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**The Cheapest Fare for a Costly Voyage:
A Perspective on the Deficiencies
of the EU-Turkey Statement
on Migration Management**

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Abstract

The objective of the following research is to propose an alternative analysis on the structural deficiencies of the EU-Turkey Statement, which may have contributed to Turkey's decision of February 27th, 2020 to open the border with Greece.

Analysing the Statement as act of delegation, through the lenses of the Principal-Agent Model, two elements emerge as source for the agent's frustration.

From a structural perspective what particularly contributed to the agent's frustration is the non-implementation of the majority of the promised incentives despite the compliant execution of agency. In fact, most incentives promised by the EU in exchange of Turkey's commitment were non-outcome-based. Thus, their implementation was not conditioned to the accomplishment of delegation, but to the fulfilment of strictly-defined procedures. Yet, focusing on the developing delegation politics of the Union, the question of burden-sharing again emerges as crucially divisive, preventing the activation of the only outcome-based incentive aiming at lifting part of Turkey's increasing migratory pressure.

Thus, if Turkey's decision to abandon agency can ultimately be attributed to events escaping the realm of migration-management, the Union as delegating entity made crucial mistakes in the adaptation of the delegation contract to the context and recipient of delegation. Yet, formal adjustments would not address the question of burden-sharing which surprisingly emerges as an obstacle in the development of externalization policies.

Key words

EU-Turkey Statement, externalization policies, EU migration policy, principal-agent model.

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Introduction

When I was offered the opportunity to travel to Turkey for some field research in February 2020, I did not expect that I would be witnessing the degeneration of the EU-Turkey Statement, which I had been researching for years. The flagship instrument of the Union's response to the so-called migration crisis of 2015, was shook at its core as Turkey declared it would open its side of the border with Greece starting from the evening on February the 27th.

Soon after the announcement, I started receiving videos shot in the Aksaray bus station of Istanbul by fellow researchers. Crowds of migrants, luggage in hand, were being rallied up by bus drivers shouting "75 liras, only 75 liras to Edirne!". The cheapest fare for a costly voyage.

As the city centre of Istanbul slowly woke up on February the 28th, televisions from each shop and café on Istiklal Avenue showed explosive reports from the Syrian border. "33 martyrs killed in Idlib", the headline stated. The shows, intermittently shifted from the Syrian border, to the Greek one. In Edirne migrants were already piling up, soon to become the pawns of an intense bargaining game between the two players, the EU and Turkey.

As the human price was being paid by the migrants at the border, we all witnessed the European Union struggling to strike the appropriate balance in its response. On the one hand, between reprimanding Turkey and leaving the door open to a new agreement. On the other hand, between shouldering Greece's violent response, and facing the ghost of normative power Europe.

As I started the present research, my intention was to question the Union's claims on the Statement's effectiveness. In fact, only few months after its implementation back in 2016, the Deal between the Heads of State and Government of the Member States and their Turkish counterpart, was set at the core of the new Partnership Framework developed within the European Agenda on Migration. When the Commission stated, "while every country is different and the EU-Turkey Statement reflects particular circumstances, its elements can inspire cooperation with other key third countries and point to the key levers to be activated".¹ The Statement was even elevated as a model, despite the widespread criticism on its human consequences. The rationale for the praise seemingly being the Statement's effect on arrivals to Europe.

As stressed by the Union's institutions, the agreement effectively stemmed arrivals from the Eastern Mediterranean Route, limiting the human spillover caused by unrest in the Middle-East, and more specifically the conflict in Syria. Similarly, the agreement seems to have had important results also in reducing influxes of migrants through the Western Balkan Route, to which Turkey also constitutes an important gateway (Cherubini, 2016). As such, data shows that the number of arrivals dropped dramatically subsequent to the implementation of the agreement, as Turkey efficiently acted as what has been defined as filter, or buffer-zone to the Union's external borders (Tocci, 2016; Kfir, 2018; Okyay, 2019). As mentioned in the First Report on the implementation of the Statement, while in the three weeks preceding its conclusion, the number of irregular arrivals was as high as 26,878 persons, in the three weeks that followed, this number dropped to 5,847.²

The Union soon chose to identify the agreement as an effective model to integrate in its policies of migration management. Going beyond the idea of an *ad hoc* short-term measure, the EU chose to bet

¹ European Commission, Communication from the Commission COM(2016) 385 final of 7.6.2016 – on establishing a new Partnership Framework with third countries under the European Agenda on Migration.

² European Commission, Communication from the Commission to the European Parliament, the European Council and the Council COM(2016) 231 final of 20.4.2016 – First Report on the progress made in the implementation of the EU-Turkey Statement

on its most recent tool of externalised migration management to develop its long-term migration management strategy (Barana, 2019).

The idea of a potential modelization of the Statement, or some of its elements, seems to be corroborated on the one hand, by it being placed at the heart of the new European Agenda on Migration. On the other hand, indirectly by the lack of emerging alternative measures which has characterized the four years which have passed since its entry into force. In fact, since the establishment of the new European Agenda on Migration, of its four core pillars the one on border management, including the key priority of “strengthening the capacity of third countries to manage their borders”³ has been the most prominent in all subsequent policies. Thus, if the externalised management of migration -especially of border control activities- increasingly occupied the minds of EU decision-makers, the more traditional internal facet of migration management has kept growing obsolete, with no relevant progress made in reforming the Common European Asylum System (CEAS). This, despite the clear deficiencies brought to light by the abovementioned crisis.

However, after February the 27th, my intuition on the Statement’s limited effectiveness as policy instrument became evident. Nevertheless, as days went by, I was partially proven wrong as I observed the immediate attempts at renegotiation. As Charles Michel and Josep Borrell travelled to Ankara during the first days of March 2020, it was clear that, if the structure of the Statement was indeed crumbling, its spirit was alive and well.

Thus, the idea emerged to analyse the Statement’s structure to understand the inherent vices, undermining its effective implementation. To this aim, given the logic of outsourcing, or delegation, the Statement embodies, it could be fruitfully observed through the lenses of delegation theory and the Principal-Agent Model (PAM).

Numerous academics (Boswell, 2003; Lavenex, 2006; Rodier, 2008) have long underlined the Union’s tendency to externalise migration management responsibilities to third countries, especially with regards to border control activities. The EU-Turkey Statement though fitting in the broader tendency to “outsource” migration, still embodies a new and more comprehensive initiative (Cherubini, 2016) resulting in the actual delegation of a spectrum of responsibilities to a third party. In particular, the combined effect of border closure and readmission by Turkey of migrants irregularly apprehended in the Greek islands shifts to Turkey the economic and social burden of reception, integration or return of an increasingly high number of migrants.

In light of this act of delegation, analysing the Statement through the PAM will allow to draw broader conclusions than by merely evaluating the Statement’s effectiveness, as the Union had charged the Commission to do. In fact, throughout the seven *Reports on the Progress made on the Implementation of the EU-Turkey Statement*, the Commission did underline a number of dysfunctionalities in its implementation. However, it still constantly reaffirmed how “the EU-Turkey Statement of 18 March 2016² has continued to play a key role in ensuring that the migration challenge in the Eastern Mediterranean is addressed effectively and jointly by the EU and Turkey”⁴ or that the Statement “has continued to ensure an effective management of migratory flows along the Eastern Mediterranean route”.⁵

³ European Commission, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions COM(2015) 240 final of 13/5/2015 – A European Agenda on Migration

⁴ European Commission, REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL Seventh Report on the Progress made in the implementation of the EU-Turkey Statement, COM/2017/0470 final

⁵ European Commission, REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL Sixth Report on the Progress made in the implementation of the EU-Turkey Statement, COM/2017/0323 final

Yet, exclusively evaluating the Statement's effectiveness against the goal of border closure has not prevented the Statement's deterioration. In fact, such an approach has allowed the Union's institutions not to question the essence of their stated objectives. This, despite the numerous voices rising from their partner, denouncing the structural unbalance embedded in the Statement.

Moreover, despite the hefty literature that has flourished on the topic since 2016, the structure and politics of delegation of the Statement still remain an uncharted territory.

As a matter of fact, the Statement has been studied from a large variety of perspectives. Legal scholars as Peers, Cherubini or Imbert have focused both on the structure and legal nature of the Deal, in order to cast a doubt on the Statement's legality or justiciability with respects to European and International Law. Political scientists have focused on many different aspects of the Statement. Linking the Statement to policies of externalisation, academics (Kfir, 2018; Collett, 2016) have shed light on the human consequences of delegated migration management, to demonstrate the stark contrast of the Union's delegated actions with its presumed normativity. Others, as Okyay and Zaragoza-Cristiani (2016), have illustrated how the Union mis-evaluated its personal vulnerable-dependency when entering such Statement and wound up abdicating political leverage to the benefit of its partner.

Turkish scholars (Üstübici, 2019) have taken the Statement as an opportunity to underline its consequences in Turkey as well as to further emphasize the integration challenges faced by both Syrian and non-Syrian migrants and the differentiated treatment of various migrant groups.

Research question

Yet, the Statement was never analysed as an instrument of delegation through the lenses of the PAM. Thus, the question of what the structure and politics of delegation can tell us of the structural deficiencies of the Statement will be the object of the present research. Focusing on the Statement as policy instrument, this dissertation will not address a number of issues related to the impact of the Statement. In particular, the crucial question of the Statement's effect on fundamental rights, its human cost and more generally the Union's normativity will not be the object of analysis. Similarly, the question of the Deal's legal nature or stance will not form part of the core of the analysis.

In order to adopt the aforementioned approach, the argument will follow a tripartite structure. A first Chapter will offer a baseline analysis of the Statement and its context of emergence. The objective of this initial part will be to place the Deal in the context of externalised migration policies, and to illustrate how the Statement embodies a form of delegation to Turkey.

The second Chapter will introduce the PAM and the theory of delegation, which will serve as the theoretical framework of analysis. Particular attention will be granted to the specific challenges that derive from the application of the aforementioned Model to the present situation.

The last Chapter will address the structure and politics of delegation of the Statement. On the one hand, through the analysis of the Statement's solutions to the 'principal's problem' i.e. the challenge faced by the delegating entity in ensuring the effective execution of the delegated tasks by the agent. On the other hand, the politics of delegation will be analysed by shifting the focus from the agent to the principal, in order to evaluate how the latter can also undermine effective delegation.

Data, sources and methodology

The present research was conducted based on a multi-methods approach within the framework of a qualitative analysis of the Statement's politics and structure of delegation, as such, data will be drawn from primary sources only with the objective of corroborating the analyses.

Content analyses as well as legal analyses of the Statement and the relevant primary sources and a thorough literature review will constitute the main methods of research. Particularly relevant for the framing of the analysis are the numerous formal and informal interviews conducted by the researcher with key actors in Europe and Turkey as well as the field research experience at the French Institute for Anatolian Studies in Istanbul.

The present research is drafted on the responsibility of the author.
The views and opinions expressed in the framework of the interviews conducted for the purpose of research are those of the interviewed officials and do not necessarily reflect the official policy or position of any agency of either the Turkish government, or the European Union.

Chapter I

The EU-Turkey Statement, a state-of-the-art externalisation policy

The EU-Turkey Statement, adopted on March 18th, 2016, was the main European response to the events unfolding from early 2015 and which came to be known as the European ‘migration crisis’. The Statement, as such enshrined cooperation between three key partners: The Union and Greece, the main recipient of the migratory fluxes and Turkey, which then constituted the main point of entry to the Union. By virtue of the above understanding, Turkey accepted to serve as buffer-zone or filter to the benefit of the Union.

The Statement, therefore adopted in the context of a ‘major crisis’ constitutes the last EU attempt to outsource migration policy responsibilities to a third country. Falling within a more generalised tendency to externalise migration obligations, the Statement, however, should be regarded as forwarding a logic of delegation rather than cooperation.

I. The Statement’s context of emergence

In order to understand the rationale underlying the Statement, it is essential to develop on the context where this emerged, one marked by a strong EU necessity to effectively address not merely the heightened migratory pressure, but mostly the internal fragmentation which some may argue, was caused by arrivals.

Thus, the shift of focus to Turkey should be regarded not only as a logical consequence of Turkey’s geographical position, which made it a crucial point of entry to the Schengen Area, and the depth of EU-Turkey relations, but also as the unfortunate consequence of the withdrawal that marked the EUMS’ reaction to these external events.

A. The context for ‘crisis’ negotiations

The external migration crisis

In an interview conducted for the purpose of this research, an Official from the Commission’s DG for Migration and Home Affairs (DG HOME) described the context of 2015 as being one of “clear crisis” given the record numbers of arrivals pressuring the common external border.⁶ Assuming that the term crisis was intended in its ordinary meaning, an overview of the data provided by both FRONTEX and Eurostat can provide for a rapid understanding of why migration flows could at that time be perceived as creating “intense difficulty or danger”⁷ for the EU policymaker.

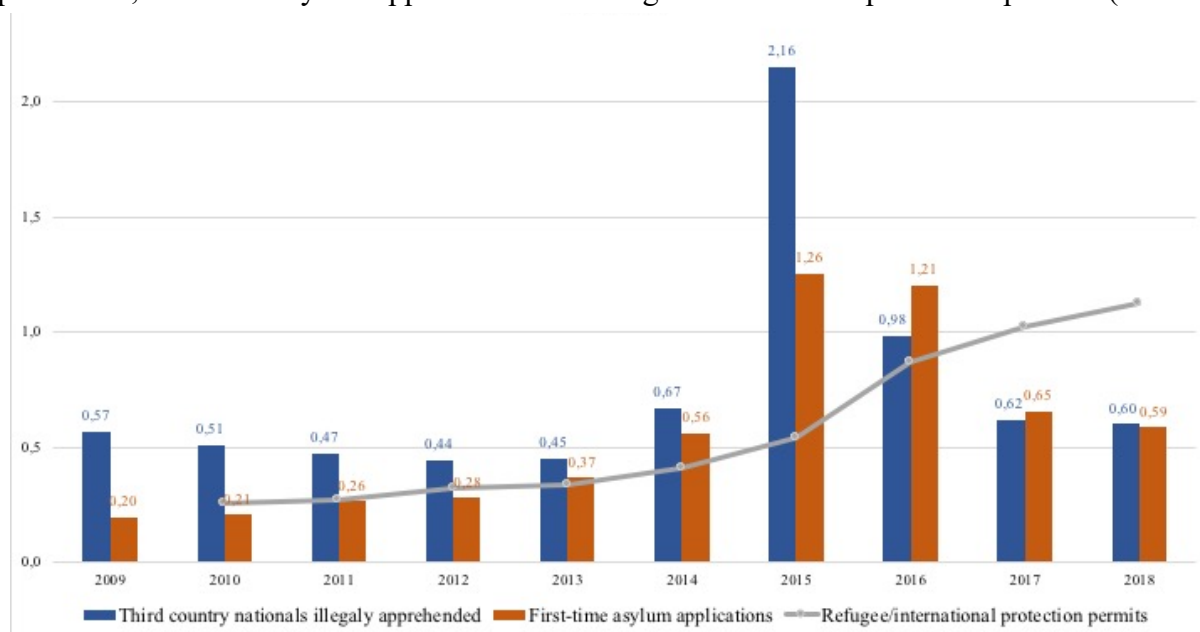
As illustrated by Table 1, data recorded by Eurostat shows how in 2015, over 2 million migrants were illegally apprehended within the Union’s borders. This seemingly high number of apprehensions by national authorities still needs relativising. In fact, overstating cannot be excluded as one same person can be apprehended illegally more than once and by different national authorities.

⁶ Telephone interview conducted for the purpose of the present research with a Commission Official from DG HOME in Paris on January 28th, 2020.

⁷ “Crisis”, Lexico Oxford Living Dictionary. Available at: <https://www.lexico.com/definition/crisis>

Again, as per Table 1, during the same year, the European Asylum System was confronted with an average of 1.256.575 first time asylum applications, while the number of beneficiaries of either refugee status or international protection clearly strained to keep the pace of applications.

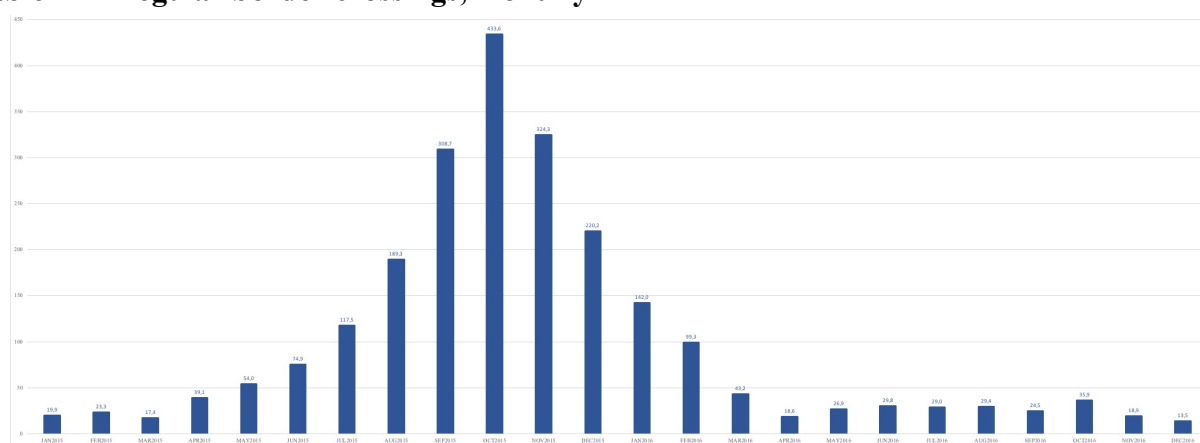
Table 1 - Overview of migration flows and stocks in Europe. Third country nationals illegally apprehended, first-time asylum applications and refugee/international protection permits (millions).



Author's own elaboration, data provided by Eurostat.

A monthly overview of irregular border crossings (IBC) across all routes (Table 2) shows how the month of October 2015 saw IBCs peaking to a total of 433.620, amounting to a total of 1.822.177 in 2015. Again, data needs relativizing, as FRONTEX only registers individual irregular crossings of borders. This explains the difference in numbers registered by the Eurostat dataset (2.155.485 in total for 2015), which on the other hand, registers irregular apprehensions that are in fact not limited to border areas. Yet, even Frontex data can overstate the number of crossings as one same migrant can -and usually does- cross multiple borders during its migratory trajectory. Thus, the same person can be apprehended -and counted for- twice.

Table 2 - Irregular border crossings, monthly



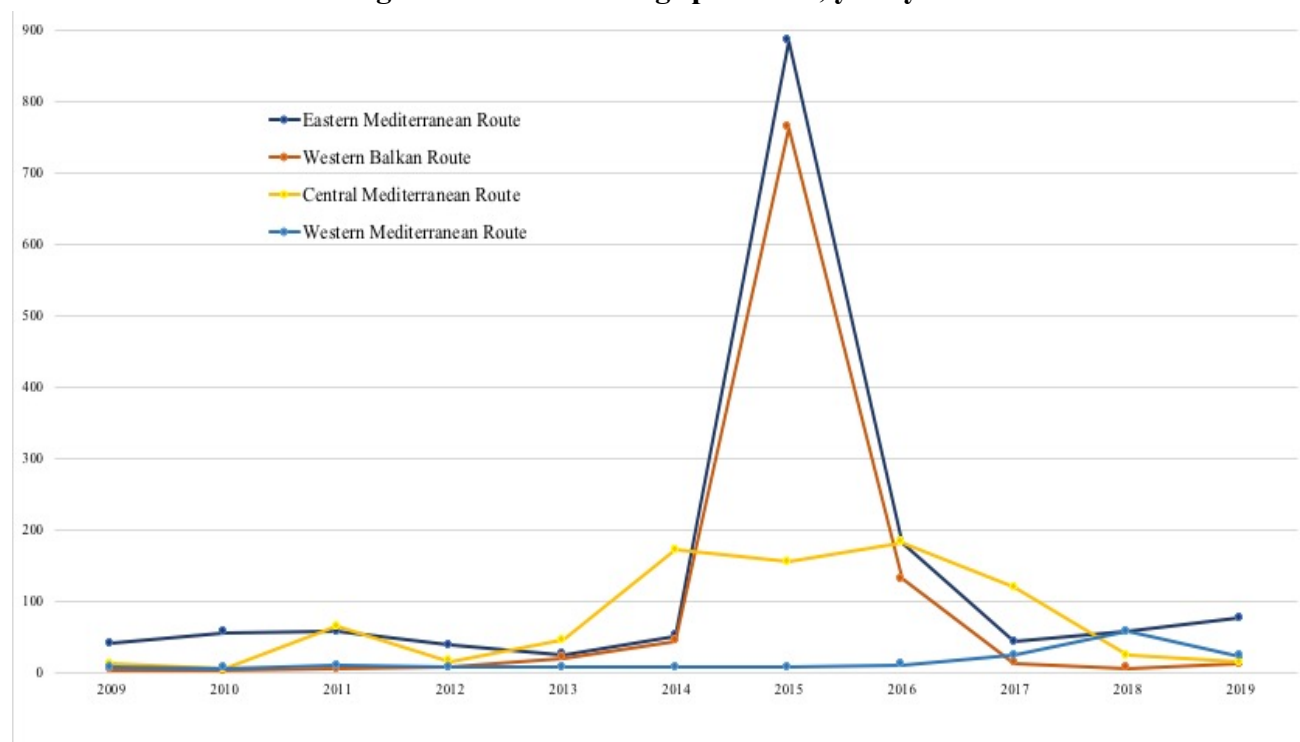
Author's own elaboration, data provided by FRONTEX.

However, “In 2015, Member States reported more than 1 820 000 detections of illegal border-crossing along the external borders. This never-before-seen figure was more than six times the number of

detections reported in 2014, which was itself an unprecedented year, with record monthly averages observed since April 2014”.⁸ The rapid increase was followed by a steady drop, from November 2015. As per the previous years, the summer peak was therefore followed by a steady decrease during the winter months, which present a higher risk for migrants, especially with regards sea crossings. However, with the beginning of the hot season of 2016, if the above-described pattern did reappear, numbers recorded did not match those of 2015.

Broadening the perspective, it appears from Table 1 and Table 3, the overall trend of the so-called “migration crisis” was indeed that of a sharp increase between 2014 and 2015 and a steady decrease from 2015 up to 2017. If from a micro (monthly or route) perspective fluctuations can be observed, these do not impact the overall image of “intense difficulty” or crisis forwarded by the EU.

Table 3 - Detections of irregular border crossings per route, yearly



Author’s own elaboration, data provided by FRONTEX

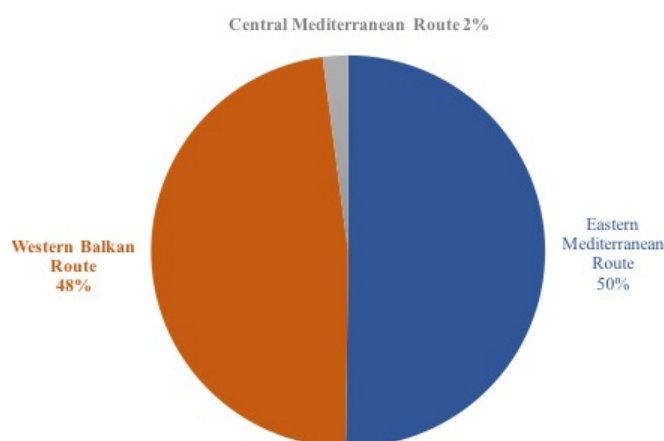
Given the structural functioning of the European system, the distribution of applications -and migratory pressure- was not homogeneously spread amongst European Member States (EUMS) given the application of the “first country of arrival” principle of the Dublin Regulations. An overview of the key migration routes as provided in Table 3⁹, illustrates how the EUMS most heavily affected by irregular crossings were those at the Eastern periphery of the Union, Greece in particular. In 2015 the Eastern Mediterranean Route and Western Balkan Route stood out by far as the main points of entry to the Union, providing for 98% of the IBC detections (Table 4).

If the numbers registered by FRONTEX do seem unprecedented, in particular given the rapidity of increase, they still cannot be regarded as a complete novelty for the EU. Indeed, in 2015 records were broken. However, similar patterns had previously been observed in particular as a result of the Balkan wars when the UNHCR registered in the EU 541.000 refugees from former Yugoslavia (Narin, 2017).

⁸ FRONTEX, Annual risk analysis 2016.

⁹ For representation purposes the table excludes data from the Western African Route, Circular Route from Albania to Greece, Eastern Borders Route, Black Sea Route, and Other routes.

Table 4 – Detections of IBC per route in 2015



Author's own elaboration, data provided by FRONTEX

As such, to fully understand the critical nature of the situation in 2015, one needs to add a further layer, that of internal response.

If many have criticised the inaptitude of the EU instruments of migration management, and described the crisis as one of migration management -not migration-, others have pointed out the evident crisis of solidarity which undermined the Union's responsiveness. All, despite the steady reduction of migratory influxes that appears from the data.

A crisis of domestic solidarity and migration management

Indeed, in 2015 immigration became a key priority for the EU. However, as the 'migration crisis' unfolded, the internal response to the external pressure resembled much to a crisis itself.

On the one hand, as the growing influxes increasingly exposed the deficiencies of the Dublin system, a crucial pillar of the Common European Asylum System (CEAS), many authors described the crisis as being one of the Union's instruments of migration management (Blanchard & Rodier 2016).

On the other hand, with migration inflows, so grew the fracture between the bordering and non-bordering EUMS. Yet, despite north/south fractures, dissent led to a uniform response. Border closure characterised both frontline EUMS, producing extreme results as the building of a 175 km and 3.5m-high wall at the border between Hungary and Serbia in September 2015; as well as countries exclusively affected by secondary movement. As such, internal border controls were reinstated in numerous EUMS as Austria, France, the Netherlands and even in Germany after its initial welcoming impetus.

As observed by Okyay, since 2015 "responsibility-sharing has become one of the most divisive issues within the EU" (Okyay 2019), and the burden of divisiveness bore entirely on the effectiveness of the Union's response. Thus, the 'migration crisis' should instead be regarded, as per Okyay (2019), as a European policy crisis, and this is evident from the initial EU response to the events.

Initial EU policies crystallised in the Commission's European Agenda on Migration¹⁰, aimed both at countering the structural imbalance of the CEAS and at preventing secondary movement.

To alleviate the overburdened Southern European States, the EU increased its financial assistance and bet on relocation mechanisms (Okyay, 2019). Despite efforts, internal fractions in the Council prevented the development of a compulsory scheme to distribute asylum seekers amongst all EUMS. Both the First and Second Emergency Relocation Schemes¹¹ remained voluntary and set an unambitious limit of 160.000 relocations.

¹⁰ European Commission, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions COM(2015) 240 final of 13/5/2015 – a European Agenda on Migration.

¹¹ First Emergency Relocation Mechanism : Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, *OJ L 248*, 24.9.2015, p. 80–94 ; Second Emergency Relocation Mechanism : Council Decision (EU) 2016/1754 of 29 September 2016 amending Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, *OJ L 268*, 1.10.2016, p. 82–84.

Moreover, the instruments aimed at redistributing migrants “in need of international protection” from Italy and Greece around the EU, were only relatively functional due to the fierce opposition of several EUMS. As such, as of January 2018 (three months after the end of validity of the Second Scheme), only 33.400 persons had been relocated off the established 160.000¹² with various EUMS refusing to participate.

To prevent secondary movement and strengthen the filtering registration-capacity of frontline EUMS, the Commission adopted the Hotspot Approach. In the Hotspots, installed in key points of access in both Greece and Italy, national migration officials are accompanied by Support teams composed of FRONTEX, EASO, Europol and Eurojust officials (Niemann, Zaun 2018) in order to facilitate the identification, fingerprinting and registration of migrants.

A further-looking Recommendation for a European Resettlement Scheme complemented the-above set of measures.¹³ The two-year plan targeted three priority regions: North Africa, the Middle East, and the Horn of Africa, and aimed again at resettling “persons in clear need of international protection”¹⁴ from these countries to willing EUMS.

Nevertheless, the EU avoided putting forward one crucial instrument. The Temporary Protection Directive (TPD)¹⁵, instituted as a consequence of the wave of arrivals from the Balkans in the late 1990s, could have provided for an effective instrument of burden-sharing. The system provided for by the TPD is based on the recognition of a generalised need for protection amongst the immigrant population and thus attributes to individuals a set of fundamental rights, whose provision bares on the receiving EUMS. These rights include access to basic education, accommodation and employment. However, the activation of the TPD relies exclusively on the will of the EUMS deciding in the Council through qualified majority voting (QMV). Thus, in an environment characterised by national closure, it is no wonder that the mechanism was not activated.

In light of the above, the absence of political will may have weighed more than estimated in the definition of both the EU response and the critical nature of events. As such, the refusal to adopt the TPD mechanism may illustrate that the actual ‘migration crisis’ should be regarded as ‘crisis of EU instruments of migration management’. In this context of uncooperativeness, it is no surprise that the Union turned towards its neighbourhood to solve what was then presented as an exclusively external crisis.

B. Shifting out, negotiating an improved Readmission Agreement with Turkey

In light of the above, the subtle inability for EUMS to show solidarity coupled with the explicit discourse on the unprecedented number of arrivals, reinforced the idea that the ‘crisis’ was one of migration exclusively, and should thus be dealt with outside. As such, Turkey emerged as a key partner, the only capable of securing the EU border from the exterior due to its entry position to both Eastern Mediterranean and Western Balkan Routes and the deeply intertwined relationship it shares with the EU.

¹² UNHCR (2018), Executive Committee of the High Commissioner’s Programme, Update of UNHCR’s operations in Europe.

¹³ European commission, Commission Recommendation (EU) 2015/914 of 8 June 2015 on a European resettlement scheme, C/2015/3560, *OJ L 148*, 13.6.2015, p. 32–37

¹⁴ *Idem*. 7

¹⁵ Council of the European Union, Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof, *OJ L 212*, 7.8.2001, p. 12–23.

The emergence of the idea of an agreement with Turkey

Turkey's pivotal role in the management of migration flows was long an evidence to the eyes of the Union as migration had been a longstanding element of EU-Turkey cooperation, particularly within the ongoing accession procedure. As such, rapprochement with Turkey to face the 'migration crisis' began as early as May 2015 and produced its first result in October. The Action Plan presented by the Commission crystallised the engagement of both partners in cooperating to address the humanitarian crisis caused by the Syrian conflict and to fight illegal immigration. In this context, the Union had pledged to "providing assistance, over and beyond the €4.2Bn already mobilised".¹⁶ Based on such promise, in November the Commission proposed the creation of the Facility for Refugees in Turkey (FRIT), with a budget of €3Bn. As counterpart to the increased efforts of the Turkish authorities in border patrolling activities -yet reluctant to enforce burdensome obligations for its EUMS- the EU launched a Voluntary Readmission Scheme in December 2015.¹⁷ The objective being to alleviate the pressure produced on Turkey by the strengthening of the Union's borders.

Still, too fragile to sustain prolonged waves of migratory pressure and in fear of a further increase of inflows in the summer, the architecture that was shielding the EU from arrivals needed restructuring. As such, throughout the winter of 2016, EUMS and EU institutions actively worked to shorten the diplomatic ties with Turkey.

As described by the Commission Official, the situation was one of "very strong necessity", and the crucial role that Turkey could play was evident in the eyes of all EU actors. Thus, efforts focused on sealing an agreement which would effectively ensure Turkey's commitment to close the floodgate. In exchange, the Union had to mobilise the appropriate instruments to maintain the partner engaged.

The Merkel Plan

At a lower level, the idea of an agreement with Turkey to address the "Syrian refugee crisis had emerged as soon as October 2015, a few days before the adoption of the Action Plan. Basing its analysis on the assumption that "The wall that surrounds Fortress Europe has collapsed"¹⁸ -and needs restoring- the European Stability Initiative, presented its Merkel Plan to the public.

The initiative, initially targeting Germany, already crystallised elements that are today integral part of the EU-Turkey Statement. The Plan prompted Germany to conclude an agreement with Turkey whereby in exchange of a pledge to resettle refugees to the EU, Turkey would accept to "stop all migrants reaching the EU's borders". Similarly, the Plan referred to the potential of an acceleration of the Visa liberalisation procedure as an incentive.

Most importantly, the Merkel Plan broke a taboo the Union institutions had not dared to address but which would be essential to the implementation of such a large-scale agreement (Peers, 2016). The Merkel Plan stated that in order to legally implement returns, Greece -at least- should consider Turkey a 'safe third country'. The concept -which will be the object of further analysis- would allow to return migrants through an accelerated procedure on the basis that a country of origin or transit could have provided for a satisfactory degree of protection under the 1951 Geneva Convention.

¹⁶ European Commission, EU-Turkey joint action plan, Press Corner, 15 October 2015.

¹⁷ European Commission, Commission presents Recommendation for a Voluntary Humanitarian Admission Scheme with Turkey for refugees from Syria, Press Corner, 15 December 2015.

¹⁸ Idem 12.

In order to overtly make the step towards defining Turkey a ‘safe-third country’ for asylum seekers, the ESI Plan clearly adopts a rhetoric of crisis. However, the Plan does not identify migration per se as the cause of the crisis. Instead, the Merkel Plan states that the “humanitarian crisis is fast becoming a political one, with the potential to shake the European Union to its foundations”.

Thus, it is to prevent the political breakdown of the Union and the rise of a “far-right, more energised and more unified than ever” that the Union should strengthen its borders. As such, the first EU response aiming at compensating the structural imbalance of the CEAS, is labelled as insufficient as it only heightens differences which strengthen far-right sentiments. In short, to Merkel’s “wir shafften das” Gerald Knaus, the face of the ESI proposal, answers that “compassion needs to be accompanied by a reassertion of control over Europe’s borders”.¹⁹

At this point, it is worth pointing out a paradox emerging from the ESI proposal. On the one hand, the Plan links “far-right fantasies” and “ever higher fences”, thus forwarding an image of a European far-right which increasingly associates migration and security. On the other hand, the Plan discards the wall option only because ineffective and instead presents the use of Turkey as buffer-zone as effective. The Plan astonishingly presents building a wall against migration and using a third-country as filter for migration as very distinct solutions. Indeed, the two solutions are different, just not in terms of results and underlying philosophy. If both would fulfil the clear objective of preventing arrivals, the partnership would also save the Union from addressing its internal deadlocks while maintaining an image of normativity.

As the Merkel Plan gained momentum, its initially circumscribed focus opened to a “coalition of the willing” at the EU level, yet, the role of Germany in pushing for the conclusion of an agreement with Turkey remained primordial.

If Germany’s leading role can be retraced through the numerous visits of Merkel to Turkey between 2015 and 2016 (Reiners & Tekin, 2020), it can be justified by various rationales, yet two emerge as particularly relevant. First, Germany had the capacity to conduct such negotiations given both its structural leadership potential at the EU level and the strength of its bilateral ties with Turkey (Reiners & Tekin, 2020). Second, pushing for an agreement with Turkey, Germany found itself in a position to reinvigorate its bilateral relationship with Greece (main beneficiary of the 2016 Statement) which had been highly damaged after the bail-out.

The EU-Turkey Statement

The result of the parallel negotiations conducted first among EUMS and then with Turkey emerged on March 18th, 2016 as the EU-Turkey Statement.²⁰ Structured around nine action points, the Statement presents two main components. On the one hand, it provides for an extensive return mechanism, under which all illegal immigrants arriving to the Greek islands from Turkey, should be returned to the latter. On the other hand, under the 1:1 resettlement scheme, for every Syrian returned from Greece to Turkey, one Syrian is to be resettled to the EU.²¹ Turkey is also to reinforce its border in order to prevent crossing. As consideration, the Union promises the acceleration of the visa liberalisation process; the reignition of the accession procedure; the development of the Customs

¹⁹ ESI, 2015

²⁰ European Council, EU-Turkey Statement, 18 March 2016, PRESS RELEASE 144/16 18/03/2016.

²¹ Council of the European Union, EU-Turkey Statement, 18 March 2016, PRESS RELEASE 144/16 18/03/2016. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/pdf>

Union and €6Bn to channel through the previously-established FRIT²² for the assistance of protection beneficiaries, i.e. Syrians under temporary protection. Moreover, the EU commits to launching a Voluntary Humanitarian Admission Scheme (VHAS) once crossings substantially decrease, to resettle refugees from Turkey, and to work with Turkey to improve humanitarian conditions in Syria, in areas close to the Turkish border.

In light of the above, the Statement emerges as a synthesis of the ESI's Merkel Plan and the Commission's Action Plan.

First, on return and readmission, if the Merkel Plan does recognise Turkey as safe third-country, it is the Commission's Plan that legalises the otherwise dangerously broad definition of the personal scope of returns inscribed in the former. Therefore, returning "all new migrants" becomes "returning *irregular* migrants" (Peers, 2016). Second, the acceleration of visa liberalisation is also an element common to the two Plans. Third, if the increased funding to Turkey seemingly stems from the Commission's Plan, the ESI Plan corroborates the proposal by specifying the use of such funds.

Other elements as the obligation to prevent the opening of new routes to the EU, can be derived from the Action Plan exclusively as this calls on Turkey to both reinforce the capacity of its Coast Guard and cooperate "with Bulgarian and Greek authorities to prevent irregular migration across the common land borders".

Similarly, the VHAS could be regarded as stemming from the Action Plan as it is the only document referring to "resettlement schemes and programmes" despite it not proposing the creation of a new scheme. Again, cooperation with Turkey in Syria could also be attributed to the Commission as it is the sole document foreseeing some form of aid beyond the Union's borders. Though the Action Plan exclusively mentioned financial aid.

As per the ESI Plan, it can be regarded as the source of key action points as upgrading the customs union and re-energising accession. Regarding the 1:1 resettlement scheme, it could be argued that it too, derives from the Merkel Plan and its point on the resettlement of 500.000 Syrian refugees. However, this could also be considered as the basis for the VHAS.

Yet it is worth highlighting that shifting up from the bilateral to the multilateral level of negotiations, the 'europeanization' of the proposal brought to the establishment of a less-ambitious ceiling of 54.000 individual resettlements.

In light of the above, one key observation can be made regarding the development of the Statement's substance throughout negotiations. As underlined particularly by Okyay and Zaragoza-Christiani (2016), the capacity of Turkey to "extract benefits from the negotiations" is particularly evident in the growth of financial aid linked to the agreement. If the first EU proposal only referred to €1Bn, of which two-thirds were to be covered by Pre-Accession funds, the Statement granted the FRIT a total of €6Bn. As per the authors, key was the Turkish government's capacity to capitalise on the clear need for the EU to rely on a third partner. Interestingly, Turkey managed to use the Union's domestic political fragmentation to develop a rhetoric portraying the EU as pursuing a self-interested and security-oriented policy. As stated by PM Davutoğlu, the EU's approach is one "putting the onus on Turkey, adopting a purely defensive approach with wholesale security measures and building walls to create a Christian 'fortress Europe'".²³

²² European Commission, Commission Decision C(2015) 9500 of 24.11.2015 on the coordination of the actions of the Union and of the Member States through a coordination mechanism – the Refugee Facility for Turkey, as amended by Commission Decision C(2016)855 of 10.2.2016.

²³ Davutoglu, 2015.

What clearly appears from the above-described context is a twofold tendency which led to the conclusion of the EU-Turkey Statement. First, as EUMS and EU institutions increasingly converged on the definition of the moment as one of crisis, their attention shifted out of the Union's borders in search of a solution. In spite of diverging opinions on the nature of the crisis.

Second, despite the above-mentioned divergence, relevant institutional and non-institutional actors converged on the idea that migration is inherently linked to security. As such, the solution to prevent the human tragedies associated with migration appears to be combined with an absolute necessity to stem the flows. Here, migration management becomes associated with its prevention.

II. The Agreement as tool for externalisation

Two crucial aspects of the Statement emerge from the above. First, it constitutes a rather outward-looking policy. Thus, closer to the sphere of foreign policy. Second, the Statement's first goal appears to be security-related, the instrument's objective seemingly being border-closure and the prevention of influxes to the EU. If the Statement does indeed represent a new form of migration-policy tool, these two characteristics embed it in the logic of externalisation, which was long pursued by the EU's migration policy.

A. Externalising European migration policies

Externalisation can be defined as the shifting of migration concerns, "outwards towards the realm of EU foreign relations" (Lavenex, 2006). If this development of the foreign policy face of migration could be considered as a logic consequence of migration being a global phenomenon, many linked its development to the increasingly securitarian understanding of migration. Thus, according to Lavenex (2006) "externalisation has also been referred to as 'remote control' and consists in shifting the locus of control further afield from the common territory".

Retracing European tendencies of externalisation

The Union's penchant for externalised policies can be traced back to the dawning of the Community's competence on migration and asylum. The first traces of externalisation are embedded in the Council's programming documents for the field of Justice and Home Affairs (JHA) as it long retained a pre-eminence in the development of JHA. The Council's pre-eminence was ensured even despite the Amsterdam Treaty's communautarisation of JHA, particularly as it retained the unanimity requirement. Despite the extension of the Ordinary Legislative Procedure and QMV to the new Area of Freedom Security and Justice (AFSJ), the Lisbon Treaty reiterated the Council's leadership and strategic-planning role, particularly in the field of immigration policy²⁴

The first movement towards externalisation came with the Tampere Programme of 1999²⁵ by which the Council stressed as its priority regarding asylum and migration policy, the need to develop partnerships "with countries of origin".

²⁴ Consolidated version of the Treaty on the Functioning of the European Union, TITLE V Area of Freedom, Security and Justice, CHAPTER 1 General provisions, Article 67.

²⁵ Council of the European Union, Presidency Conclusions, Tampere European Council, 15-16 October 1999.

Subsequently, The Hague Agenda²⁶ pursued the spirit of Tampere but increasingly focused on security concerns (Pinyol Jimenez, 2012). As such, the Union's ambitions appeared as directed to inducing change in third-country systems of JHA, in order to better adapt to the Union's objectives in the AFSJ (Monar, 2012).

Finally, the Stockholm Programme²⁷ (2009-2014) added more depth to the previously stated ambitions. If its general objectives remain in line with the established programming tradition, the specificity of the Stockholm Programme is the addition of a final section dedicated to "new tools" the EU should develop in order to achieve its ambitions. As stated by Monar (2012), this "can be taken as an indication both for the increased political importance of the external dimension and the desire to set clearer points of reference for implementation programming".

Surprisingly, despite the increasing politicization of migration, the two subsequent programming documents seem to develop far away from such a detailed approach. Both the Strategic Guidelines for 2014-2019²⁸ and the Strategic Agenda for 2019-2024²⁹, adopt a more viewer-friendly format but include much less detailed propositions. As an example, the Strategic Agenda merely states as its ambition to "deepen [...] cooperation with countries of origin and transit to fight illegal migration and human trafficking and to ensure effective returns". Many factors could explain this ambiguity. As per Monar (2012), it could be explained by the proliferation of "external strategy and programming documents of general, field-specific and geographical orientation" (Monar, 2012). Thus, strategic planning on migration should have become more diffused. Nevertheless, diffusion could also be viewed as causing the dilution of objectives, and not necessarily their mainstreaming.

Externalisation as delegated border-control, the migration-security nexus as rationale.

Countries of origin and transit have long been the target of European migration policies of externalisation. Boswell (2003) identifies two forms, which cooperation with third-countries on migration issues can take. The first, is defined as "cooperation that essentially externalises traditional tools of domestic or EU migration control", focusing on the objective of limiting immigration through the strengthening of border-control capacity. The second form of cooperation is based on prevention and is often epitomised by the reference made to "addressing the root causes of migration". Preventive measures of cooperation can take the form of development aid, in order to lessen push factors in main countries of origin of migrants.

However, as Boswell rightfully observed, in the framework of EU migration policies, control has traditionally prevailed over prevention. One reason that many have agreed upon is the observation that "migration (was) progressively reconceptualised as posing a security threat to receiving countries" (Boswell, 2003). As such, immigration mainly came to be perceived as a negative phenomenon that should be prevented or at least limited, in order to preserve EU security.

The rise of such securitarian approach to migration can be explained by numerous factors relating both to the international context, and to the institutional structure of the Union's competence on migration. Regarding the international context, Feist (2005) exposed how the end of the Cold War and the dismantling of former Yugoslavia broadened the definition of security to include a more fluid

²⁶ Council of the European Union, The Hague Programme: strengthening Freedom, Security and Justice in the European Union (2005/C 53/01)

²⁷ Council of the European Union, The Stockholm Programme – An open and secure Europe serving and protecting the citizens, (17024/09), 2009.

²⁸ European Council, EUROPEAN COUNCIL 26/27 JUNE 2014 CONCLUSIONS, EUCO 79/14

²⁹ European Council, A NEW STRATEGIC AGENDA 2019 – 2024, Brussels 20 June 2019

and diffused notion of threat. Later, the emergence of international terrorism strengthened the connection between migration and international security, through the only common link: movement. At the EU level, the migration-security nexus seems to be solidly embedded in the institutional structure of JHA as migration policies developed within the institutional framework crafted for cooperation on criminal matters. As indicated by both Guiraudon (2003) and Feist (2005), the initiative paving the way for the JHA, the TREVI Group of 1975, focused on police cooperation as well as terrorism. Only ten years later, in 1986, did the same group adapt its name and focus to address migration and asylum (Feist 2005).

The above association led to the development of externalised policies increasingly shifting towards delegation. As per Lavenex (2006) externalisation policies can be divided into three generations, each of which has pushed the paradigm of control further out of the Union's territory.

A first generation of externalisation tools developed since the establishment of the Schengen Area and its communitarisation.³⁰ These first instruments focused on the need to securitise the common external border and especially on the responsabilisation of migration-management actors. Among these, the introduction of carrier liability³¹, the establishment of the Immigration Liaison Officers³² and the creation of FRONTEX, the EU Border and Coastguard Agency.³³

Second-generation EU externalisation tools, the Dublin regulations successively increased the focus on cooperation with third countries via the newly-enshrined 'safe third country' principle.³⁴ The concept allows EUMS to more easily return irregular migrants to a country -of origin or transit- which complies with the requirements of the 1951 Geneva Convention. However, it is only with the adoption of the Dublin III Regulation³⁵ in 2013 that the above provision giving leeway to EUMS in applying strict protection criteria, was complemented by a more thorough definition and by procedural guarantees, through referral to the Procedures Directive.³⁶

The focus on third countries became the clear objective of third-generation externalisation tools, European Readmission Agreements. These Agreements crystallise the commitment of third-States to readmit migrants irregularly apprehended in the EU, be they nationals or third-country-nationals having transited through their territory. If the practice of Readmission Agreements emerged at the level of EUMS, the EU soon adopted and systematised their use. As such, Readmission clauses are

³⁰ The Schengen acquis - Convention implementing the Schengen Agreement of 14 June 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, Official Journal L 239, 22/09/2000 P. 19-62

³¹ Art. 26 Ibid 22

³² ILOs are EUMS officials are posted in third-states to cooperate with the hosting authorities on "the prevention and combating of illegal immigration, the return of illegal immigrants and the management of legal migration". European Council, Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network OJ L 64, 2.3.2004, p. 1-4

³³ Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union, *OJ L 349, 25.11.2004, p. 1-11*.

³⁴ Art. 3(5), Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities - Dublin Convention, *OJ C 254, 19.8.1997, p. 1-12*. And Art. 3(3), Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, *OJ L 50, 25.2.2003, p. 1-10*.

³⁵ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, OJ L 180, 29.6.2013, p. 31-59.

³⁶ Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, *OJ L 180, 29.6.2013, p. 60-95*.

systematically included in all commercial or economic agreements concluded by the EU since the Seville Summit of 2002.³⁷

In light of the above, it appears that EU migration policy has developed around two key objectives. Internally, the EU sought to strengthen its shared border. Externally, the EU invested on the development of third-states' migration-control capacity in order to maximise their filtering capacity.

B. The EU-Turkey Statement, a new generation of externalisation policies

The EU-Turkey Statement does indeed fit the logic of externalisation. It is an agreement -an informal one- with a third country, seemingly focused on joint migration management. However, the Statement condenses several policy objectives that go well beyond simple readmission and joint management. It is in light of a combination of different elements that the Statement should be regarded as a fourth-generation instrument of externalisation, effectively delegating to Turkey a number of migration-management obligations.

Identifying the Statement's migration-related delegated tasks

Analysing the content of the Statement, in particular its core Action Points (AP), it appears that only a relatively limited number of these are migration-related (as per Table 5 in Annex). In particular, only action points 1, 2, 3, 4, 6, 9 contain terms falling within the migration policy vocabulary. However, a selection of the Action Points based on the "migration" criterion does not help to elucidate the actual nature of the tasks inscribed in the Statement nor the parties to which such tasks are attributed, something essential when exploring the degree and nature of delegation.

In order to understand who, the recipient of the obligations inscribed in the Statement is, it is essential to further define the migration-related tasks inscribed in the Statement. In fact, not all the Statement's tasks are explicit. A number of these can be implied by further defining broad statements or partial referrals to migratory processes. For example, on the one hand, broad statements as "preventing the opening of new routes" imply several obligations as border-control, reinforcement of the national coastguard, or again fighting networks of smugglers. On the other hand, "return to Turkey" is just a partial referral to a procedure which implies for Turkey the obligation to readmit.

What emerges from the application of the above analysis is that while Action Points 1 to 3, do include elements of delegation to both Greece and Turkey, Action Points 4, 6 and 9 refer to migration-related tasks that are to be undertaken by the EU itself, and which will thus be the object of further analysis. Focusing on points 1 to 3, what emerges is first a clear distinction between the delegated and implicit tasks and their respective recipients. Observing Table 6, two considerations appear evident. First, the fact that the delegated tasks do not exclusively refer to Turkey but also Greece. Second, there is a stark difference between explicit and implied delegated tasks as the latter only regard Turkey.

Closely observing delegation to Greece, it is easy to understand how most of the tasks are not new. As such, registration, processing and return are tasks already performed by the Greek authorities under European and National asylum provisions. Thus, it does not seem that the Statement does address the overburdening of the Greek asylum system.

The novelty, which could allow for an alleviation of the migratory pressure on the Greek asylum system, is that Turkey acts as the exclusive recipient of returns. The fact that Turkey is qualified as

³⁷ Council of the European Union, Presidency Conclusions, Seville European Council, 21-22 June 2002.

safe-third-country also should participate -at least in theory- to the relieving of Greece's congested asylum system by enabling the implementation of accelerated procedures for the examination of asylum applications. Although this last aspect is not present in the Statement, it should nonetheless be taken into consideration.

Turning to Turkey's obligations, first of all, it appears that even though Turkey is chiefly framed as a passive agent as "migrants will be returned to Turkey", it is less the case when observing the Statement's implicit delegation.

Before developing on the implied tasks, it is already essential to underline the importance of the explicit ones. The resettlement under the 1:1 scheme (AP3) should not *per se* constitute a significant element of delegation to Turkey, as it aims to slightly alleviate Turkey's burden. If limiting the scope of resettlement to Syrians would seem to lessen the burden-sharing potential of the scheme, its implementation played to the benefit of Turkey, as more asylum seekers were resettled from Turkey than those returned under the scheme.³⁸

Table 6 – The Statement's object of delegation

	Migration-related tasks	Explicit delegation	Implicit delegation
AP1			
	All new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 <u>will</u> be returned to Turkey	Greece return	Turkey readmission Turkey reception
	Migrants arriving in the Greek islands <u>will</u> be duly registered	Greece registration	
	any application for asylum <u>will</u> be processed individually by the Greek authorities in accordance with the Asylum Procedures Directive, in cooperation with UNHCR.	Greece processing asylum applications	
	Migrants not applying for asylum or whose application has been found unfounded or inadmissible in accordance with the said directive <u>will</u> be returned to Turkey.	Greece return	Turkey readmission Turkey reception
AP2			
	For every Syrian being returned to Turkey from Greek islands, another Syrian <u>will</u> be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria.	Greece return Turkey and the EU - resettlement	Turkey readmission of 1 Syrian for every Syrian returned Turkey reception
AP3			
	Turkey will take any necessary measures to prevent new sea or land routes for illegal migration opening from Turkey to the EU.	Turkey Prevent the opening of new routes to the EU	Turkey strengthening border-control capacity

Migration-related vocabulary

Vocabulary referring to either the subjects (migrants, asylum-seekers) or the phases (registration, return, resettlement) of migration policy.

Task recipients

- Turkey
- Turkey and the EU
- Greece

Author's own elaboration

Action Point 3 by which Turkey accepts to "prevent new sea or land routes for illegal migration (from) opening", deserves further developing. As mentioned above, in order to prevent new migratory routes from opening, there are numerous measures that a State could adopt. In practice, in light of the

³⁸ See, European Commission, REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL Seventh Report on the Progress made in the implementation of the EU-Turkey Statement, COM/2017/0470 final

Deal of 2016, Turkey proceeded to a thorough securitisation of its border first, by increasing land and sea patrols and second, by building walls, one at the border with Syria and another at the border with Iran which is still under construction (Üstübici, 2019).

It is important to underline how such a request indeed should be regarded as delegation. One might believe that border security should be in the interest of any country. However, here border control is encouraged not to prevent entries but to prevent exits as it is enforced to the benefit of a third-party.

As previously announced, one key observation, which we can draw by developing the Statement's implied tasks, is that Turkey's obligations are much broader than they appear to be in the Statement's letter. Simply Turkey's actions are implied as Turkey is framed as a passive actor.

Under the Statement, Turkey implicitly agrees to manage the readmission, reception and potentially the integration or return of all irregular migrants returned.

Indeed, States already manage all the above tasks, as part of the migration cycle. However, what qualifies the present case as one of delegation is the fact that Turkey is explicitly identified as the sole recipient of returns from Greece. Whereas generally, irregular migrants reaching the EU can be returned to a variety of States of either origin or transit.

The Statement as fourth-generation externalisation instrument

In light of the above, the EU-Turkey Statement cannot be regarded as a typical externalisation instrument as it marks a further step in the development of externalisation as delegation.

First of all, it is fundamental to underline, though it is not particularly relevant for our analysis, that the Statement includes one key element of first-generation externalisation which is delegation to the periphery. In fact, a sizeable share of the delegated tasks rests on Greece which -as frontline EUMS- was already under greater pressure compared to others. There is no mechanism enshrined in the Statement that is aimed at lessening the structural unbalance between EUMS, on the contrary, it is through delegation to Turkey, that such unbalance is addressed. Nevertheless, as proven by the implementation, the Greek system remained overburdened despite the sharp decrease in arrivals, and incapable of effectively conducting sizable returns to Turkey.

Focusing on delegation to Turkey, the Statement still cannot be considered as a simple Readmission Agreement. Indeed, there is a readmission component, but this is also coupled with resettlement. In addition to the above, the Statement also includes border control on exits. This latter element seems to coincide with The Hague agenda whereby the Union's efforts focused on bettering national third-States' JHA systems in order to strengthen their filtering capacity. However, here that same logic is taken to the extreme as the Union is transparently asking its partner to 'waterproof' a shared border. Moreover, it is important to highlight that in general terms, excluding few exceptions, migration and asylum law regimes have developed towards a generalised right to exit with the right to entry being subject to conditions. Here, it is that fundamental right which is withdrawn.

In order to understand the real impact of delegation to Turkey, it is thus essential to account for the combined effect of exit-oriented border-closure and the obligation to readmit all irregular migrants returned by Greece. Closing points of exit, accepting all returnees, clearly mean that the stock of migrants in Turkey is set to increase, especially if the primary source of migration is a war in a neighbouring country. In fact, between 2015 and 2019, Turkey's migration stock rose from 4.3M to 5.9M.³⁹ Surprisingly, as mentioned above the rise in the migrant stock cannot be directly linked to

³⁹ Source UN DESA Populations Division, 2019.

the increased return operations from Greece as these remained extremely low. Yet migration flows were almost immediately terminated. As suggested by Policy Officer from the Turkish government who participated to the Statement's negotiations, the reason for such unexpected efficacy could be attributed by the deterrent effect of the Statement. Given the substantial mediatic resonance of the Statement, "migrants then knew that even if they managed to go to Greece, they would not be going anywhere".⁴⁰

In parallel with the stock, the number of obligations weighing on Turkey also increased. As a growing number of migrants settled within its territory, Turkey's obligations grew as it had to manage the reception, integration -that is to say housing, education, work, healthcare etc.- or return for an increasingly high number of persons.

To conclude, the EU-Turkey Statement, which developed as an outward-looking answer to the 2015 crisis, should be regarded as bringing the logic of outsourcing that had marked EU migration policies a step further. A close analysis of the Statement illustrates how externalisation or outsourcing have become actual delegation, given the combined effect of border closure and return. Thus, under the Statement, Turkey is being entrusted with the responsibility of managing the whole migratory cycle of an increasingly high number of migrants.

In light of the emergence of such delegation structure, a Principal-Model analysis of the Statements appears to be not only possible but also desirable. An evaluation of the Statement's politics and structure of delegation could shed light on the fundamental limitations of such an approach to migration policy.

⁴⁰ Personal interview conducted for the purpose of the present research with a Policy Officer of the Turkish Government in Ankara on March 5th, 2020.

Chapter II

Characterizing the Statement's Principal-Agent structure

What clearly emerges from the contextualization of the Statement's emergence as well as from the analysis of its content is that it does embody a logic of outsourcing of migration responsibilities. However, if outsourcing or externalisation have characterised EU migration policies since the establishment of a communitarised competence on JHA, the Statement brings such logic to an extreme. In fact, with the Statement outsourcing becomes outright delegation.

Since the Statement does embody a logic of delegation, it could be the object of an evaluation under the Principal-Agent Model which emerged as theory allowing to understand “why, how and with what consequences” (Tallberg, 2002) delegation from one actor to another happens. Evaluating the Statement's performance and the reasons for Turkey's partial withdrawal through the lenses of PAM would allow to draw much broader conclusions than by a mere evaluation on effectiveness.

I. Introducing the Principal-Agent Model and the theory of delegation

The Principal-Agent Model

The PAM, which initially developed within economic theory entered EU studies as part of rational choice institutionalism, where it developed as a “mid-range theory designed to provide leverage on the very specific phenomenon of delegation from one actor or set of actors (the principals) to another actor or set of actors (the agents)” (Delreux & Adriaensen, 2017). Thus, as per Ross, PAM is a useful tool to evaluate cases whereby a principal designates an agent to “act[s] for, on behalf of, or as a representative for the other”.

The existence of such delegation is crystallised in a contract defining the object of delegation, i.e. the delegated tasks. The use of the term contract should not mislead the reader; in fact, the expression is not to be interpreted in its legal meaning. For the purpose of PAM, a contract of delegation need not be formalised. Indeed, formal contracts facilitate the individuation of contractual relations. However, it is the substance in this case that prevails over the form as the individuation of delegated tasks is sufficient to qualify the act as delegation a contract (Delreux & Adriaensen, 2017).

The nature and degree of formalisation are expected to vary with the scope of agency being delegated. Initially PAM applications to EU policy exclusively focused on instances of macro delegation which generally are crystallised in treaties. However, as observed by Delreux & Adriaensen (2017) “treaty-based delegation is increasingly being eclipsed by ‘micro’ delegation of powers in day-to-day legislation”. In the latter case, a high degree of formalisation is hardly expectable. In conclusion, as stated by Berhold “although the term contractual appears legalistic, its use is intended to indicate that an agreement exists between the two decision-makers and both have the same beliefs with respect to its content and in addition both believe that it will be honoured” (1971). Niemann and Huigens (2011) push further this logic of substance overriding form by stating that the contract need not even be explicit.

To understand the framing of delegation, it is essential to identify the general reasons that induce principals to delegate, in fact, the ideal structure of delegation varies with the rationale for delegation. In broad terms, delegation arises when principals find it beneficial to delegate a number of functions to an agent. More specifically, academia has underlined how the rationale for delegation usually coincides with the principal's need to signal "credible commitment to the relevant stakeholders" (Delreux & Adriaensen, 2017), or the need for policy-relevant expertise, and more importantly the principal's willingness to reduce the transaction costs of cooperation (Pollack, 2006).

If for the above reasons, delegation arises when benefitting the principal, it should be underlined that delegating is also costly. Delegation inherently involves a risk for the principal, and in order to control for such risk, the principal should adopt measures that are costly.

The main risk faced by principals when delegating is defined as agency slack (Delreux & Adriaensen, 2017). Agency slack happens when the agent chooses to "act opportunistically and behave contrary to what the principal wants" (Delreux & Adriaensen, 2017). Agency slack can take two different forms: shirking and slippage. If both phenomena describe opportunistic behaviour, the two instances differ -as we will see- in the rationale of such opportunism.

Agency slack, rests on two core assumptions. First, the existence of an information asymmetry between the parties to the contract which structurally benefits the agent. For example, the agent only is aware of its capabilities and the effort it will put in executing the delegated task. Second, the agent and principal have heterogeneous preferences that need to be controlled for, as the opposition of preferences could produce agency slack. Both assumptions derive from the fundamental idea which permeates rational choice institutionalism which is that both principal, and more importantly, in this case, the agent are rational actors and utility maximisers. Thus, there is a substantial risk of opportunistic behaviour on the agent's part as the task it agrees to carry out is not necessarily one it would choose to carry out. Therefore, the principal should be careful in framing the agent's discretion, i.e. "the room for manoeuvre the agent has in performing the delegated task" (Delreux & Adriaensen, 2017) in order to avoid slack.

However, as previously stated, the measures the principal should take to frame discretion are themselves costly (Kiewet & McCubbins 1991) as principals should mobilise several instruments and procedures in order to induce the agent to act on its' behalf, by producing the expected outcome. Control techniques can intervene *ex ante*, when delegation is being defined, taking the form of administrative procedures but can also intervene *ex post*, at the stage of implementation, through the enforcement of either positive or negative sanctions (Delreux & Adriaensen, 2017). Thus, delegation should essentially be established only when the costs of agency do not outweigh the benefits of delegation. In more concrete terms, delegation "is likely to take place when the expected benefits outweigh the expected costs" (Tallberg, 2002).

However, framing the agent's discretion in conducting the delegated task is not only costly but can also be problematic as a high degree of control; thus, a thinner discretion for the agent, could also undermine the effectiveness of delegation by frustrating the agent. Therefore, as stated by Delreux & Adriaensen, principals should operate a careful balancing act between control and "granting leeway to the agent to ensure the functional benefits are attained" (2017).

The evolution of PAM, from economics to political science

The PAM first emerged in the context of economics, initially applied to insurance contracts (Spence & Zeckhauser, 1971), the theory was later adapted to the study of employer/employee relationships

(Miller, 2005) or again to study the role of different actors within the firm. For example, Jensen and Meckling (1976) successfully employed PAM to study the relations between shareholders -the principals- and managers -the agents.

Given the fruitful application in the economic context, political scientists eager to study delegation within the framework of both national and supranational institutions soon borrowed on the PAM. Initially, the Model was the object of particularly conducive applications by US academia within the realm of congressional politics. In particular, Downs & Rocke (1994) effectively applied PAM to study delegation from the people to the governing institutions. Similarly, Weingast & Moran (1983) made use of PAM to analyse the system of US congressional oversight.

In light of the success of PAM in analysing phenomena of domestic delegation, the Model was subsequently adopted by academics wishing to understand delegation to non-majoritarian supranational institutions as the World Bank (Nielson & Tierney, 2003).

This expansion of the potential scope of application of PAM eased the way for scholars, wishing to understand the challenges of delegation within the European Union. Pollack (1997) effectively imported PAM to European studies in order to study delegation from the EUMS to the EU institutions. Within EU studies PAM established itself as an effective tool to understand not only conventional forms of delegation as per Pollack, but also delegation to non-majoritarian institutions as the Council's presidency or the EU's regulatory agencies (Delreux & Adriaensen, 2017). In the area of the Union's migration policy, PAM was effectively applied by Menz (2015) who drew insightful observations from the conceptualisation of the Commission as the EUMS's agent in developing a common migration policy focused on externalisation.

Interestingly, as underlined by Delreux & Adriaensen (2017), Pollack's introduction of PAM to EU studies proved extremely effective in re-energising the theoretical debate breaking the redundancy in the exclusive opposition between intergovernmentalists and neofunctionalists.

Flexibilising 'canonical' PAM

In light of the above, applying PAM to study delegation as crystallised in the EU-Turkey Statement of 2016 constitutes a novelty, thus requiring the flexibilization of several assumptions that do permeate 'canonical' approaches to PAM.

As underlined by Miller (2005), as PAM shifted from economics to political science, the structure of assumptions already had undergone a flexibilization as strict assumptions prevented for its effective application to political scenarios.

'Canonical' conceptions of PAM prescribe the application of the Model exclusively to political situations that fulfil a number of assumptions relating either to the policy-makers or the policy-making process (Delreux & Adriaensen, 2017). This rigid application, however, would not allow for the application to the case at stake. As we will see the nature of the agent in the PAM relation under evaluation, prevents the fulfilment of the entirety of assumptions identified in 'canonical PAM'.

Yet, as pointed out by Miller (2005) "PAT has itself been modified in ways that are inconsistent with the original formulations, but often in ways that are distinctly advantageous for progress in political science". The ambition of the present endeavour is, precisely as stated by Miller, to contribute to the progress of policy evaluation culture through the use of PAM as a heuristic instrument to investigate on the merits and deficiencies of the structure of delegation embodied by the Statement.

Therefore, as advocated by Maher et al. (2009), the present research will "apply liberally but handle with care" PAM. Thus, some assumptions as principal unity or the existence of information asymmetries and heterogeneous preferences, will be treated as variables rather than conditions. At

the same time, as underlined by Delreux & Adriaensen (2017), the present evaluation will still rest on two basic conditions. On the one hand, the assumption that both actors are rational. On the other hand, the identification of an act of delegation, which translates the existence of “hierarchy in a dyadic relation” (Delreux & Adriaensen, 2017).

II. Mapping the Statement’s principal-agent structure

Having understood the structure of PAM and its potential to understand dynamics of delegation in the framework of EU policy, it is paramount to address how the EU-Turkey Statement could be effectively studied through the use of this Model. Thus, how the Statement does constitute a contract of delegation between a principal and an agent.

The Statement as delegation contract

As highlighted above, when qualifying a contract as one of delegation, it is the substance that overrides form. As particularly stressed by Delreux & Adriaensen (2017) in the framework of EU politics, instances of micro-delegation often occur, in these cases treaty-based delegation hardly ever materialise, being substituted by legislation-based delegation.

The case at stake, should be considered as one of micro-delegation whereby a circumscribed number of policy responsibilities in the field of migration management are entrusted upon an agent. Yet, the Statement’s scope of delegation is broader than it appears from a purely formalist perspective as its breadth does not necessarily derive from the number of tasks delegated but from their impact on the number of migrants the agent finds itself managing.

However, from a legal perspective, the Statement cannot be considered either a legislative measure or a formal agreement. The Court of Justice of the EU (CJEU) ruling on an appeal confirmed the General Court’s decision to exclude the Statement from its jurisdiction as it should not be regarded as a ‘European’ act as per article 263 TFEU. In the same decision, the General Court, accessorially underlined how the Statement did not necessarily constitute a “measure capable of producing binding legal effects”.⁴¹

Despite the above, as substance outweighs form, the Statement should be regarded as a contract for the purpose of the analysis. In fact, as pointed out in the previous Chapter, a number of obligations are effectively being delegated by the EU. Analysing the content of the Statement’s APs, two principal-agent relations emerge.

First, Greece seems to be attributed a number of migration-management tasks, such as registration of migrants, processing of asylum applications and return to Turkey. Yet, as previously stated, given that these obligations already weigh on Greece because of the structure of the Union’s asylum system, we will not consider this relationship as being one of clear delegation. Second, the Statement -rather implicitly than explicitly- delegates to Turkey the reception, integration or return of all migrants who either do not reach Greece due to the strengthened Greek-Turkish border or are returned from the latter, which will be the object of analysis.

⁴¹ CJEU, Order of the General Court (First Chamber, Extended Composition) of 28 February 2017, NF v European Council, Case T-192/16, 2017. §71

The EUMS and Commission as collective principals

Having identified the object of delegation, it is necessary to establish the political entity “actually delegating authority to another actor” (Delreux & Adriaensen, 2017). ‘Canonical’ PAM rests -among others- on the assumption of principal unity, however as previously underlined, such presumption “is very seldom applicable to real-life EU politics” (Delreux & Adriaensen, 2017). Thus, EU scholars have developed the notion of ‘collective principal’ in order to apply PAM to cases where a single contract of delegation ties a group of principals to an agent (Delreux & Adriaensen, 2017). Yet, a case of collective principal needs to be distinguished by situations characterised by ‘multiple principals’ thus, by multiple contracts of delegation.

The present case can easily be attributed to a collective principal, which is often the case in EU politics, as the Statement acts as the sole explicit contractual basis for delegation to Turkey. Yet, if the existence of a collective principal does appear evidently, the group of actors constituting it needs defining.

From a legal perspective, the CJEU in the abovementioned NF Case, concluded that the Statement is not ‘European’. That is to say that it was neither concluded nor negotiated in the name of the European Union. In fact, despite numerous elements pointing in the opposite direction, the Court attributed the paternity of the Statement to the Heads of State or Government of the Member States acting in their own capacity, not as members of the European Council. Despite criticism brought on by the Court’s decision the Statement did take form during high-level negotiations which were highly marked by the EUMS’ presence. In fact, it could be argued that it is in order to circumvent EU treaty provisions on the conclusion of international agreements that negotiations developed in such a disorderly manner yet, included almost all of the usually-involved actors. All, except the European Parliament.

Focusing on the negotiation stage, the Commission seems to have played only a marginal role, yet the Statement’s letter is highly marked by the bureaucratic input of the Commission as an independent actor besides the EUMS. As underlined in the previous Chapter, some of the Statement’s crucial points reflect the provisions of the Action Plan presented by the Commission in 2015. Thus, focusing on the Statement’s substance, one could argue in favour of regarding both the Commission and the EUMS as ‘collective principal’.

However, under the Statement, another role emerges for the Commission, adding a further layer of complexity to the Principal-Agent relation.

The Commission is, in fact, entrusted with both the oversight of the Statement’s implementation, and the responsibility for most of the positive incentives it mobilises. It is the Commission that administers the FRIT, which channels EU funding for Syrian refugees in Turkey. Moreover, the Commission is both in charge of the visa-liberalisation procedure and the first judge of the attainment of the 23 benchmarks established in 2013. In addition, the Commission is the first interlocutor of any accession candidate and for the upgrading of the Customs Union.

In light of the above, determining the role of the Commission as principal or incidental agent of the Statement’s structure of delegation seems to prove quite difficult.

As underlined by Delreux and Adriaensen, in the EU context “the old notion of a simple dyadic relationship between member state principals and supranational agents seems like a hopeless oversimplification of a complex new reality” (Delreux & Adriaensen, 2017). Thus, to describe this new reality whereby “multiple dyadic principal-agent relations that are linked to each other in the

sense that one actor is at the same time an agent and a principal (of another agent)” that the concept of ‘chain of delegation’ emerged. Thus, the Commission may well be, both principal and agent with regards the Statement.

Here, the Commission will be treated as part of the collective principal first and foremost in light of its essential contribution to the elaboration of the Statement’s content through the 2015 Action Plan. This choice is also justifiable in light of Menz’ work, which underlined how the Commission acted as agent of the EUMS in the development of the Union’s externalised migration policy. The case at stake concerns precisely one of the externalised policies.

Therefore, it is in spite of the haphazard development of negotiations, that both the Commission and the EUMS whose role is undeniable- will be regarded as forming part of the collective principal.

Turkey, an unorthodox agent

Qualifying Turkey as agent tests the limits of ‘canonical’ PAM theory, thus explaining the choice to resort to a lighter conception of PAM based exclusively on the existence of a structure of delegation. As previously hinted, the dyadic-hierarchical relation object of the present analysis is that by which some migration-management responsibilities are delegated by the EUMS and Commission acting as collective principal to Turkey, the agent.

Agents are generally defined as “those who govern by exercising delegated powers” (Thatcher & Stone Sweet, 2002) or as those acting “for, on behalf of, or as representative(s) for the other, designated the principal, in a particular domain of decision problems” (Ross, 1973). In most applications of PAM, the hierarchical link between principals and agent is often more transparent than in the situation at stake, where the agent is a State. PAM applications often present agents that derive their existence or gain legitimacy -or both- from the act of delegation itself.

Examples of both cases flourish in PAM applications to EU studies as authors have identified as agent institutions as the Commission or ECJ; agencies as the European External Action Service (EEAS) or “de novo bodies” as the European Stability Mechanism (ESM). All cases presenting a clear hierarchical link between principals and agents.

Only on one occurrence, a sovereign State was identified as the agent, in the case of indirect control as conceptualised by Berman et al. (2019) Yet, in Berman’s analysis the USA’s hierarchical superiority as principal over the agent was exclusively assumed and not explained. Nevertheless, the question of hierarchy is both crucial and particularly challenging to address. Focusing on the nature of the parties to the Statement: the EUMS, the Commission and Turkey, one could argue for a completely horizontal situation, much resembling a case of cooperation which per se excludes any utility for PAM. However, two are the elements that allow arguing in favour of a hierarchical link. First and foremost, the presence of a delegated task which would typically fall within the competence of the principal and which is effectively being delegated to Turkey. Second, hierarchy and the power advantage on the principal can be explained in terms of numbers. On the one hand, the principal is composed by -then- 28 sovereign States, the EUMS, plus the Commission. On the other hand, Turkey as agent acts alone.

Moreover, one could draw numerous arguments in favour of a hierarchical advantage on the principals’ part from the relation entertained by the two partners beyond migration policy. As an example, one could put forward the fact the Turkey does depend significantly from the EU from the perspective of trade as the Union’s is “by far Turkey’s number one import and export partner”.⁴²

⁴² European Commission, Trade Policy, Countries and Regions, Turkey, Trade picture. Available at: <https://ec.europa.eu/trade/policy/countries-and-regions/countries/turkey/>

However, such an argument could also be defeated by referring to other aspects of the bilateral EU-Turkish relations, thus complexifying the analysis.

Setting aside the broader framework of EU-Turkey relations, in order to qualify Turkey as agent and effectively apply PAM, research will focus exclusively on the hierarchical link derived from the mere existence of an act of delegation and therefore agency on behalf of a set of principals.

Yet, stretching the definition of hierarchy and the qualification of agents, has considerable effects on the relevance of 'canonical' PAM assumptions. First, as underlined by Sappington (1991), canonical approaches to PAM assume that the principals dispose of 'ultimatum bargaining', i.e. "The principal is endowed with all of the bargaining power in this simple setting, and thus can make a 'take-it-or-leave-it' offer to the agent". However, in the present case given that the agent is itself a State, the paradigm of autonomy, we should set aside the above assumption. The hierarchical link between principal and agent is too weak to entrust the former with the right to give nothing more than the minimum to convince the agent to act on its behalf. On the contrary, given the intrinsic independence of Turkey, the principals should -and did- promise more than the minimum in order to ensure compliant agency.

Second, the 'canonical' heterogeneity of preferences between principal and agent resonates stronger in the present case. If "a new public agency has its own interests, which may diverge from those of its creators, and it typically has resources [...] to strike out on its own should the opportunity arise" (Moe, 1990) a State can only have greater private interests, and instruments to act upon these. Given the more considerable risk of agency slack deriving from heterogeneity of preferences, the principal should mobilise greater means to control, thus increasing the cost of delegation.

Third, autonomy or discretion gain relevance as the agent is a State. Therefore, control measures should be carefully crafted by the principals in order to allow for a balanced degree of discretion and control. In particular principals may choose to give greater space to positive sanctions to reward compliance. On the contrary, the use of negative sanctions should be moderated to avoid vindictive behaviour. Moreover, to control for the agent's autonomy a priori clear and formal definition of the delegated task should also prove more effective

What emerges from the above is that PAM and delegation theory were not born to address cases of delegation as specific as the one at hand. If the conceptualisation of principals has grown to include cases of collective principals and less linear structures of delegation, the same expansion has not necessarily affected the definition of agents. Typical agents clearly appear as hierarchically submitted to the principals. In order to effectively evaluate the Statement through PAM, its core assumptions need to be stretched to the point where most proponents of 'canonical' approaches to PAM would consider the theory voided of its meaning.

Despite the potential -and probable- criticism, this dissertation will build its analysis of the Statement around PAM. Having established that the Statement is indeed a delegation contract, the essential assumption necessary to pursue a principal-agent analysis is fulfilled. Therefore, taking into consideration the nature of the agent selected by the EU to manage migration can only help us shed light on the limits and virtues of such delegation structure.

Chapter III

Evaluating the Statement's structure and politics of delegation

On February 27th, Turkey declared the end of its efforts under the Statement, more than that. It allegedly entered into an organised effort to push migrants towards the border, increasing pressure on the EU external border. While migrants are stocking up at the Greek-Turkish border, facing Greece's harsh push-backs, it is doubtless that within the delegation context previously described, agency slack did happen.

In order to understand the rationale for the agency slack, the use and misuse of discretion, it is paramount to primarily address the politics of delegation, i.e. the rules of the game as established by the principals. If 'opportunistic behaviour' can indeed be attributed to many exogenous variables, delegation theory has provided for insights on how the structure of delegation itself can undermine the effective delegation of agency.

In light of the difficulty to qualify Turkey's decision of February 27th 2020 as slippage or shirking given the limits in the transparency of official discourse and the infinite number of variables that may come into play when 'self-interest' is to be proven, the focus here will be the perverse incentives provided by either the framing of delegation in the Statement or the implementation of the Statement itself, for the agent to act opportunistically.

The first part will focus on traditional PAM approaches to the problem of discretion, whereby agency slack is to be controlled by the principals through mechanisms of *ex ante* and *ex post* control. The second part of the Chapter will move beyond the traditional PAM perspective, shifting focus on the perverse ways in which principals themselves can negatively affect agency.

I. The Principal's problem, controlling Agency slack

As presented in the previous Chapter, every instance of delegation comes with a risk of agency slack. Thus, as conceptualised by traditional PAM theorists, every contract of delegation should include mechanisms framing agency and limiting discretion.

This permanent risk of agency slack and potentially undermining delegation is also known as the 'principal's problem'. "The principal's problem consists of inducing the agent to act in the principal's interests" (Miller 2005). However, as underlined by Kiewiet and McCubbins (1991) principals are not helpless before the problem, because if "agents behave opportunistically, pursuing their own interests" these are "subject only to the constraints imposed by their relationship with the principal." Thus, principals rely upon a series of instruments to control possible opportunism in the agent's behaviour.

A. Principal problems and principal solutions

Principal problems

Taking a step back, two main sources of slack have been identified by academia. The first, adverse selection, can only be controlled for at the pre-contract phase as it implies that principals carefully

select the appropriate agent. The Principal, in fact, does not know the precise preferences and skills of the agent and therefore does not know how effective the agent will be” (Thompson, 2007).

The second source of agency slack reveals itself at the stage of implementation. Moral hazard arises from the impossibility for principals to fully monitor the agent’s behaviour, and the risk of hidden action on the agent’s part. Moral hazard usually manifests itself in two forms, shirking and slippage. If in both cases, the result is the pursuance of opportunistic goals, these differ in their rationale.

As underlined by Delreux & Adriaensen (2017), agent shirking is discretion-enlarging behaviour which is “interest-induced”. That is to say, the agent “pursues preferences of its own rather than, or to the detriment of, the preferences of the principals” (Pollack, 2003). Conversely, agent slippage is “structure-induced” (Delreux & Adriaensen, 2017). As underlined by Pollack, slippage in fact “occurs when the structure of delegation itself provides perverse incentives for the agent to behave in ways inimical to the preferences of the principals” (Pollack, 1997).

The present analysis will focus on slippage as shirking, thus deviation from delegation exclusively caused by the pure pursuance of Turkish national interests, can only be established with difficulties. In fact, the number of variables that a comprehensive research should account for are quasi infinite given the level of sophistication of EU-Turkey Relations. Instead, research will focus on the potential elements for frustration contained in the Statement.

Similarly, adverse selection will not form part of the present dissertation as the EU selected Turkey because of its key location and previously adopted role in the management of migration influxes. Thus, the principals having decided to delegate, had little choice on whom to attribute the delegated tasks to.

Principal solutions to agent slippage

Concerning slippage, delegation theory provides for a plethora of Principals’ solutions to Principals’ problems. In particular principals can embed in the act for delegation several control mechanisms which will frame agency, thus limiting the risk of both slippage and shirking. These measures which shift part of the risk from the Principal, to the agent (Pollack 1997) can take two distinct forms, administrative procedures and control measures.

Administrative procedures are risk-shifting measures intervening *ex ante*, through the definition of “the scope of agency activity, the legal instruments available to the agency, and the procedures it must follow” (Delreux & Adriaensen, 2017). Control mechanisms constitute *ex post* solutions to principal problems, intervening at the stage of implementation. Control mechanisms can take two different forms. First, monitoring procedures aim at reducing the informational advantage on the agent’s part, by allowing for the Principal to gather information on agency. Second, positive or negative sanctions allow principals to “reward agents for appropriate behaviour and punish shirking” (Pollack, 2003).

However, as underlined by Majone (2001), “there is not one logic of delegation [...], rather there are different logics according to the different rationales for delegating powers”. Depending on the rationale for delegation, different designs for control will prove more effective. In the case at stake, it is not much the rationale for delegation that influences the structure of delegation; rather, it is the nature of the selected agent. In fact, given that agency is entrusted upon Turkey, a sovereign State, the degree of control, and sanctioning in particular should be expected to differ from situations in which there is a closer hierarchical principal-agent link.

In light of the above, the analysis will focus on the structure of the Statement to evaluate whether or not the mechanisms of *ex post* or *ex ante* control enshrined in it did provide for perverse reasons for the agent to act opportunistically.

B. The Statement's uneven proceduralisation, questioning the effectiveness of *ex ante* control

Ex ante administrative procedures allow principals to frame the agent's discretion as they add a degree of certainty to the execution contract of delegation, which should establish the boundaries and methods of agency. As underlined by Pollack (2003) "the ability of a principal or principals to control agency behaviour should be greatest where the scope of delegation and the range of available instruments is narrow and where the procedural requirements governing agency action are most detailed and constraining". Thus, it is particularly given Turkey's specific characteristic as agent that the principals should be reasonably concerned with the Statement's procedural framing to better control agency. In fact, as we will see, in the present case principals cannot deprive the agent from its capacity to renounce to its commitment. Therefore, when delegating power to a State, principals should frame delegation by ensuring that conditions for revision and rescission are provided for in the contract. Moreover, given the multiplicity of instruments at the agent's disposal to execute the delegated task, it should be in the principals' interest that the methods and instruments for agency are closely identified.

The Statement does not present *prima facie* a high degree of proceduralisation given its informal nature. As previously hinted, the Statement which is simply materialised by a press conference published on the Council's website, should not be regarded as a formal international agreement between Turkey and the EU. In fact, it was not concluded following the procedures provided for in the EU Founding Treaties, Article 218 TFEU in particular. Despite the debate that sparked around the CJEU decision, even if the Statement were indeed just a political commitment, it cannot be excluded that its provisions are themselves subject to a certain degree of implied proceduralisation. As it will emerge, the informal Statement is surrounded by and has given birth to a series of highly proceduralised acts, *de facto* framing delegation.

In order to identify the actual extent of framing through administrative procedures, it is therefore essential to add a degree of implication to the wording of the Statement in order to identify the range of procedural acts it refers to. If some of these acts, pre-date the conclusion of the Statements, others emerged *ex post* to facilitate its implementation.

To complicate the above, as illustrated in the previous Chapter, the Statement does not only include explicit delegated tasks but also tasks that are implicitly delegated. Therefore, we should expect the degree of proceduralisation of the implicit tasks to be lesser than that of the explicit tasks. It is thus noteworthy that most implicitly delegated tasks rest on Turkey's agency. Nevertheless, it cannot be excluded that implicit delegated tasks should also be implemented in compliance with procedures that are themselves implicit.

In order to successfully identify the explicit and implicit references made in the Statement to *ex ante* administrative framing, we should focus on the first three Action Points of the Statement, those previously identified as carrying the whole of delegation to Turkey. What emerges from the content analysis on both implicit and explicit delegated tasks (Table 7 in Annex) is a stark issue of proceduralisation with regards to Turkey's agency. Moreover, the insufficient specification of administrative procedures framing agency appears starkly against the formalisation of obligations entrusted upon Greece.

The first Action Point, focusing on Greece's obligations of registration, processing and return, contains explicit references to both procedural guarantees for the migrants and a clear legal framework for registration and processing, the Asylum Procedures Directive. However, no explicit reference is made to the relevant legal framework for returns to Turkey as the Statement merely mentions that "measures or bilateral arrangements" should be taken. As per the procedural guarantees, the Statement inscribes Greece's obligations within the framework of "EU and international standards" stressing the importance of the non-refoulement principle, the protection against collective expulsions and the right to individual processing.

The second Action Point on the 1:1 resettlement mechanism presents slightly more procedural specifications as the Statement includes elements regarding its entry into force, the conditions for revision and rescission as well as indications on the eligibility criteria for resettlement. Moreover, the Statement also gives a notion of the applicable legal framework as it provides that the 1:1 resettlement scheme will adopt the same "quotas and mechanisms set by the Council in its 2015 conclusions". Yet again, the Statement does not provide for further indications on the procedure of return from Greece to Turkey.

If Action Points 1 and 2 maintain a certain degree of proceduralisation, Action Point 3, the only case of explicit delegation to Turkey, presents a clear problem of specification. As such, the sole reference to the potentially applicable legal framework is extremely broad as the Statement provides that Turkey should take "any necessary measure" to ensure that the delegated task is accomplished. Imposing on Turkey exclusively an obligation of result is even more hazardous as no procedural guarantees are explicitly mentioned regarding the means to achieve such end, despite the crucial human consequences of border-control activities.

If explicit references to administrative procedures seem too limited to frame discretion effectively, the Statement hides a more proceduralised face. In fact, many of the Statement's broad statements actually imply reference to several pre-existing, or successively-implemented procedural texts.

Thus, the return of migrants by Greece to Turkey came to be framed by the Readmission Protocol concluded between the two parties in 2002 instead of the EU-Turkey Readmission Agreement of 2014, whose scope was never extended to third-country-nationals (Övünç Öztürk & Soykan, 2019).

Again, the legal framework for the 1:1 resettlement scheme was adopted *ex post* through first, an amendment to Council decision 2015/1601 on the Emergency Relocation Schemes initially established to the benefit of Italy and Greece.⁴³ Second, through the establishment of Standard Operating Procedures⁴⁴, a crucial step towards the clarification of responsibilities and procedures.

However, deepening the degree of implication proves to be more complex with regards to the objective of border-closure. As the expression "any means necessary" is by definition boundless, infinite possibilities are at the agent's disposal.

As per AP3, also the implied tasks -all of which rest on Turkey- present an insufficient degree of proceduralisation. In fact, there are hardly any explicit references made to legal bases nor to procedures or procedural guarantees that Turkey should comply with, in the execution of readmission and reception. Even when references are made, these appear to be too vague to be justiciable.

If readmission by Turkey of irregular migrants returned from Greece was implemented through the Readmission Protocol with Greece, few specifications can be made with regards Turkey's reception

⁴³ Council of the European Union, Council Decision (EU) 2016/1754 of 29 September 2016 amending Decision (EU) 2015/1601 establishing provisional measures in the area of international protection for the benefit of Italy and Greece, *OJ L* 268, 1.10.2016, p. 82–84

⁴⁴ Council of the European Union, Standard Operating Procedures implementing the mechanism for resettlement from Turkey to the EU as set out in the EU-Turkey Statement of 18 March 2016, of 5 April 2016, 7462/16

obligation. In fact, the Statement exclusively addresses reception and reintegration standards through the FRIT, which is nonetheless applicable to only one part of the Syrian migrant population in Turkey. On border control, it is with little indication provided by the EU that Turkey implemented a number of measures, strengthening its border and coastguard, and building walls at its eastern borders, to further reduce its migratory pressure.

What appears in stark contrast compared to the framing of Greece's obligations is the absence of procedural guarantees and human rights considerations with regards Turkey's objectives.

Action Points 1 and 2, which overtly address Greece, do contain various references to the body of human rights principles. As such, to a certain extent, the human impact of the Statement is acknowledged.

This is not the case with regards Turkey's delegated tasks. Of course, in speech, Turkey is merely framed as a passive actor. Therefore, its task being implied, one could hardly expect detailed procedural references. Yet, given the delegation context, it is the very framing that should be a concern for the Principal, in order to define discretion and limit the risk of slippage. Moreover, it could be argued that it should be in the Principal's interest to ensure that agency complies with EU and international standards, not to indirectly taint its responsibility.

C. Evaluating the Statement's *ex post* monitoring and sanctioning mechanisms.

Other means provided for by PAM theorists to face the problems of hidden action and hidden information that could negatively affect agency are monitoring and reporting mechanisms to oversee the implementation of the delegated tasks. Moreover, in order to limit slippage, principals may recur to positive or negative sanctions rewarding or punishing the agent.

Again, as previously stressed, given the specificity of the agent contracted, monitoring measures as well as positive sanctions -incentives- may prove more effective in inducing compliance in agency than sanctions. In fact, sanctions may cause the alienation of an agent which intrinsically can give up agency.

Monitoring and reporting

The letter of the Statement initially did not provide for a mechanism of monitoring. However, *a posteriori* the Commission immediately started assessing the effectiveness of implementation despite the absence of a clear legal basis for such competence. Yet, the Commission somehow appears as the natural recipient of such delegated task as it was already in charge of the oversight of implementation of most of the Statement's incentives, as underlined in the previous Chapter.

Qualifying the type of oversight foreseen by the Statement appears to be a more complex task. If theory distinguishes between two main forms of mechanisms, 'police patrol' and 'fire alarm', neither of these fully describes the situation under analysis. As conceptualised by McCubbins and Schwartz (1987) 'police patrol' oversight is centralised, conducted by the principals, and based upon samples of agency provided for by the agent. 'Fire alarm' oversight, on the contrary, is outsourced and more diffused as it allows for the intervention of a broader range of actors, whether NGOs, citizens or interest groups, to monitor behaviour and seek redress "through appeal to the agent, the principals, or through judicial review" (Pollack, 2003).

Given that it is the Commission who is entrusted with the oversight of the Statement's implementation, the case at stake could be analysed through the lenses of 'fire alarm oversight'. However, contrarily to McCubbins and Schwartz' conceptualisation of 'fire alarm oversight' whereby the task is delegated to a group of controllers, in the present case the Commission only is entrusted with the prerogative. Moreover, the Commission has been identified as forming part of the 'collective principal' therefore, the outsourcing here cannot be considered complete.

Yet, the bulk of collective principals, the EUMS, still retain the advantage of outsourcing the cost of oversight, which is a key characteristic of 'fire alarm' mechanisms.

If focusing on the incomplete outsourcing, one should qualify the mechanism as 'police patrol', focusing on the reduction of costs for the majority of the principals this should fall under the umbrella of 'fire alarm' mechanisms.

A third form of oversight also based on outsourcing, is that of 'institutional checks' as conceptualised by Majone. However, institutional checks require that monitoring of agency should be entrusted with an institution having the "authority to veto or to block the actions" of the agent (Kiewiet & McCubbins, 1991).

In the present case, the Commission clearly has no power to block non-compliance on the agent's part. Given that the agent selected in the case of the Statement, again is a State, the only instrument the Commission, and in general principals, can resort to address deadlocks is negotiation. This clearly emerges from the events that followed Turkey's decision to unilaterally abandon agency, whereby EU high ranking officials rushed to Ankara to discuss with the Turkish government.

Yet the concept of institutional checks remains relevant because the Commission does retain a form of veto power. Yet, rather than a true power to block the agent's actions, the Commission retains a key decision-making authority for the implementation of the Statement's incentives.

Despite the difficulty to define the hybrid oversight structure enshrined in the Statement in PAM terms, it must be underlined that problem of hidden action is not crucial in the case at stake, thus lessening the need for stronger monitoring mechanisms. In fact, the most relevant objective on the EU part is the reduction of immigration, something easily quantifiable and testable by the Union autonomously. Therefore, the problem of 'truthful revelation' which Majone (2001) presented as crucial to the agency's effectiveness, does not present itself as strongly.

Yet, the problem of hidden action could present itself in other forms, for example, on the means used by the agent to implement delegation and their compatibility with national, EU and international standards. However, given the previously described framework of administrative procedures, this does not seem as one of the Union's priorities as most of Turkey's delegated tasks are conceived in the form of result-obligations and not obligations of means, contrarily to those of Greece. Thus, the Union appears to be most concerned with the direct human rights consequences of delegation rather than with the indirect consequences of both vast and loose delegation to Turkey.

The Statement's structure of incentives and sanctions

As previously introduced, a second method of *ex post* control to reduce the risk of slippage is to impose on the positive or negative sanctions, in order to "reward agents for appropriate behaviour or punish shirking" (Pollack, 2003). As a consequence, sanctions, whether positive or negative, should be dependent on the outcome of the monitoring activity. In fact, developing outcome-based incentives and sanctions is crucial for the stimulation of effective agency.

PAM literature most frequently identifies as potential sanctions, “dismissing agency personnel, cutting agency budgets, overruling agency with new legislation, simply refusing to comply with agency decisions” (Pollack, 2003).

Yet these sanctions cannot match the present situation of delegation, and for two crucial reasons. First, the nature of the agent prevents the principals from having any direct decision-making power over either its structure or personnel. Again, as the agent is a State, budget-cuts for agency are indeed possible yet not necessarily desirable as these risk either alienating the agent or excessively reducing the resources for agency needs (Pollack, 2003).

Second, given the object of delegation, overruling agency is *quasi* impossible as it would require the principals taking costly action to replace delegation with direct action. Again, refusing to comply with agency decisions is impossible given that the object of delegation does not involve the adoption of measures directly enforced on the principals, thus requiring no form of compliance on the EU part. Moreover, from an international law perspective, neither the EUMS, nor the Commission do have the power to impose direct sanctions for the non-implementation of an informal agreement. In addition, the remaining alternatives for sanctions, i.e. attempting recourse to international jurisdiction, or adopting sanctions in other cooperation areas, are both extremely costly in political terms particularly.

What emerges from the above is that sanctions, in the present case, could frame discretion only difficultly and with a non-negligible risk of being counterproductive to delegation.

Shifting away from theory, the Statement also does not make use of overt sanctioning mechanisms as the closest provision to direct sanctioning resides in the 1:1 resettlement scheme. In fact, AP2 provides that rescission is possible, if the number of returns exceeds the ceiling of 72.000 migrants and whose revision is possible upon the condition that the objective of ending irregular migration to the EU “does not end or isn’t drastically reduced”.

Interestingly, the core of *ex post* control instruments mobilised in the Statement are positive sanctions, i.e. incentives. From a theoretical perspective, the relevance of incentives seems to grow as agents turn increasingly risk-neutral. In fact, more than in the realm of political sciences, a rich literature on incentives is to be found in PAM applied to the economic context. On the contrary, PAM applications, particularly in bureaucratic contexts, seem to lessen their relevance as agents are more risk-averse (Miller, 2005). As incentives are measures to induce compliant agency, ‘canonical’ PAM theorists have underlined the value of outcome-based incentives in shifting part of the risk to risk-neutral agents. In particular, the risk-neutrality of the agent contracted under the Statement, emerges from Turkey’s aggressive behaviour on the global arena, one which has also been described as that of “solitary wolf” turned into an “unbridled wolf” (Tocci, 2019).

Focusing on the Statement’s incentives, if one would expect them mostly to be conditioned to the attainment of the objective of delegation, the activation of most actually depends on the attainment of other targets. Therefore, the non-delivery of incentives is not necessarily imputable to shirking or slippage but can intervene even in the case of effective agency.

As per Table 8 (annexed), among the Statement’s Action Points 4 to 9, only two appear as being conditioned to the reduction of irregular crossings to the EU. As underlined by an Expert-Official at the EU Delegation in Ankara, “the first three (Action Points) are related to migration and others relate to issues that have very little or nothing to do with migration”.⁴⁵

⁴⁵ Personal interview conducted for the purpose of the present research with Expert-Official from the EU Delegation to Turkey in Ankara on March 6th 2020.

The only outcome-based incentive is the Voluntary Humanitarian Admission scheme which -though broadly framed- is clearly conditioned to the end or substantial reduction of irregular crossings to the EU. A second incentive that could be regarded as outcome-based is funding under the FRIT. In fact, if the disbursement of the initial €3Bn is unconditional, its renewal is subject to the fulfilment of “the above commitments”. Given the breadth of the reference, its interpretation complicates the qualification of the incentive. If the commitments AP6 refers to are interpreted as Turkey’s commitment under the Statement (readmission, resettlement, reception) then this can be considered as outcome-based. If the “commitments” are those to identify projects to be funded under the FRIT, it cannot especially be regarded as outcome-based but rather as conditional.

Conversely, pledges regarding visa-liberalisation, accession and the Customs Union are all conditioned yet independent from the effective execution of agency.

As such, the visa-liberalisation process whose re-energisation is inscribed in AP5, remains linked to the outstanding Visa Liberalization Benchmarks established by the Commission in 2013. Similarly, the relaunch of accession proposed in AP8, remains linked to the “existing rules”. Once more, the negotiation of the Customs Union still is led by the Commission following the 2015 Benchmarks.

Not only these incentives appear as non-outcome-based, but these also appear to be extremely formalised as their implementation is linked to the fulfilment of rigid benchmarks and subject to a strict ratification procedure.

Such a degree of proceduralisation appears starkly against the blurriness of the legal framework surrounding the agent’s discretion and showed its limits at the stage of implementation. In fact, as stated by Josep Borrell himself during his visit to Ankara on March 4th, 2020 “The 2016 package was not only a matter of providing financial help to take care of the migrants on the Turkish soil, but also a series of measures that go from visa liberalisation to the modernisation of the customs union, and many other things. Many of them have not been fulfilled yet”.⁴⁶

What “the 2016 package” was actually able to provide to Turkey was in fact mostly €6Bn to fund the Facility since the VHAS as the only outcome-based incentive was never activated despite the 95% reduction of irregular border crossings flagged in EU reports.

Neither of the other incentives was implemented. Visa-liberalisation negotiations have stalled in the Council since the summer of 2016 when the Commission submitted its’ third report⁴⁷ and proposal⁴⁸ for integrating Turkey in the visa-free list. As underlined by the Council itself “Turkey’s accession negotiations have [...] effectively come to a standstill and no further chapters can be considered for opening or closing and no further work towards the modernisation of the EU Turkey Customs Union is foreseen”.⁴⁹

The non-delivery of the above-mentioned incentives *per se* is unsurprising, given the high degree of proceduralisation and the number of old benchmarks and negotiation conditions that had remained unfulfilled in years. What could surprise is that Turkey accepted such a strictly conditioned reward

⁴⁶ EEAS, (2020). Turkey: Remarks by the High Representative/Vice-President Josep Borrell following his visit in Turkey, Ankara March 4th.

⁴⁷ European Commission, REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL Sixth Report on the Progress made in the implementation of the EU-Turkey Statement, COM/2016/0278 final

⁴⁸ European Commission, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 539/2001 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 (Turkey), COM/2016/0279 final - 2016/0141 (COD).

⁴⁹ Council of the European Union, ENLARGEMENT AND STABILISATION AND ASSOCIATION PROCESS – Council conclusions 10555/18 of 26 June 2018

for its agency. In the interview conducted with the Policy Officer from the Turkish government, what emerged was that given the political nature of the Statement, there was an expectation of greater flexibility in the interpretation of the benchmarks, without which it would have been otherwise clear that these would remain unfulfilled promises.

Yet, going back to the principals' perspective, the above example illustrates how linking the reward for agency to strict, non-agency-related conditions, could be detrimental to delegation as the agent could perceive the non-delivery of incentives as a sanction even if it is correctly executing the task.

This feeling of unjust sanctioning seemed to become even more vehement with respects the VHAS, only outcome-based incentive capable of rewarding compliant agency. In particular its non-implementation contrasts with the implementation of resettlement mechanisms. If both mechanisms were conditioned upon the ending of irregular crossings, one remained active and the other not.

In light of the above, Turkish claims on the inconsistency of the Union's conduct resonate particularly. Focusing on the non-implementation of the VHAS, the Turkish Policy Officer also expressed Turkey's frustration, underlining how "burden-sharing is not only financial burden-sharing, the VHAS is very important to Turkey because it shows direct solidarity".

However, if Turkey's objective were indeed burden-sharing, one would expect that it should have made greater use of its leverage during the negotiations to narrowly define AP4. Yet, as hinted by the Turkish Officer, in high-level negotiations "the input of the bureaucracy can be limited but not on the EU side apparently".

Yet, it can still be underlined that Turkey could have avoided underestimating the bureaucratic advantage resting on the principals' side, by better exploiting the leverage provided by its advantageous geographical position in order to at least match the degree of proceduralisation of the Principal's undertakings.

What emerges from the above is a framework of control presenting numerous problematic aspects. Regarding, *ex ante* control, the framing of discretion appears as insufficient. Turkey's agency which is barely mentioned in the Statement, is uniquely presented in the form of obligations of result, with little reference made to the means to achieve those ends. Particularly striking is the complete absence of references to human rights and procedural guarantees, as opposed to the Statements provisions on Turkey. Yet, if the insufficiency of administrative procedures strongly and gravely strikes the EU's normative image, it cannot be necessarily regarded as having direct consequences on the effectiveness of delegation. In fact, given who the agent is, a certain degree of discretion should be assumed.

Two vicious characteristics also mark the structure for *ex post* control. On the one hand, the strong reliance on what we have qualified as strictly-conditioned non-outcome-based incentives contributed to the alienation of the agent as their successive non-implementation, despite the effectiveness of agency, were perceived as unjustified sanction. On the other hand, the failure to develop the VHAS, despite Turkey's compliant agency evidenced the limits of the EU's commitment, further frustrating the agent.

If the first case of unfulfillment raised is justifiable based on the failure to comply with the previously-established benchmarks, the structure of delegation does not provide for an explanation for the second, which depends on the principals' capacity to implement the agreed-upon commitments. The above is unsurprising as traditional PAM generally fails in testing hypotheses of principals' behaviour undermining agency. Yet, with the help of sociologists, PAM has developed to compensate the ideological incapacity to "keep an eye on both ends of the contract" (Perrow, 1986).

II. Shifting the focus to principal behaviour obstructing agency

The structure of delegation provided for in the Statement, the framing of control over agency, in particular, did provide for a number of perverse incentives for slippage. In particular, the differentiated procedural specification of the Statement's action points led to an essential unbalance between vaguely-framed objectives and highly proceduralised incentives. Thus, if agency was long effective, most incentives were not delivered to reward it.

Including non-outcome-based incentives in the Statement now appears as counterproductive from a purely PAM perspective, yet, from a purely legal perspective, their non-implementation remains at justifiable. Thus, making claims by the agent more easily dismissible.

However, this is not the case for the VHAS, which emerged as a crucial contribution to Turkey's defection.

As the failure of the VHAS depends on the principals' inability or unwillingness to agree on its implementation and given that PAM traditionally has focused on the agent as the only source for agency slack, we should move to broader and more recent PAM conceptions to effectively analyse the events.

A. From the principal to the agent's problem

As previously stated, traditional PAM approaches depict the agent as the principals' problem, thus focusing on how principals can shield themselves from agency slack. However, sociologists as Charles Perrow pointed out how PAM theorists "when dealing with principal-agent relationships within organisations they almost invariably assume that it is the agent that is opportunistic, even to the point of cheating, rather than the principal" (Perrow, 1986). Thompson (2007) interestingly leant on the bias underlined by Perrow by systematising the range of ways in which principals can hamper agency, through the study of delegation at the international level.

Thus, developing on the fact that in the international context most P-A scenarios involve collective principals (the Member States), Thompson identifies three forms of problems that "such principals can create [...] for "innocent" agents" (Thompson, 2007), principal shirking, principal subversion and principal drift.

Principal shirking is described as the failure to "provide adequate resources for the agent to effectively carry out its duties" (Thompson, 2007). Thus, principal shirking emerges as sanctions to undercut resources for agency, are abusively employed by the principals against compliant agents.

Principal drift appears when lack of unity in the principal "creates uncertainty about policy goals and the future of the delegation contract, which in turn complicates long-term planning and investment decisions by the agent" (Thompson, 2007).

Finally, principal subversion, occurs when a part of the collective Principal directly obstructs agency in order to further opportunistic goals.

The non-implementation of the VHAS can only be fully associated to either principal drift, subversion or shirking with difficulties, given the specificities of the contract of delegation the Statement embodies. Yet, if principal drift appears as the most efficient explanation given the political impediments the VHAS suffered, both shirking and subversion provide for insightful information on the Statement's flaws.

As such, the principals' behaviour cannot be regarded as shirking given that what is being withheld with the Statement -the VHAS-, cannot explicitly be qualified as being a resource for agency. The only strictly speaking resource provided for agency in the Statement is the €6bn funding to the FRIT.

Yet, when denouncing its obligations under the Statement, the Turkish government particularly stressed two sources for frustration regarding funding. First, their insufficiency given the perpetuation of what was conceived as a “temporary measure”. Second, the fact that funds were exclusively disbursed to NGOs and not the central government.

These two issues indicate that the absence of a clear procedural framework for the revision or renewal of respective commitments, in this case, funding pledges, certainly contributed to the straining of the relationship. In fact, as the Statement turned into a permanent and no-longer-exceptional measure, it became clear how its structure was not flexible enough to adapt to the evolving context, in particular to the increase in immigration in Turkey, consequence of attack in Idlib and the prolongation of the war in Syria.

Again, the case at stake can hardly be explained by principal subversion as there is no record of individual States opposing themselves to the effective implementation of the delegated task. On the contrary, as exposed in the first Chapter, consensus reigns among the principals on delegation to Turkey to limit border crossings. However, if consensus reigned with regards to the goal of delegation, opinions diverged on what to provide in exchange for agency, the VHAS in particular.

The heterogeneity of preferences which had marked the initial response to the crisis, resurfaced as the VHAS negotiations stalled in the Council. Therefore, principal drift is confirmed as the preferred approach to analyse the situation at stake.

B. Testing for principal drift: political fragmentation on burden-sharing

In the case of principal drift, it is lack of unity within the collective Principal, which complicates the agent’s capacity to understand the goals pursued by the Principals, as the lack information hampers its decision-making capacity. Yet, as summarised by Sobol, it is mainly the manifestation of heterogeneous preferences within the Principal at the stage of implementation, which complicates agency (Sobol, 2016).

The appearance of heterogeneous preferences within the Principal during implementation seems particularly fitting in explaining the sort of the VHAS. In fact, if principals agreed on some form of burden-sharing as the VHAS was included in the Statement, most probably under the influence of the agent’s pressure, yet principals were unable to agree on the VHAS when the time of implementation came. In fact, posterior to the sharp reduction of flows due to Turkey’s agency, the Commission did present a proposal for the establishment of the VHAS. Yet, it is preference heterogeneity within the principals, which caused the stalling of negotiations in the Council.

Yet, when defining principal drift Thompson underlined how the unclear signals hampering agency should regard the principals’ “policy goals”. In the case of the Statement, heterogeneous preferences, however, do not seem to concern the goal of delegation. Even the Commission, which initially aimed at countering the crisis through mechanisms of burden-sharing did accept the necessity of reducing immigration. As underlined by the Official from DG HOME, in 2015 the “priority was given to stopping the inflow and saving lives”. This unity appears clearly in the first Chapter as a reason for the exponential development of externalisation policies as measures of outsourcing given the crystallisation of the link between migration and security.

However, heterogeneity of preferences did manifest themselves on the question of the VHAS. Principals did indeed send contradictory signals on the concessions that they were willing to make to reward compliant agency. Yet, closely observing the initial provisions of the Statement two spirits emerge, that of delegation and more discretely, the spirit of burden-sharing.

As stressed numerous times throughout this analysis, the major characteristic the Statement embodies is undoubtedly that of externalisation, outsourcing or delegation. Nonetheless, elements of burden-sharing appear sporadically throughout the Statement. First and foremost, the VHAS represents the strongest reference to burden-sharing as its effect would be to lift Turkey of part of the migratory pressure it is under due to the Statement's implementation. Yet, also the 1:1 resettlement scheme seems to follow the same spirit, though having a narrower scope and therefore a more limited effect on Turkey's migrants. Again, the spirit of burden-sharing re-emerges in the last action point of the Statement, whereby the Union pledges to support Turkey in bettering the "humanitarian conditions in Syria in particular in certain areas near the Turkish border".

Yet, if the spirit of burden-sharing appears in the Statement, it is essential to recall the extremely broad framing of such provisions, particularly with regards the VHAS. Thus, it should be noted that the principals' reticence in framing burden-sharing provisions, should have warned the agent on the underlying unwillingness to effectively implement it.

Moreover, the Turkish government was well aware of the pre-existing divisiveness of burden-sharing within the EU as it repeatedly denounced its burden-shifting approach. Yet, in the numerous discussions held with Turkish academics and officials, burden-sharing appeared as one of the main objectives Turkey overtly pursued in the Statement's negotiation.

As it appears, it is not necessarily at the stage of implementation that this divergence within the principals on the question of burden-sharing actually emerged. Burden-sharing in migration policy has long been one of the most divisive issues within the EU as it implies the implementation of solidarity measures thus the equal sharing of the migratory weight among EUMS, regardless of their distance from the external border. As underlined in the first Chapter, it is precisely the fragmentation of EUMS on the issue of burden-sharing that prevented the establishment of compulsory relocation schemes from Italy and Greece. It is also disagreement on the issue of burden-sharing that prevented even the effective implementation of the Voluntary Relocation Schemes the Commission did implement. Finally, it is this same impossibility to agree upon mechanisms of solidarity that brought Hungary, the Czech Republic and Poland before the ECJ, to be judged in an infringement procedure for their refusal to admit immigrants.

To conclude, it is this impossibility for EUMS to effectively share the burden of immigration as they share a common border, that also lead to the decision to outsource the issue to Turkey, through the Statement.

Despite the divisiveness of the issue of internal burden-sharing, the principals still made a subtle but concrete promise to share Turkey's migratory weight. Given Turkey's reliance on the above promise, the impossibility to agree upon the implementation of the VHAS constituted a key source of frustration for the agent who was faithfully executing the delegated tasks. Moreover, given the importance that the agent attributed to burden-sharing, the heterogeneity of preferences between agents and principals which is intrinsic in all P-A relations could be said to have reached an excess that rendered delegation impossible.

Adding to the above, the unfulfillment of the other promised incentives together with the impossibility to force upon the agent an informal contract of delegation, further alienated the agent, making agency meaningless.

The fact that the Union inadequately weighed its agent's independent defection-capacity is evident throughout the Statement's life.

However, from a broader perspective the question of whether or not any agent would accept to carry out a delegated task having such high political, financial, and organisational cost as does the *en masse* reception of migrants, without an appropriate degree of burden-sharing, is legitimate to ask. In particular, the principals in this case and the Union in general, should have taken stock of the vast literature on the difficulties of enforcing readmission agreements, which similarly allow the EU to rely on third-countries to readmit and organise the reception of migrants, though in more limited numbers (Cassarino, 2007).

In the Statement's case, the need to provide for better incentives and a precise framework of implementation should have guided the Union even more strongly, given the fact that the effectiveness of delegation rested exclusively on a single, highly independent and risk-neutral agent.

Yet, it is guided exclusively by the imperative of limiting immigration that the principals concluded a Statement which has effectively only postponed the advent of the 'crisis'. If as stated by an Expert-Official from the EU Delegation to Turkey, the EU has made much progress in the past four years, the measures taken namely, the reinforcement of FRONTEX, the improved cooperation with countries of origin and transit and the conclusion of 24 Readmission Agreements, do not address the structural deficiencies of its asylum system. Thus, the consequences of Turkey's defection that we are currently witnessing are indeed less problematic as the Union is better capable of "protecting its border". Yet, "migration will always be there" and "borders will never be waterproof". In particular, treating pull-factors and implementing filters does not affect the existing push-factors.

If this is undisputed in the minds of most EU policymakers and migration experts, the EU has not yet been able to act upon such understanding by developing a coherent system of asylum based on burden-sharing, which appears from the above to be necessary to some extent also, with regards externalised migration policy.

Conclusion and policy recommendations

Applying the PAM to the Statement fruitfully allowed the research to illustrate how both the Principals' behaviour at the stage of implementation and the framing of the delegation contract *per se* did provide incentives for the agent to renounce to its commitment under the Statement.

The Statement which emerges as a state-of-the-art instrument of externalization, whereby outsourcing of migration-management responsibilities is brought to the extreme of delegation. Under the Statement, Turkey agrees to act on behalf of the EU by first, becoming the sole recipient of returns from Greece, thus the sole country charged with reception, reintegration or return of an increasingly high number of migrants and second by accepting to act to securitise the EU's border.

Having characterized the relationship emerging from the Statement as one of delegation, the use of the PAM emerges as interesting alternative to analyses based on effectiveness. As such, the Model should be regarded as a useful tool to address characteristics of the Statement which could have contributed to Turkey's decision on February 27th, 2020 to deviate from the delegation contract.

The delegation relationship that emerges from the Statement presents a number of specificities that diverge from traditional PAM applications as under the Statement the EUMS and Commission as principals delegate to Turkey, the agent. What particularly challenges traditional PAM literature, is that a sovereign State is being identified as agent. More specifically, it is the intrinsic independence of States which should be of concern to principals, given that States as agents will ultimately retain the ultimate power to abandon agency. Yet, the nature of the delegated tasks which chiefly concerns human-management and not policy-production also alters traditional PAM conceptions which chiefly focus on delegation of policymaking powers.

What emerges from the analysis of the Statement's framing of delegation and agent discretion, is a structure marked by various vicious characters, which could be regarded as contributing to the agent's decision to abandon its commitment under the Statement.

If *ex ante* procedural framing of delegation appears as an essential element to frame discretion, particularly given the agent's nature, the Statement presents an uneven degree of proceduralisation.

On the one hand Turkey's delegated tasks are very broadly defined with almost no guidance provided on the means to achieve the delegated goals. On the other hand, the incentives Turkey is promised are framed by strictly-defined procedures which pre-dated the conclusion of the Statement.

Framing delegation by means of result-obligations without making reference to the means for agency could appear as reasonable given that the agent is a State, which will expect a certain degree of autonomy. Yet, the principals should be interested in the means adopted to implement delegation particularly given that the object of delegation is human-management.

Concerning the Statement's mechanism of *ex post* control, incentives in particular further hamper the effectiveness of delegation. *Ex post* control as oversight does not appear as particularly problematic in the present case, as the effects of agency are easily measured by the principals themselves. Thus, 'truthful revelation' of agency does not present itself as a problem *per se*.

However, focusing on the Statement's sanctioning mechanisms, the use of positive sanctions appears as particularly problematic. In fact, the Statement chiefly relies on incentives, which from a formal perspective are hyper-proceduralised and from a substantial perspective are non-outcome-based. Therefore, these cannot be regarded as strictly rewarding agency as their non-implementation, does not necessarily intervene to sanction ineffective agents and could thus be the source of frustration.

This is precisely what happened under the Statement as no progress was made in the visa-liberalization process, in the customs union, or in the accession process.

Moreover, a further element of frustration emerges as the only outcome-based incentive -the VHAS- was not implemented despite compliant agency, due to the principals' inability to agree on burden-sharing.

Therefore, what emerges from the above is that not only the Statement's structure of delegation, contains elements that explain the agent's frustration; but also, that the capacity of the Principals' to effectively reward agency, by acting on the promise of burden-sharing contributed to the heightening of pressure between the partners.

Yet, it is essential to now acknowledge that the limits of the present analysis. If indeed the arguments advanced on the structural causes of defection, should not be put into question, the dynamics observed did develop in a much broader context. Focusing exclusively on the structural causes for Turkey's defection is a choice that should not overshadow the essential reflection on the state of the complex EU-Turkey relations, which go well beyond the issue of migration.

The crucial role of the broader context of EU-turkey relations is not only logical but appears clearly by the fact that Turkey only abandoned delegation four years after the conclusion of the Statement and in reaction to events related to the Syrian conflict. Indeed, the attack in Idlib would probably have an impact on Turkey's immigration record. Yet, the link with migration policy only appears as partially convincing especially given the EU's reticence to address the Syrian conflict and the tense relation between the two partners.

The EU and Turkey share extremely deep ties given Turkey's accession status. However, more than the duration of the accession partnership, what should be noted is the depth of cooperation which comes with accession, through the political and administrative approximation of Turkish norms to EU standards. Turkey is not any accession candidate, in fact, the length of the process does not match the status of negotiations and today Turkish perspectives on EU membership are marked by widespread disenchantment.

In addition to the troubled accession partnership, EU-Turkey relations are further complexified by the two actor's antipodal approaches to foreign policy, despite their shared NATO membership. Most recently, relations between the partners have continued straining as Turkey increasingly capitalised on its geo-strategic position to push an aggressive foreign policy agenda, often more aligned with Russia's rather than NATO's. The advancement of an expansionist agenda, focused particularly on Turkey's regional implication, as epitomized by the invasion of Northern Syria, the signature of the Memorandum of Understanding with Libya and Turkey's successive intervention in the Libyan conflict, all participated to the erosion of mutual trust, and the fading of the credibility of commitment under the Statement.

Thus, setting aside the more complex question on whether or not Turkey could have effectively instrumentalised the Statement against the EU or to obtain benefits from it, it appears now that Turkey did not exploit such leverage. In fact, as the sanitary imperative has spread through the globe, driven by the sars-cov-2 pandemic, border-closure has come to be perceived as indispensable and Turkey resumed its filtering role as per the Statement.

The status of the relationship with the EU clearly played the leading role in Turkey's decision to withdraw from the Statement. Yet, it could be argued that the Principals should have foreseen, not the circumstances, but the agent's capacity to withdraw from the Statement by taking better consideration of their knowledge on the type of foreign policy actor that Turkey is. Thus, principals should have implemented a more context-appropriate structure of delegation by closely framing the

contract and the instruments for rewarding agency. In particular, the absence of provisions defining the review and prorogation of the Statement, should have been addressed to ensure greater adaptability of the instrument to the fast-changing relation.

Yet, addressing and correcting the inability to implement measures of burden-sharing promised to the agent proves more difficult as the friction is -as underlined- crucially determined by political unwillingness to address a phenomenon as migration, which has come to be perceived as threatening. If on the one hand, one could easily dismiss the issue of burden-sharing by underlining how simply the principals, being well aware of its political sensitiveness, should have refrained from including the VHAS in the Statement. On the other hand, given the importance that Turkey attributed to the objective, it could also be questioned whether such an agreement -with Turkey and in general- could have been possible without a dose of burden-sharing.

Again, the question of burden-sharing appears as a crucial one to the EU, even in externalisation. Indeed, in the present case the issue could have most probably been avoided, and in general the EU has been able to develop policies of externalisation despite this inherent unwillingness.

Nevertheless, the absence of solidarity remains relevant notwithstanding externalisation as every wave of migration is approached as a crisis. As proven by the events which have marked Greece's and the EU's response to Turkey's decision. If the EU has indeed strengthened its border control capacity and updated its return network, it still clearly lacks the instruments to address migration once the border is crossed. Therefore, it becomes crucial to prevent such crossings which appear as excessive, as compared to the EU's capacities. Moreover, such inability has become more than evident to the partners with whom the EU engages. Thus, it is in its interest from the cooperation-perspective also to address the internal deficits of its asylum system, instead of engaging in auction-like games with potential agents for delegation.

However, as underlined above, addressing jointly migration and asylum, in particular, appears impossible given the European political landscape and current politicisation of the discourse on migration.

In spite of the extension of QMV and the ordinary legislative procedure to immigration and asylum in 2009, EU policy has continued developing in the direction of downwards harmonisation and substantial differentiation in protection regimes, guided by the EUMS' reticence. Therefore, given the lasting political dissent, differentiated integration could prove for an effective means to develop a thorough and coherent policy on migration and asylum despite the deadlocks that endure despite the QMV.

Thus, further integration should be guided by a coalition of the willing operating within the EU framework, thus benefitting from the pre-existing instruments and agencies for cooperation, though, moving beyond the crucial disparities that still mark EUMS regimes.

Bordering Member States as Italy, Spain and Greece in particular should find cooperation advantageous as these face first the immigration flows, due to obvious geographical reasons and EU policy choices. France and Germany should also participate to the joint effort given the pressure these have witnessed given primary and secondary movement and because of the initial openness that had marked initial national approaches, the German in particular. Yet, the 'coalition' should remain open to any EUMS willing to deepen the harmonisation of laws and practices on immigration and asylum.

Given the importance of the EU framework as baseline for cooperation, efforts should initially focus on addressing the disparities of interpretation of the existing EU provisions. Establishing common

definitions, the group could further the harmonisation of protection regimes and asylum procedures. Successive efforts should focus on the filling of the voids of EU policies by establishing a more open and coherent policy on labour immigration conscious of the coalition's needs and focused on the opening of legal paths of immigration.

Yet the deepening of definitions and of harmonisation would not directly address the crucial question of intra-EU burden-sharing and the 'first country of arrival' mechanism for responsibility-sharing at the EU level. In short, such cooperation would not directly affect the guiding principle of the Dublin Regulations. However, with the deepening of the cooperation network solidarity could start being addressed through the establishment of closer cooperation ties with sub-national territorial bodies as municipalities, to initiate the distribution of the migrant stock. Moreover, the perspective of expanding cooperation would finally ensure the rebalancing of the migratory pressure, as a greater number of non-bordering EUMS would join the cooperation effort.

Table 5 – The Statement's migration-related Action Points

AP1	AP2	AP3	AP4	AP5	AP6
All new irregular migrants crossing from Turkey into Greek islands as from 20 March 2016 will be returned to Turkey.	For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU taking into account the UN Vulnerability Criteria.	Turkey will take any necessary measures to prevent new sea or land routes for illegal migration opening from Turkey to the EU	Once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced, a Voluntary Humanitarian Admission Scheme will be activated.	The fulfilment of the visa liberalisation roadmap will be accelerated vis-à-vis all participating Member States with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016, provided that all benchmarks have been met.	The EU, in close cooperation with Turkey, will further speed up the disbursement of the initially allocated 3 billion euros under the Facility for Refugees in Turkey and ensure temporary protection identified with swift input from Turkey before the end of March.
This (the return) will take place in full accordance with EU and international law, thus excluding any kind of collective expulsion.	A mechanism will be established, with the assistance of the Commission, EU agencies and other Member States, as well as the UNHCR, to ensure that this principle will be implemented as from the same day the returns start.	and will cooperate with neighbouring states as well as the EU to this effect.	EU Member States will contribute on a voluntary basis to this scheme.	To this end Turkey will take the necessary steps to fulfil the remaining requirements to allow the Commission to make [...] an appropriate proposal by the end of April on the basis of which the European Parliament and the Council can make a final decision.	A first list of concrete projects for refugees , notably in the field of health, education, infrastructure, food and other living costs, that can be swiftly financed from the Facility, will be jointly identified within a week.
All migrants will be protected in accordance with the relevant international standards and in respect of the principle of non-refoulement.	Priority will be given to migrants who have not previously entered or tried to enter the EU irregularly.				Once these resources are about to be used to the full, and provided the above commitments are met, the EU will mobilise additional funding for the Facility of an additional 3 billion euro up to the end of 2018.
Migrants arriving in the Greek islands will be duly registered	On the EU side, resettlement under this mechanism will take place, in the first instance, by honouring the commitments taken by Member States in the conclusions of Representatives of the Governments of Member States meeting within the Council on 20 July 2015, of which 18 000 places for resettlement remain.		AP7 The EU and Turkey welcomed the ongoing work on the upgrading of the Customs Union.	AP8 The EU and Turkey reconfirmed their commitment to re-energise the accession process as set out in their joint statement of 29 November 2015.	AP9 The EU and its Member States will work with Turkey in any joint endeavour to improve humanitarian conditions inside Syria, in particular in certain areas near the Turkish border which would allow for the local population and refugees to live in areas which will be more safe.
any application for asylum will be processed individually by the Greek authorities in accordance with the Asylum Procedures Directive, in cooperation with UNHCR.	Any further need for resettlement will be carried out through a similar voluntary arrangement up to a limit of an additional 54 000 persons.			They welcomed the opening of Chapter 17 on 14 December 2015 and decided, as a next step, to open Chapter 33 during the Netherlands' presidency. They welcomed that the Commission will put forward a proposal to this effect in April.	
Migrants not applying for asylum or whose application has been found unfounded or inadmissible in accordance with the said directive will be returned to Turkey.	Should these arrangements not meet the objective of ending the irregular migration and the number of returns come close to the numbers provided for above, this mechanism will be reviewed.			Preparatory work for the opening of other Chapters will continue at an accelerated pace without prejudice to Member States' positions in accordance with the existing rules.	
Turkey and Greece, assisted by EU institutions and agencies, will take the necessary steps and agree any necessary bilateral arrangements, including the presence of Turkish officials on Greek islands and Greek officials in Turkey as from 20 March 2016, to ensure liaison and thereby facilitate the smooth functioning of these arrangements.	Should the number of returns exceed the numbers provided for above, this mechanism will be discontinued.				

Task recipients
☒ Migration-related proposition

☐ Non-migration-related proposition
Migration-related vocabulary

Vocabulary referring to either the subjects (migrants, asylum-seekers) or the phases (registration, return, resettlement) of migration policy.

Author's own elaboration

Table 7 – The Statement’s structure of *ex ante* control: the proceduralisation of delegation

Explicit delegated task	Explicit procedure	Implied administrative procedures	Procedural reference	Implicit delegated task	Explicit procedure	Implied administrative procedures	Procedural reference
Greece return	Comply with EU and international law	EU legal framework on immigration and asylum, Geneva convention 1951 and the relevant body of international principles	Legal framework	Turkey readmission and reception	Exchange of officials between Greece and Turkey	/	Methods
	Protection against collective expulsions		Procedural Rights		Greece and Turkey to adopt measures or bilateral arrangements to facilitate the functioning of the arrangements	A posteriori Readmission Protocol between Greece and Turkey (2002)	Legal framework
	Protection in accordance with international standards	Geneva convention 1951 and the relevant body of international principles	Procedural Rights				
	Respect of the principle of non-refoulement		Procedural Rights				
	Compliance with the asylum procedures directive		Legal framework				
	Exchange of officials between Greece and Turkey	/	Methods				
	Greece and Turkey to adopt measures or bilateral arrangements to facilitate the functioning of the arrangements	A posteriori Readmission Protocol between Greece and Turkey (2002)	Legal framework				
Greece registration	Migrants arriving in the Greek islands will be duly registered	Dublin III Regulation and relevant national provisions	Legal framework	Turkey readmission of 1 Syrian for every Syrian returned	//	//	//
Greece processing asylum applications	Right to individual processing		Procedural Rights				
	Application of the Asylum procedures directive		Legal framework				
	Cooperation with UNHCR	/	Methods/Partners				
Greece return	/	Readmission Protocol between Greece and Turkey (2002)	Legal framework				
Turkey and the EU - resettlement	Creation of a mechanism to frame the 1:1 resettlement scheme	A posteriori Standard Operating Procedures (2016)	Legal framework				
	Established, with the assistance of the Commission, EU agencies and other Member States, as well as the UNHCR	A posteriori Standard Operating Procedures (2016)	Methods/Partners				
	Start on the same day that returns start		Date of entry into force				
	Priority in the resettlement scheme will be given to migrants who have not entered or tried to enter the EU irregularly		Criteria of eligibility				
	The EU will resettle following the quotas and mechanisms set by the Council in its 2015 conclusions for the first 18k		Legal framework				
	After first 18k resettled, other resettlements will be organized under a similar voluntary scheme	A posteriori amendment (2016/1754) to Decision 2015/1601	Legal framework				
	Review of the arrangement if irregular migration does not end or is drastically reduced	/	Revision conditions				
Turkey Prevent the opening of new routes to the EU	Discontinuation of the arrangement if returns exceed 72.000		Rescission conditions	Turkey strengthening border-control capacity	Any necessary measures Cooperation with the EU and neighbouring states	/	Legal framework Methods/Partners
	Any necessary measures	/	Legal framework				
	Cooperation with the EU and neighbouring states	/	Methods/Partners				

Vague procedural reference

Precise procedural reference

Table 7 – The Statement’s structure of ex post control: the Statement’s incentives

	Incentives	Outcome-based	Non-outcome-based
AP4			
Once irregular crossings between Turkey and the EU are ending or at least have been substantially and sustainably reduced, a Voluntary Humanitarian <u>Admission</u> Scheme <u>will</u> be activated	Activation of a VHAS	“once irregular crossings are ending or at least have been substantially reduced”	
AP5			
The fulfilment of the visa liberalisation roadmap <u>will</u> be accelerated vis-à-vis all participating Member States with a view to lifting the visa requirements for Turkish citizens at the latest by the end of June 2016, provided that all benchmarks have been met. To this end Turkey will take the necessary steps to fulfil the remaining requirements to allow the Commission to make [...]an appropriate proposal by the end of April on the basis of which the European Parliament and the Council can make a final decision.	Acceleration of visa liberalization		“provided that all benchmarks have been met” Visa Liberalization Roadmap 2013
AP6			
The EU, in close cooperation with Turkey, <u>will</u> further speed up the disbursement of the initially allocated 3 billion euros under the Facility for <u>Refugees</u> in Turkey and ensure funding of further projects for persons under <u>temporary protection</u> identified with swift input from Turkey before the end of March. A first list of concrete projects for refugees, notably in the field of health, education, infrastructure, food and other living costs, that can be swiftly financed from the Facility, will be jointly identified within a week.	€3bn in funding to the FRIT for projects for persons under international protection		“The EU [...] will further speed up the disbursement”
Once these resources are about to be used to the full, and provided the above commitments are met, the EU <u>will</u> mobilise additional funding for the Facility of an additional 3 billion euro up to the end of 2018.	Mobilization of further €3bn for the FRIT	“provided that the above commitments are met”	
AP7			
The EU and Turkey <u>welcomed</u> the ongoing work on the upgrading of the Customs Union	Upgrading the customs union		Roadmap - Enhancement of EU-Turkey bilateral trade relations and modernisation of the EU-Turkey Customs Union (2015)
AP8			
The EU and Turkey <u>reconfirmed their commitment</u> to re-energise the accession process as set out in their joint statement of 29 November 2015. They welcomed the opening of Chapter 17 on 14 December 2015 and decided, as a next step, to open Chapter 33 during the Netherlands presidency. They <u>welcomed</u> that the Commission will put forward a proposal to this effect in April. Preparatory work for the opening of other Chapters will continue at an accelerated pace without prejudice to Member States’ positions in accordance with the existing rules.	Open chapter 33		“without prejudice to Member States’ positions in accordance with the existing rules” Accession Procedure
	Pursue preparatory work on accession negotiations		
AP9			
The EU and its Member States <u>will</u> work with Turkey in any joint endeavour to improve humanitarian conditions inside Syria, in particular in certain areas near the Turkish border which would allow for the local population and <u>refugees</u> to live in areas which will be more safe.	Improve conditions in Syria and close the border with Turkey		“the Eu [...] will work with Turkey in any joint endeavour to improve humanitarian conditions”

Migration-related vocabulary

Vocabulary referring to either the subjects (migrants, asylum-seekers) or the phases (registration, return, resettlement) of migration policy.

Task recipients

Conditional
 Migration-related proposition
 Unconditional
 Non-migration-related proposition

Author’s own elaboration

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The Cheapest Fare for a Costly Voyage: A Perspective on the Deficiencies of the EU-Turkey Statement on Migration Management

Viola Scordia

Abstract

The objective of the following research is to propose an alternative analysis on the structural deficiencies of the EU-Turkey Statement, which may have contributed to Turkey's decision of February 27th, 2020 to open the border with Greece.

Analysing the Statement as act of delegation, through the lenses of the Principal-Agent Model, two elements emerge as source for the agent's frustration.

From a structural perspective what particularly contributed to the agent's frustration is the non-implementation of the majority of the promised incentives despite the compliant execution of agency. In fact, most incentives promised by the EU in exchange of Turkey's commitment were non-outcome-based. Thus, their implementation was not conditioned to the accomplishment of delegation, but to the fulfilment of strictly-defined procedures. Yet, focusing on the developing delegation politics of the Union, the question of burden-sharing again emerges as crucially divisive, preventing the activation of the only outcome-based incentive aiming at lifting part of Turkey's increasing migratory pressure.

Thus, if Turkey's decision to abandon agency can ultimately be attributed to events escaping the realm of migration-management, the Union as delegating entity made crucial mistakes in the adaptation of the delegation contract to the context and recipient of delegation. Yet, formal adjustments would not address the question of burden-sharing which surprisingly emerges as an obstacle in the development of externalization policies.

Key words

EU-Turkey Statement, externalization policies, EU migration policy, principal-agent model