekers. This controversial provision made possible 21.703 persons relocations from Greece to another Member States of the European Union as of 22 December 2017. (European Commission, 2018a) Obviously, the relocation could also decrease the overcrowding of the Balkan route since the mechanism helped organized travels of asylum-seekers concerned and also provided a hope for others to be relocated without bearing risks of travelling irregularly via the Balkan route.

The third obstacle is the infamous Hungarian border fence and the newly established transit zones. These measures virtually nullify the possibility to avoid the Hungarian asylum regime. Significant part of migrants and potential asylum-seekers would avoid to being registered in Hungary as asylum-seeker. Additionally, Hungary has been followed by Croatia and Austria since these EU Member States also has erected their own fences. Due to these physical measure, only a very few asylum-seekers can enter these Member States

and submit their asylum applications. Other irregular migrants have even more less chance to pass over.

These provisions have changed the Balkan route. In our article, taking into account the possible future scenarios of the mentioned regimes, we will try to discuss whether these regimes would be able to survive without each other? We will try to highlight the case if there is any domino effect which will later cause the Balkan route would be overcrowded again if one of them fell down...

EU-TURKEY DEAL

The Syrian Refugee Crisis still remains as the largest humanitarian crisis taken place after the Second World War. The escalating tension during the anti-government protests in 2011 later turned into a full-scale civil war between the rebels, government troops and the country torn apart triggered with the international intervention. While all these were happening, the Syrians left with a dilemma of staying in their home country or move to any other place where they could seek for a safe but uncertain future in foreign lands. (Aygenç & Orpen, 2018) Staying in Syria was getting harder each and every day; many Syrians suffered from continuing their daily lives since there was a serious risk of staying alive under the bombs, lack of basic food and water to survive and almost no access to any medical treatments.

Many displaced people ended up leaving their country to seek a shelter in the neighboring countries such as Jordan, Lebanon and Turkey. Especially a call coming from the Turkish government: "open the border doors and accept everybody as guests" in other words, the so-called Open Door Policy made Turkey the most refugee hosting country in the world. (DW, 2018a) According to the latest statistics dated on 24 May 2018, 3 million 589 thousand 384 Syrians registered to Turkey as an under temporary protection status. (Mülteciler Derneği, 2018)

However, a significant number of them arrived to Turkey with the expectation of continuing to

travel further to the more developed countries in the West and Northwest of the European Union passing through the Balkan route. For them, Turkey was not a final destination but a transit country to open them the doors of the European Union. With the hope of reaching this goal, many of them tried to leave Turkish shore by boats to the Greek Islands by risking everything. Smugglers business model also caused them to lose their lives along the way and this tragedy caught the attention of the international community. The United Nations High Commissioner for Refugees (UNHCR) stated that “Increasing numbers of refugees take their chances aboard unseaworthy boats and dinghies in a desperate bid to reach Europe, with the vast majority of those attempting this dangerous crossing in need of international protection, fleeing war, violence and persecution in their country of origin.” (UNHCR, 2018) UNHCR remarked that the EU should be doing more and “demonstrate moral and political leadership in adopting a holistic and forward-looking action plan centred upon these values.” (UNCHR, 2015) All these international calls forced the EU to address the issue. Instead of securing the passage on the Aegean Sea, the EU’s response focused on preventing further attempts to cross over to Greece and to send the refugees back to Turkey. (Aygenç & Orpen, 2018) In order to regionalize the crisis, 28 member states of the European Union and Turkey negotiated for a plan which is now known as EU-Turkey Deal. After the negotiations, the EU- Turkey Joint Action Plan about the unprecedented number of refugees arriving to Europe from routes thorough the Western Balkans and the Mediterranean was signed on 18 March 2016. (European Council, 2016) The main aim of the deal is to regulate the irregular motion of the migrant flow. The plan works on the basis of the 1:1 swap which means Greece sends back the irregular migrants back to Turkey and the EU receives a Syrian refugee in return to every irregular migrant resent to Turkey. (Williamson, 2016) By this way, the EU aimed to manage and put this swap in the core of the

statement to regulate the irregular entries to Europe.

What does the agreement implicate?

The EU-Turkey Deal has become one of the most important cooperation to regulate the massive influx of refugees to the Europe. This agreement is the engine of the EU’s attempts to effectively govern and regionalize the migration/refugee crisis. The agreement has two main goals to achieve: primarily, it intends to “break the business model of the smugglers” who were abusing migrants/refugees in dire conditions on the migratory routes from Turkey to the European Union without taking any safety measures. Secondly, the deal planned to diminish the unprecedented number of migrant and refugee’s irregular entries to the European Union and give them an alternative way to arrive to the Europe legally. For these reasons, the EU and Turkey have come to an agreement on some fundamental “action points” which build up the skeleton of the EU-TR deal. It can be seen from the action points that the 1:1 swap policy is the essence of the cooperation. On the other hand, the EU sends a clear message to the migrants/refugees that there is a legal and safe passage to enter Europe instead of irregular crossings. (Williamson, 2016)

Turkey’s main role on the agreement is to limit and prevent further sea crossings from its shores to the European Union. In other words, securitization of the EU’s external borders will be assured by Turkey. One of the core aims of the European Union’s allocation initially 3 Billion Euro to Turkey is to achieve this goal and also to support the refugees in the country. Keeping them in Turkey clearly shows that the EU would list Turkey as a safe third country, which means that non-refoulement principle will not be applicable under the international law. (Karakoulaki, 2018)

This agreement is also a key document for the bilateral relations of the EU and Turkey. With these action points of the EU- Turkey Deal, the European Union and Turkey tried to determine

the main framework of the cooperation. It is clear from the action points that the EU aims to govern the migration flow effectively and regionalize the 'crisis' at the external borders of the EU with the help of its long-time candidate member state Turkey. It can be interpreted that this cooperation between the EU and Turkey strengthened the bilateral relation and boosted up a rapprochement among them.

The Effectiveness of the EU-TR Deal

The EU-TR Deal took effect on 20 March 2016 and since the implementation of the agreement, there has been a sharp decrease on the irregular arrivals to Greek Islands. According to statistics, the EU-Turkey deal was successful to accomplish its goal to reduce the irregular migrants/refugees' arrival number to the Europe. One month before the implementation of the EU-Turkey Deal, approximately 1,740 migrants per day were leaving the Turkish shores to arrive to Greek islands by risking their lives on the Aegean Sea. With the entry into effect the agreement, irregular and dangerous arrivals remains 97% down on the period before the Statement became operational. (European Commission, 2018b)

According to the Turkish Coast Command, the number of lost lives in the Aegean Sea plummeted by 85% in 2017 comparing to the numbers in 2016. While the 43% of attempts to cross the Aegean Sea to reach Greece were prevented in 2017, a total number of 61 people who died in the Aegean Sea in 2017, decreased from 434 people in 2016 and 806 people in 2015. (Hurriyet Daily News, 2018) However, the EU-TR agreement is generally successful to decrease the numbers since the first date of its implication, there is a slight increase in 2018's current statistics. During the first 3 months of 2018, 4,214 irregular migrants were caught attempting to cross the Aegean Sea. Comparing to last year's same period statistics, the numbers seems to be doubled since only 2,324 people were detained on attempting to entry the EU irregularly. It is reported that the winter was relatively warm comparing to past years and

this also has effected to the attempts' condition. (Daily Sabah, 2018)

Within the 1:1 swap framework of the agreement, Greece sent back a total number of 1,537 irregular migrant to Turkey. 260 out of this were Syrian refugees. Up to now, 12,069 Syrians were sent from Turkey to the European Union. The number of the resettled person and the countries are such: 4,051 to Germany; 2,063 to the Netherlands; 1,281 to France; 2,000 to Finland; 823 to Belgium; 742 to Sweden; 429 to Spain; 332 to Italy; 206 to Luxembourg; 213 to Austria; 123 to Portugal; 46 to Latvia; 76 to Croatia; 84 to Lithuania; 41 to Estonia, 17 to Malta. Although the promised number of resettlement on the EU-TR deal was 72,000 person; until now, only 12.000 could be resettled to the European Union member states. (Sozcu, 2018)

Another action point on the agreement was that the EU would allocate 6 Billion Euro to Turkey to spend for the refugees in the country under the title of Facility for Refugees in Turkey. The first round of the payment partially transacted and the projects where the money would be allocated were determined. However, the second round of the payment will have been paid until the end of 2018. (DW, 2018b)

Current Issues and Challenges

However, it has been emphasized by the European Commission in many various occasions that the EU-Turkey deal complies with the EU and international law, the legality of the agreement is still under the question because of several reasons. One of the most discussed issues is the fact that the collective expulsion of individuals. The EU issued a directive in 2008 and it was decided that third country nationals should be evaluated on a case-by-case base and the EU should prepare the necessary conditions for them to apply for the asylum to be considered. (European Commission, 2008) Since the migrants/refugees come to Greece from Turkey, their application for asylum will be rejected and found unacceptable because of the fact that Turkey is

the first country of asylum; persons will be sent back to Turkey. This fact leads to two different issues to be argued: non-refoulement principal and whether Turkey is a first country of asylum/a third safe country for them to be returned? The non-refoulement principle means that no person may be compelled to return back a country where they might be subjected to persecution. Turkey's internal problems and deficiencies in the Turkish administrative and judicial system to provide any refugee status (since Turkey signed the 1951 U.N. Convention on the Status of Refugees ("Refugee Convention") with a geographic limitation) cannot maintain the necessary basement to be considered as a 3rd safe country and returning people back to where they might be subjected to persecution might violate the principle of non-refoulement. (Williamson, 2016) On the agreement, there are still some points that remain untouched. One of the action point is that a specific date was declared in order to provide Turkish nationals to travel in Schengen Area. However, the EU did not fulfill the promise stating that there are still some conditions to be done by Turkey. Last but not least, ethical and moral bases of the EU-Turkey deal still remains as big question mark. According to MSF, the displaced people can be a bargaining chip for political negotiations and deals. At this point, the deal puts the democratic principle and values of the EU in question and cause the agreement to be unethical. (Williamson, 2016; 15-18)

RELOCATION FROM GREECE

If we move forward from the Turkish shores and follow the former route of asylum-seekers and other irregular migrants we reach Greece. Those few people who can enter to this EU member state shall face the next barrier which prevents their travel on the Balkan route. This barrier has not created against them but for them. Its aim is to prevent unnecessary irregular travel of potential refugees. It has been created by the European Union in order to handle the unfaithful situation of people

concerned. This measure is, the so called, relocation system and it must be analyzed here since its function is to help people in relevant number to bypass non-EU countries and help potential refugees to get those member states which are able to provide a fair asylum procedure and fair integration for recognized asylum-seekers.

The first decision

The system was built in a complex way due to the special nature of the European Union. (Wessels, 2016) When the EU and the member states realized that something extraordinary was happening at their southern borders, Art. 78 of Treaty on the Functioning of the European Union (TFEU) was utilized since it stipulates that in the event of one or more Member States being confronted by an emergency situation characterized by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament. (European Commission, 2012)

That is why EU institutions could create the Council Decision (EU) 2015/1523 of 14 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and of Greece. (EU, 2015) Its main content is the following.¹

This decision regulates a relocation system from Greece and Italy for those asylum-seekers who applied for asylum in these two member states. Normally, in cases of asylum-seekers concerned Greece and Italy were responsible for their asylum procedures based on the Dublin III regulation but this responsibility was modified due to the Council Decision 2015/1523. Help of the decision was limited, 24.000 asylum-seekers from Greece and 16.000 from Italy were concerned in the relocation.

¹ It is analyzed perfectly by Steve Peers, Relocation of Asylum-Seekers in the EU: Law and Policy, <http://eulawanalysis.blogspot.hu/2015/09/relocation-of-asylum-seekers-in-eu-law.html>

These 40.000 people should have been shared based on optional commitments of other member states. (EU, 2013a) It has never offered completely. Member states concerned did not offer enough quota for this aim. They were not generous enough for providing help to Greece, Italy and asylum-seekers from the worst places of the world. Indeed, it was guaranteed by the decision that only asylum-seekers from certain countries had the possibility to be a beneficiary of the relocation. Thus, member states would not have been afraid of economic migrants relocated by this system.

The relocation could be applied for those persons who fled from those countries which are typical countries of origin of refugees. It was defined exactly in the decision that relocation pursuant to this Decision shall only be applied in respect of an applicant belonging to a nationality for which the proportion of decisions granting international protection among decisions taken at first instance on applications for international protection [...] according to the latest available updated quarterly Union-wide average Eurostat data, 75 % or higher. Based on this criteria Greece could select and appoint asylum-seekers for the relocation after taking their fingerprints based on the Eurodac Regulation. (EU, 2018; EU, 2013b) As it was mentioned, Greece could select 16.000 people in theory and relocation member states should have cared about them and took the responsibility of their asylum procedures.

Involved asylum-seekers had to be informed about their selections but they did not have the possibility to influence their relocation procedures. However, the (28) of the Preamble declares that specific account should be given to the specific qualifications and characteristics of the applicants concerned, such as their language skills and other individual indications based on demonstrated family, cultural or social ties which could facilitate their integration into the Member State of relocation but there was no specific measure to enforce this wish.

The second decision

Very soon after the first decision the Council made a second one which was the Council Decision (EU) 2015/1603. (EU, 2015) Decision 2015/1523 was not repealed but its 40.000 persons quota which should have been provided by other member states did not seem enough to solve the problem of Greece, Italy and asylum-seekers concerned. Furthermore, member states did not offer enough quota for relocating asylum-seekers. Thus, the system was scarce and imperfect.

Decision 2015/1603 guaranteed quota for 120.000 persons additionally and it bound the target member states to receive certain number of selected asylum-seekers. It was not based on their offers, it was based on specific numbers set out in the Annex of the decision. It became a legal obligation for target member states. 50.400 people from Greece, and 15.600 from Italy was regulated in the decision but further 54.000 was not decided since this number was devoted to Hungary and this member state did not want to be a frontline state thus gave up its beneficiary position.

Both decisions had to be applied for two years until 17 September 2017.

What happened?

Hungary and the Slovak Republic initiated a Court of Justice of the European Union (CJEU) procedure for the annulment of the second decision based on procedural and substantive law grounds since they did not want to be target countries of the relocation system. It was found by the CJEU that the decision was lawful, nor procedural neither substantive arguments of the applicant member states were profound.² However, the court procedure was able to influence other member state in offering quotas and their fulfilment of the defined quota in the Annex of the second decision. There was no enough pressure on them due to the

² Judgement of the Court (Grand Chamber), 6 September 2017, in joined cases C-643/15 and C-647/15.

questionable legal situation and, it is also possible, that the relocation system was not prepared enough politically.

The result was that not all the quota declared in the first decision neither quota appointed by the second decision was fulfilled. The Progress report on the European Agenda on Migration found that “[t]he relocation of eligible applicants by Member States has continued to be a valuable way to help those in clear need of international protection and to alleviate pressure on the asylum systems of Italy and Greece. As of 9 November, 31 503 people have been relocated (10 265 from Italy and 21 238 from Greece), of which 3 807 since the last Relocation and Resettlement Report.” (European Commission, 2017) In spite of political and legal compulsion, only 21.238 people were relocated from Greece to other EU member states.

Why was it a barrier in the Balkan route?

It is true that the EU-Turkey deal could slow down the arrivals of asylum-seekers to the EU but significant number of them had already stayed in the territory of Greece. (AIDA, 2016) And “[t]he gradual imposition of border restrictions on the Greek-FYROM border and the definitive closure of the Western Balkan route in March 2016 led to about 50,000 persons stranded in Greece.” (AIDA, 2016; 13) Most of them wanted to move forward since the reception conditions and the integration measures were above the European standards in Greece. (AIDA, 2016; 92-116; 136-143) From one hand, they were in a trap due to the erected border restrictions but from the other hand, a hope was given to them. Most of the asylum-seekers in Greece were from Syria and they were eligible for the relocation. (AIDA, 2016; 8)

The relocation system could be a solution for their situation since they got a real chance, taking into account the quota numbers, to be relocated. It meant that they could stop in Greece and wait for their relocation. It was lawful and safe. It was rational for Syrians to

stay in Greece and wait. It is true that only 21.238 persons were relocated but first of all, it was a relevant number at that time, moreover all Syrians staying in Greece had a good chance to be selected.

Thus, the relocation system - based on the two decisions presented above - was a relevant barrier at the Balkan route. Approximately 30.000 Syrians were halted at Greece due to these measures.

HUNGARY

Hungary is not an ultimate barrier. Taking a look at the map of the Balkan it is obvious that it is not difficult to bypass Hungary. In spite of this fact Hungary played an extremely important role in closing the Balkan route with its attitude. It must be presented what Hungary did and how it affects the Balkan route.

Law amendments in Hungary

Boldizsár Nagy collected and analysed all relevant amendments of the Hungarian asylum and border regimes after 2015. (Nagy, 2016) There are two types of restrictions and all of them resulted (probably intentionally) the reduction of asylum-seekers and irregular transition at Hungarian borders.

The border fence and border regime

Hungary started to build its infamous border fence on 13 July 2015 at its Serbian and Croatian borders. Its aim was to hinder irregular migration across Hungarian borders without taking into account that irregular migrants might be asylum-seekers and refugees. On 14 September 2015 the Hungarian Defence Forces closed down the last point of the Hungarian-Serbian border. Then, it is extremely circumstantial to enter Hungary except at official border crossing points and at the two transit zones which have been appointed for asylum-seekers to approach Hungary and submit their applications. There are case-officers of the Hungarian asylum

authority at these locations for dealing with asylum cases. Thus, they can handle asylum applications on the spot without letting asylum-seekers enter to Hungary.

Not only the physical barrier meant to be hinder the irregular migrants at the Hungarian borders but the limited capacity of the two working transit zones as well. “The Hungarian asylum authority limited the number of asylum-seekers allowed to access the transit zones to 10-10 persons in November 2016 and since 23 January 2017, to 5-5 persons per zone per day. These arbitrary limitations have no legal basis. Therefore, only 10 asylum-seekers are admitted to the transit zones and thus to the asylum procedure on each working day (50 persons per week).” (Hungarian Helsinki Committee, 2017) It has been limited further. Only one person (!) can enter to the transit zones respectively after January 2018.³ Thus, asylum seekers are almost completely stopped before the Hungarian border.

They would be in a very difficult situation in trying to illegally enter to the territory of Hungary too. The illegal crossing of the border fence was made a criminal act threatened with a maximum of three years of imprisonment and damaging the fence entails a threat of five years imprisonment based on Art. 352/A and 352/B of the Hungarian Criminal Code (Act C of 2012). Furthermore, “according to the [...] amended Asylum Act, since 28 March 2017 [...] practically anyone above the age of 14 without a proven right to stay may be pushed across the fence to the Serbian side with a view to submit the application for international protection in the transit zone.” (Nagy, 2017) This regulation is absolutely not in line with the international asylum law practice⁴ but what is more important from the point of view of this

³ Its legal reason is very uncertain. It can be said based on newspaper information. See in Hungarian: Szigorít a kormány: öt helyett egy ember léphet be naponta a tranzitónába, <https://mno.hu/belfold/szigorit-a-kormany-ot-helyett-egy-ember-lephet-be-naponta-a-tranzitonaba-2443033>

⁴ See for example: European Court of Human Rights, N. D. and N. T. v. Spain, Application Nos. 8675/15 and 8697/15.

study, it is able to deter asylum seekers to try to enter Hungary in an irregular way. Thus, the fence and these rules were able to hinder the bulk of asylum-seekers in practicing their right and seek asylum in Hungary or move across the country.

The legal barrier

Asylum procedure has been modified as well and the procedure was distorted not in favor of the asylum-seekers. Presenting the procedure in effect or the amendments in details is not the aim of this study but main points of this restrictive shift must be summarized.

Serbia was designated to be a safe third country which resulted that most of the asylum-seekers were rejected based on the mere fact that they approached Hungary from Serbian territory. The procedure was accelerated, not only the sui generis accelerated procedure⁵ but the regular procedure too. The judicial review became ineffective due to reduced deadlines. (Hungarian Helsinki Committee, 2017) A specific admissibility procedure has been introduced and asylum applications found to be inadmissible entail ban on entry for the applicants and immediate expulsions too. Hungary also introduced⁶ the ‘State of crisis due to mass migration’ which is still in effect instead of the lack of proper condition defined by the law.⁷

Based on these modifications, the asylum procedure became very strict even for those few people who had and have the possibility to access to the Hungarian asylum system.

It must also be mentioned that the not too generous integration system which worked in Hungary before 2016 was ceased. It meant that recognized refugees and beneficiaries of subsidiary protection have no specific integration help in Hungary; however, the sad

⁵ Regulated by Art. 51 (7) of Act on Asylum (Act LXXX of 2007)

⁶ Regulated by Art. 51 (2) of Act on Asylum (Act LXXX of 2007)

⁷ Regulated by Art. 80/A of Act on Asylum (Act LXXX of 2007)

fact is that they can use the homeless care system and they must do so. (Szabó, 2016)

Obviously, these legal modifications aimed to deter potential asylum-seekers from Hungary and they achieved this goal. It would be not relevant to show the numbers since the decrease is rather the result of the EU-Turkish deal and the relocation from Greece but Hungary could shaped a picture which shows that it does not worth to reach its Schengen borders

Consequences

First of all, Hungary has isolated itself from the challenge of caring about asylum-seekers at the Balkan route but it would not be a total closing of the Balkan route since there is a way toward Western-Europe through Croatia and Slovenia too. It is true but the Hungarian strategy has resulted that other countries had to undertake higher number of irregular migrants in transition and asylum-seekers too. These countries (Croatia and Slovenia) were afraid of increasing number of first time asylum-seekers and asylum-seekers arriving back due to the Dublin regulation as well. Their fear was not baseless. After erecting the Hungarian border fence, the number of first time asylum-seekers increased relevantly in these countries. This number was only 5 in August 2015 in Croatia and it increased to 240 in September 2016. In Slovenia, it changed from 20 to 110, respectively. (Eurostat, 2016) These numbers are not able to shed light on the real number of irregular migrants in transition since only a small part of them were seeking asylum in these EU member states but are able to show that the Hungarian border fence shifted the route of irregular migrants toward Croatia and Slovenia.

The result of the Hungarian border fence and legal measures were that new fences appeared in the Balkan route since several countries were convinced that there is only one solution: shifting the responsibility to someone else. (UNHCR, 2017) Thus, new fences and uncaring asylum systems are the real result of

the Hungarian asylum and border policies. (Nagy, 2016)

CONCLUSION

During the recent years, the European Union has become the center point of the migration flows. Especially, the instability and conflicts occurring in the Middle East triggered the migration pressure. Majority of the displaced people flee to the neighboring countries in order to seek asylum while many others crossed from Turkish shores thorough the Aegean Sea to reach the Greek islands in the hope of mostly arriving to the Northern Western European countries. The unprecedented number of people left the conflict zones and moved forward thorough Turkey, Greece and up to the Balkan routes which led them to open the Europe's door. When the lives were lost while attempting to cross the sea got higher and the number of people on the Balkan route hoping to arrive to the Europe peaked the hundreds and thousands with each passing day; the European Union decided to take some measures to govern and control the irregular migration flow.

Three major steps have been taken to slow down the flow and even aiming to end the irregular migration to Europe. All these measures managed to help the EU to reach its goals to some extent. The first chain of these steps was the so-called the EU-Turkey deal. The EU and Turkey agreed on to the policy of 1:1 swap. By this way, migrants would have a legal and safe way to enter Europe; besides the migration pressure would be taken under control by externalization 'the crisis' in Turkey. The statistics show that the EU-Turkey deal was successful enough to achieve the initial goal of the agreement: The number of death attempting to reach the Greek islands reduced sharply and since the entry into force of the agreement, the irregular migration has also taken under control. The EU-Turkey agreement succeeded on the short-term but the long-term effectiveness is heavily under discussion. However, the EC emphasized that the agreement remains legal within the framework

of the international law; many concerns about its legality as well as its ethical-moral principles are still questionable. Consideration of Turkey as a 3rd safe country and 1st country of asylum put the deal's legal basement on a fragile ground. Along with legal and moral deficits of the agreement, taking also up and down delicate EU-Turkey relations into account long-term sustainability of the deal is not very clear.

Second chain which helped the European Union to control the irregular flow of migrants on the Balkan route has been the establishment of the mandatory relocation system of asylum seekers. Although the EU-Turkey deal relatively diminished the unprecedented number of new arrivals to Greek islands, significant number of them stayed in Greece. This system has provided a real, legal and safe alternative to arrive to Europe. Syrians staying in Greece had a good chance to be selected and relocated in Europe. Due to this system, approximately 30.000 Syrians were stopped in Greece before moving forward to the Balkan route. Regardless of some reluctant member states to provide quota, the relocation system has been a good barrier to decrease the amount of people travelling irregularly via the Balkan route.

Last but not least, the third chain of all these three measures to stop the irregular flow in the Balkan route was the infamous Hungarian border fence and newly established transit zones. Along with the fences, Hungary introduced some legal barriers for the arrivals via the Balkan route. Serbia was designated as a 3rd safe country. By this way, the possibility to apply for an asylum in Hungary diminished by law. Moreover, Croatia and Austria also built their own fences to deter the migrants to reach their territories. All these legal and physical barriers, keep asylum-seekers to apply and submit their application to the European Union member States.

All in all, these above mentioned measures to prevent the Balkan route overcrowded again are interconnected to each other and they have a domino effect to one another. Statistically

speaking, the number of arrivals decreased sharply since the EU-Turkey deal took an effect. It can be interpreted that the EU-Turkey deal is the main reason to regulate the irregular influx and slowdown it in the Western Balkans. No matter how strict precautions are taken, recent news shows that the new Balkan route (through Albania, Montenegro and Bosnia) is used in order to reach to Europe. (Balkan Insight, 2018) It proves that it is enough to skip the first barrier (EU-Turkey deal) and the Balkan can be passable again.

REFERENCES

- Aygenç, B. & Orpen, C. (2018). The EU-Turkey Refugee Deal, Can Turkey be considered as a 'safe third country'?. Available from: <http://www.publicseminar.org/2018/04/the-eu-turkey-refugee-deal> (Accessed on 15.05.2018)
- European Commission. (2017). *Progress report on the European Agenda on Migration*, Brussels, 15. November 2017. Available from: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20171114_progress_report_on_the_european_agenda_on_migration_en.pdf (Accessed on 16 March 2018)
- European Council. (2016). *EU-Turkey Statement. 18 March 2016*, Available from: <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>
- Hungarian Helsinki Committee. (2017). *Two Years After: What's Left of refugee Protection in Hungary?*, <http://www.helsinki.hu/wp-content/uploads/Two-years-after-2017.pdf> (Accessed on 17 March 2018)
- Karakoulaki, M. (2018). EU-Turkey deal: the burden on refugees in Greece. *Open Migration*. Available from: <https://openmigration.org/en/analyses/eu-turkey-deal-the-burden-on-refugees-in-greece/> (Accessed on 30.05.2018).
- Nagy, B. (2016). Hungarian Asylum Law and Policy in 2015–2016: Securitization Instead of Loyal Cooperation, *German Law Journal*, 17 (2016) 6, 1033 – 1081.
- Nagy, B. (2016). The EU member states and the refugee: who should (not) trust the other? A view from the shadow of the razor-fence. in: *Ursula Baatz & Gudrun Biffi (Eds.) Vertrauen in unsicheren Zeiten. Optionen für die Zukunft. Tagungsband zum Symposium Dürnstein. NÖ Forschungs- und Bildungsges.m.b.H und Donau-Universität Krems*, Krems. 105-118.
- Nagy, B. (2017). Renegade in the Club – Hungary's Resistance to EU Efforts in the Asylum Field, *Osteuroparecht, Fragen zur Rechtsentwicklung in Mittel-*

und Osteuropa sowie den GUS-Staaten 63. Jahrgang, Heft 4|2017 „Rechtsdurchsetzung durch die EU“. 413 – 427.

Szabó, A. (2016). A menekültek és oltalmazottak integrációjára vonatkozó nyári jogszabályváltozásokról, *Fundamentum*, 2016/2-4., szám, 107-112.

Wessels, W. (2016). The European Council. Palgrave.

Williamson, A. (2016). An Examination of the Legal Issues Surrounding the Migration ‘Deal’ Between the European Union and Turkey. *Edinburgh Peace and Justice Center, Edinburgh, 5*, Available from: <http://peaceandjustice.org.uk/wp-content/uploads/2016/10/Legal-Issues-in-EU-Turkey-Migration-Deal-Final.pdf>

Other Sources

AIDA. (2016). Country Report: Greece, 2016, Available from: http://www.asylumineurope.org/sites/default/files/report-download/aida_gr_2016update.pdf 16.03.2018.

Balkan Insight. (2018). ‘New Balkan Route’ for Migrants, Refugees Causes Alarm, Available from: <http://www.balkaninsight.com/en/article/region-on-alert-as-migrants-open-new-balkan-route-06-03-2018>, 15.06.2018.

Daily Sabah. (2018). Illegal migrant flow on Aegean on rise again, Available from: <https://www.dailysabah.com/turkey/2018/04/10/illegal-migrant-flow-on-aegean-on-rise-again>, 02.06.2018.

DW. (2018). AB-Türkiye mülteci anlaşmasının ikinci yılı doldu, Available from: <http://www.dw.com/tr/ab-t%C3%BCrkiye-m%C3%BCltecileri-anla%C5%9Fmas%C4%B1n%C4%B1-ikinci-y%C4%B1-doldu/a-43027606> 03.06.2018

DW. (2018). Türkiye: Suriyeli sığınmacılara kapımız açık, Available from: <http://www.dw.com/tr/t%C3%BCrkiye-suriyeli-s%C4%B1nmac%C4%B1lara-kap%C4%B1m%C4%B1z-a%C3%A7%C4%B1k/A-15155526>. 15.05.2018.

Eurostat. (2018). Asylum quarterly report: third quarter 2016, Available from: <http://ec.europa.eu/eurostat/documents/6049358/7005580/Asylum+Quarterly+Report+-+Q3+2016.pdf/2ad7a4f9-495f-4480-9ed9-1d08a54b4611> 18.03.2018

European Commission. (2018). European Agenda on Migration: Continuous efforts needed to sustain progress, Available from: http://europa.eu/rapid/press-release_IP-18-1763_en.htm, 30.05.2018.

Hurriyet Daily News. (2017). Migrant deaths in Aegean down 85 percent in 2017: Turkish Coast Guard, Available from: <http://www.hurriyetdailynews.com/turkish-coast-guard-a>

[pprehends-55-undocumented-migrants-125142](http://www.hurriyetdailynews.com/turkish-coast-guard-a-prehends-55-undocumented-migrants-125142). 01.06.2018.

Multeciler Derneği. (2018). Türkiyedeki Suriyeli Sayısı Mayıs 2018, Available from: <http://multeciler.org.tr/turkiyedeki-suriyeli-sayisi/>, 16.05.2018.

Sozcu. (2018). Ab’ye 12 Bin Suriyeli gönderdik, Available from: <https://www.sozcu.com.tr/2018/gundem/abye-12-bin-suriyeli-gonderdik-2257360>, 02.06.2018.

UNHCR. (2015). European leaders strongly urged to put human life, rights and dignity first in Mediterranean decision, Available from: <http://www.unhcr.org/uk/news/latest/2015/4/5538dd589/european-leaders-strongly-urged-human-life-rights-dignity-first-mediterranean.html>, 17.05.2018.

UNHCR. (2017). Border fences and internal border controls in Europe, March 2017, Available from: <https://data2.unhcr.org/en/documents/download/55249> 18.03.2018.

UNHCR. (2018). UNHCR, Refugees/Migrants Emergency Response Mediterranean, <http://data2.unhcr.org/en/situations/Mediterranean>, 17.05.2018.