

Visa-Free Travel: Is It Working as an EU Foreign Policy Tool?

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The issue of visa-free travel has become a highly-debated issue within EU foreign policy. As the momentum for enlargement diminishes, the EU has started offering visa liberalisation as an incentive to influence reforms in countries across the EU's neighbourhood. There appears to be significant potential in this approach: polls show that visa liberalisation is one of the tangible benefits non-EU citizens aspire to reap from the Union. The EU has recently offered a raft of agreements on visa liberalisation. It has attached conditionality to these agreements by requiring far-reaching reforms in the justice and home affairs area of signatory countries. However, are these agreements working as a influential foreign policy and integration tools?

The flip side to visa liberalisation is readmission agreements which act as a tool to tackle irregular migration originating or transiting from third countries. These mostly work to the disadvantage of third countries. Thus, in order to convince the relevant country to sign such agreements and assume the cost and burden of readmission, the EU has to offer quid pro quo benefits. Visa facilitation is the 'carrot' offered in return for signing the readmission agreement.

Hence, Visa Facilitation and Readmission Agreements are supposed to be a major driving force for reforms in candidate and potential candidate countries. Visa liberalisation is designed to act as a key means of leverage in the hands of the European Commission. But, how does this mechanism of reform promotion work in practice?

The experience of the Western Balkans and Turkey reveals mixed results. In the Balkans, the prospect of visa-free travel prompted the signature of readmission agreements as well as the implementation of comprehensive reforms. But in Turkey the lack of clear rules, coupled with a lack of political will, militated against reforms and undercut visa liberalisation's power as a foreign policy tool. The lesson from these two case studies is that in order for visa-free travel to work as an effective foreign policy tool, incentives and compensations should be well-calculated and devised according to the needs of individual countries.

The Western Balkans

The European Commission made it clear early on that a tailor-made approach would be adopted to evaluate each Western Balkan country on its own merit, based on progress in carrying out major reforms. Following the launch of a visa dialogue with the Western Balkans, the Commission devised 'visa roadmaps' specific to each country. Visa roadmaps comprised two parts: requirements relating to the effective implementation of visa facilitation and readmission agreements; and requirements regarding document security, illegal migration, public order and security and external relations. Progress in meeting the benchmarks of the visa roadmaps was closely monitored by the Commission and reported to the Council. Several key issues were taken

into account: the European perspective of the Western Balkan countries, the political commitment towards visa facilitation, the conclusion of readmission agreements by all Western Balkan states, and visa exemptions for EU nationals granted by Western Balkan states. The EU insisted on a refusal rate of up to 1,000 persons per year for the nationals of each Western Balkan country –despite dramatic differences in population size.

On the progress scoreboards, Macedonia was always a front-runner scoring high on meeting benchmarks, followed closely by Montenegro and Serbia, with Albania and Bosnia lagging behind. After many rounds of meetings, report-sharing and national expert missions, in July 2009, the Commission proposed visa free travel to Macedonia as well as Montenegro and Serbia in July 2009 on the condition that the latter meet a number of remaining benchmarks before the Council took the final vote. They had to report back by September 2009. Consequently, on 30 November 2009 the decision to lift visas for Serbia, Montenegro and Macedonia citizens was approved. The two countries were told their citizens could travel visa-free to EU member states for the upcoming Christmas.

In July 2009, Albania and Bosnia were asked to fulfil specific requirements (53 in Albania's case and 48 in Bosnia's) and report on their progress by October 2009. The European Parliament lobbied hard in favour of visa liberalisation for Bosnia and Albania, MEPs arguing that this would increase confidence among Bosnian and Albanian nationals and help to speed up the pace of reforms on the road to EU membership. Upon fulfilment of the requirements relating to irregular migration and document security, member states agreed to abolish the visa requirement. In November 2010, a decision was taken to lift visas from mid-December 2010 for Bosnian and Albanian holders of biometric passports for short-term stays of up to 90 days, allowing visa-free entry to the Schengen Area.

The political resistance shown by France, Germany and the Netherlands towards lifting visas for Albania and Bosnia stemmed from their fear of a dramatic increase in asylum applications. Commissioner Cecilia Malmström aimed to soothe those fears by highlighting that a post-visa monitoring process had been set up, along with information campaigns trying to explain the real meaning of short-term visa-free travel. In fact, although Eurostat statistics reveal a sharp increase in the number of asylum applicants especially from Serbia and Macedonia, the post-visa liberalisation mechanism for the Western Balkans seems to be functioning well and

the re-introduction of visas does not appear to be on the horizon.

Kosovo was the only Western Balkan country left out of the visa liberalisation talks. Its nationals still need visas to travel to the Schengen Area. Divergences between member states regarding recognition of Kosovo's independence played a significant role in excluding Kosovo from the visa-free zone.

The abolition of visa requirements for five of the Western Balkan states put an end to long queues and tore down the walls that were dividing families and friends. Furthermore, the prospect of visa liberalisation prompted major justice and home affairs reforms in the region. Alongside the improvements regarding document security, many concrete steps were taken such as the implementation of the legal framework and of the Action Plan on the fight against organised crime as well as trafficking in human beings and drugs. The administrative and investigative capacities of law enforcement authorities were strengthened. The implementation of the action plan against corruption progressed and monitoring and inter-institutional cooperation have intensified. Consequently, the strategy has been largely successful in the Western Balkans, yielding the desired results and clearly manifesting the strength of the EU's policy of conditionality engrained in the readmission/visa facilitation package.

Turkey

Content with the success of the visa facilitation readmission package, the Commission has pursued the same approach towards Turkey. However, in this case its influence has been significantly weaker.

EU-Turkey readmission agreement negotiations started in 2003, but were suspended for a long time due to the lack of compromise from both sides on major issues. The negotiations were resumed in 2009 governed by the principle of 'fair burden-sharing'. Convincing Turkey to sign an EU readmission agreement is critical as Turkey is a major transit route for irregular migrants entering the Union. Therefore, getting Ankara to cooperate and readmit all the irregular migrants who have entered the EU through Turkey would provide a significant boost to the EU's fight against irregular migration.

The readmission negotiations were long and held behind closed doors. Some member states, most notably Greece, had last-minute reservations demanding an explicit reference to the definition of the 'border region' with Turkey. The hurdles were overcome and following

agreement between the European Commission and Turkey, the EU-Turkey Readmission Agreement text was approved by the Justice and Home Affairs Ministers on 24 February 2011. In the Council Conclusions of that meeting, there is a call for reinforced cooperation between Turkey and the EU to tackle irregular migration, particularly strengthening border controls, fighting trafficking in human beings, increasing reception capacity and enhancing institution and capacity building as well as finalising the negotiations of the working arrangements between Turkey and Frontex.

Turkey had expected an agreement on visa liberalisation to be authorised simultaneously, as *quid pro quo*. This did not happen. Commissioner Cecilia Malmström's talk of starting a 'dialogue on visa, mobility and migration' was perceived as vague and not welcomed in Ankara. The last minute insertion of a new paragraph, which explicitly stated that this dialogue does not constitute a negotiating mandate, confirmed those fears. As a result, Turkey is now not prepared to sign and implement the readmission agreement and will block the approval process unless there are some significant moves by the Council on visa liberalisation.

This should not have come as a surprise, since Chief Negotiator Egemen Bagis had emphasised in many instances that it is clearly 'nonsense' and 'ridiculous' that 'remote countries' such as Belize, Paraguay and Uruguay enjoy visa-free travel and negotiations are ongoing with Moldova, Russia and Ukraine, but not Turkey. Addressing European diplomats in Brussels he was quoted as saying, 'When our citizens are insulted on a daily basis in the consulates of EU states [when they apply for visas], one may ask the question as to why we should help the EU with their problems when we are treated this way.' Furthermore, Turkish Foreign Minister Ahmet Davutoglu had called on the EU to take the necessary steps to start visa liberalisation talks at once.

Ankara argues that Turkish citizens have rights stemming from the Association Agreement and its Additional Protocol in force since 1973. Those rights have been acknowledged by the European Court of Justice in numerous instances and recently with the milestone 'Soysal' case of February 2009. The Luxembourg Court confirmed the illegality of the visa requirement for Turkish citizens, who travel to the Schengen Area for the purpose of service provision for a period of up to three months. The continuation of the visa application requirement is perceived as a breach of the EU *acquis*. Put simply, visa facilitation does not amount

to an additional benefit but rather a step backwards given the rights Turkish citizens already possess but are unable to

enjoy due to member states' political resistance.

Despite inadequate financial assistance from the EU, Turkey is working hard to carry out reforms in the area of justice and home affairs. These are a prerequisite for visa dialogue and are also needed for the opening of the chapter on Justice, Freedom and Security in accession negotiations. But Turkey's reform process is stalling, in part because of the weakness of external incentives. The current stalemate in the accession process and the blockage on 18 negotiating chapters out of 35 prevents the resolution of these problems. Despite the prevailing negative atmosphere, significant steps have been undertaken to establish a working readmission system and an asylum mechanism. Key pieces of legislation concerning Aliens Law and trafficking in human beings are being revised. Perhaps the most visible of the reforms is the introduction of biometric passports as of 1 June 2010. Also, major efforts have been made in the area of integrated border management.

However, the absence of clear and concise guidelines and lack of a visa roadmap hampers EU influence dramatically. The reforms that are underway are taking longer to be implemented than planned. In relation to critical reforms demanded by the EU such as lifting the geographical limitation on the Geneva Convention, Turkey is clearly reluctant to take further steps. Also, Turkey has signed bilateral visa agreements with Syria, Libya, Jordan, Lebanon and Saudi Arabia, which rank high on the EU's blacklist and are subject to strict visa regulations. Turkey is drifting away from a common EU visa policy. In line with the slowing down of its accession process, Turkey is taking pragmatic steps to compensate for the lack of progress in its relations with the EU and the failure of the Union to initiate visa liberalisation.

At a time when the accession process has come to a virtual halt, Turkey's motivation to pursue reforms is limited. To be able to 'sell' the readmission agreement to Turkey, the EU has to offer a set of well-defined rules leading to visa liberalisation. A vague mention of a visa dialogue does not suffice as an incentive to prompt Turkish politicians and officials to carry out costly reforms. Furthermore, Turkey fears that even if all the reforms are accomplished and the technical criteria are met, the right to visa-free travel might still not be granted due to the lack of political will of some member states.

Conclusion

The use of visa-free travel as a tool for promoting necessary reforms is not a guaranteed formula which works in all cases. The underlying reason can be found in countries' cost-benefit calculations, which vary considerably. It is widely recognised that readmission agreements work to the EU's interest, while third countries have to assume the financial, administrative and social costs. In the Western Balkans, the overall goal of drawing closer to the EU was a strong incentive and a driving force behind the rigorous reform process.

However, in the Turkish case, the political and economic cost of the readmission agreement in the absence of a visa-free regime is extremely high. On one hand, as a candidate country engaged in accession negotiations since 2005, Turkey has to assume all obligations arising from the EU acquis. On the other hand, it can be argued that Turkey is in a position to offer 'reverse conditionality' and will not sign the readmission agreement unless

the EU commits itself to visa liberalisation. This is made possible by Turkey's strategic location and the credibility it has gained in the field of bilateral police cooperation and border controls. Given the refugee flows into the EU triggered by the recent uprisings in North Africa and Middle East, the EU should be mindful of not alienating Turkey as a major transit route and buffer zone between Europe and the other regions.

In order for visa-free travel to succeed as a foreign policy tool, the EU must lay down clear rules of the game from the start of the process. These must be backed by political will on both sides. Progress recorded in reforms and their sound implementation should move the country in question closer to achieving the ultimate goal of visa-free travel. Constant monitoring of the process and a 'strict but fair' approach not only helps the EU to use the leverage at its disposal but also boosts its image. In contrast, a malfunctioning system not only erodes the EU's credibility and conditionality, but also weakens its soft power and normative bargaining power.