When success is an orphan: informal institutional governance and the EU–Turkey deal

Sandrino Smeets & Derek Beach

To cite this article: Sandrino Smeets & Derek Beach (2020) When success is an orphan: informal institutional governance and the EU–Turkey deal, West European Politics, 43:1, 129-158, DOI: 10.1080/01402382.2019.1608495

To link to this article: https://doi.org/10.1080/01402382.2019.1608495

© 2019 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group

Published online: 17 May 2019.

Submit your article to this journal

Article views: 545

View related articles

View Crossmark data

Citing articles: 1 View citing articles
When success is an orphan: informal institutional governance and the EU–Turkey deal

Sandrino Smeets\textsuperscript{a,b} and Derek Beach\textsuperscript{b}

\textsuperscript{a}Institute for Management Research, Radboud University, Nijmegen, The Netherlands; \textsuperscript{b}Department of Political Science, Aarhus University, Aarhus, Denmark

\textbf{ABSTRACT}

This article traces the role of the EU institutions in the process leading up to the EU–Turkey Action Plan and EU–Turkey Statement. The EU–Turkey deal is the proverbial ‘orphan’ in EU crises management, with none of the key actors and institutions eager to claim ownership. Yet when judged from the perspective of process management, the deal resulted from effective inter-institutional collaboration, which stands in stark contrast to the EU’s handling of the relocation schemes or the Dublin reform. Using insights from the informal governance literature, the article maps the inter-institutional network that managed this process, traces the activities within the network, and determines the effects these had on the final outcome. On an analytical level, the mechanism contains five key elements of informal institutional governance: linking, bridging, shielding, laying out the tracks and creative fixes. The conclusion reflects on the wider applicability and scope conditions of this mechanism.

\textbf{KEYWORDS} EU institutions; refugee crisis; EU–Turkey relations; informal governance

This article contributes to the ongoing debate about the role and influence of the European Union institutions in managing the major crises of the last decade: Eurozone crisis, refugee crisis, and Brexit (Becker et al. 2016; Nugent and Rhinard 2016; Tömmel 2017). We provide an in-depth process tracing analysis of one of the main episodes in the management of the refugee crisis; the coming about of the EU–Turkey deal, which consists of the EU–Turkey Joint Action Plan (JAP) of 15 October 2015 and the EU–Turkey Statement of 18 March 2016, which sought to engage with Turkey in a number of issue areas to stem the flow of migrants across the Aegean Sea.

The general impression, both in Brussels and in the literature, is that the institutions were struggling to stay on top of developments during the
crises. Media and scholarly analyses depict a process dominated by intergovernmental actors and action channels, the European Council (EC) in particular, resulting in at best increment reforms. Two prominent theoretical perspectives: new intergovernmentalism (NI) and failing forward (FF), take these two features, intergovernmentalism and incrementalism, as their point of departure (Bickerton et al. 2015; Jones et al. 2016). They are part of a broader debate about the rise of European Council centred governance and what this implies for the role of the EU institutions. Many scholars agree that the institutions had to adapt to a ‘constraining environment’ in which EU negotiations are highly salient and touch upon ‘core state powers’ (Genschel and Jachtenfuchs 2014, 2018; Hooghe and Marks 2009). Some have argued that the prominence of the European Council, now equipped with a permanent president, resulted in ‘competition’ with the traditional, supranational institutions and a ‘decline’ of the latter (Bocquillon and Dobbels 2014; Fabbrini 2013; Hodson 2013). Others even linked the EU’s ‘mixed’ performance in dealing with the successive crises to this intergovernmental dominance (Börzel 2016; Hennessy 2013). Major political clashes at crisis summits resulted in reform measures that were framed as ‘kicking the can down the road’ or ‘too little, too late’.

At first sight, the EU–Turkey deal seems to fit neatly with the conventional narrative. The EU–Turkey deal has become the proverbial orphan in the management of the EU’s crises. Afterwards, none of the key actors or institutions was eager to claim ownership. As in previous crises, we saw a dominant ‘hegemonic’ German Chancellor, an overeager ‘political’ Commission (President) facing an (initially) more hesitant EC President (Bulmer and Paterson 2013; Peterson 2017; Tömmel 2017). Civil servants inside the EC President’s cabinet and relevant Commission cabinets and services were working under the assumption that the deal would probably not materialise, and if it did, it would not work.1 The European Commission was slammed by MEPs and NGOs for their contribution. Such doubts became even stronger after the July 2016 military coup in Turkey, and the subsequent reactions by the Turkish and EU authorities, soured the atmosphere. In the meantime, the Commission had already presented its proposals for a fundamental overhaul of the Common European Asylum System (CEAS), to replace this ‘quick fix’. However, like the (temporary and permanent) relocation schemes of 2015, the reform of the Dublin Regulation immediately hit upon strong resistance from the member states. For now, the EU–Turkey deal at least seemed to hold.

We provide a different reading of the EU–Turkey deal. We believe that existing analyses have focused too much on the most visible, but not necessarily the most revealing, aspects of EU crisis management
Our analysis moves beyond the major political battles and headline decisions and focuses on the ‘machine room’ dynamics. These show that the EU–Turkey deal, in fact, resulted from effective inter-institutional collaboration, which stands in stark contrast to the EU’s handling of the relocation schemes or the subsequent Dublin reform. Due to its nature, the process had to be European Council-based, but it required extensive involvement from the Commission on the main issues of funding, visa liberalisation and the re-energising of accession. On the fourth issue of resettlement, intensive coordination with key member states – Germany and the Netherlands – was also required. Extreme time pressure and a crisis atmosphere implied that the matter could not be handled through the formal, hierarchical, intra- and inter-institutional action channels. Instead, a more flexible format was used, including elements that had come about in the handling of the Eurozone crisis.

We believe that this informal institutional governance approach might be evolving from an ad hoc framework into the new modus operandi for dealing with major EU reforms. Within this framework, the institutions play a different, but not less important, role in driving European integration. Drawing inspiration from the literature on informal governance we develop a three-step analytical approach. First, we map the informal inter-institutional network that managed the process. Second, we trace the activities within this network. Third, we determine the effects that these activities had on the final outcome. We identify five key elements of informal institutional governance: linking, bridging, shielding, laying out the tracks, and finding creative fixes. In the conclusion, we discuss the wider applicability and scope conditions of this mechanism.

**Theory: the paradox of European Council centred governance**

In the introduction, we presented the conventional narrative of EU crisis governance as a predominantly intergovernmental process producing incremental reforms. In this section, we will argue that this narrative is not so much incorrect, but rather it is incomplete. It leaves us with a puzzle. If the institutions played a subdued role, and the process was dominated by intergovernmental actors, who generally did a poor job, how did we end up with such major reforms, like the EU–Turkey deal? The question as such is not new. Both new intergovernmentalism (NI) and failing forward (FF) note a similar paradox. However, if the crises were indeed characterised by the political leaders stumbling from one half-baked solution into the next, we still need to know who was doing the heavy lifting
behind the scenes? This is the question that we seek to answer in this article.

For NI, the paradox is ‘integration without supranationalisation’. NI notes that the significant extension of the EU’s policy agenda has not been accompanied by a similar transfer of decision-making powers to the EU level (Bickerton et al. 2015: 706). Instead, the Community method had to give way to governance by means of intergovernmental coordination amongst the Heads of State or Government (HOSG). NI justly questions whether classic notions of institutional leadership are still relevant and applicable. In studies of European integration, institutional leadership was traditionally equated with (supranational) entrepreneurship, meaning the ability to act as the ‘engine’ of European integration that can drive the machinery forwards with a clear purpose towards a defined goal, of the kind supposedly provided by the Delors Committee in the run-up to the Single European Act and the Treaty of Maastricht (Ross and Jenson 2017). In the literature on institutional leadership this ‘Delors type’ resonates with the concept of ‘transforming’ leadership (Burns 1978: 20; see also Tömmel 2013: 791).

Up to this day, there is considerable debate about whether such transforming or entrepreneurial leadership has ever succeeded, even in the days of Jean Monnet or Jacques Delors (Hodson 2013: 302; Peterson 2015: 187–8). However, it is clear that in the post-Maastricht era, the possibilities for providing such leadership have become even more limited. As the EU moved into more sensitive and salient issue areas, such as fiscal policy, its member states have become even more wary of transferring competences (Bickerton et al. 2015: 703; Fabbrini 2013: 1005; Genschel and Jachtenfuchs 2014: 8). This forced the institutions to become more ‘strategic’ and to establish new patterns of inter-institutional cooperation across the intergovernmental–supranationalist divide (Hodson 2013: 303; Peterson 2015: 203).

For FF, the paradox is ‘piecemeal, incomplete reforms’ resulting in ‘one of the most rapid periods of deepening of integration in EU history’ (Jones et al. 2016: 1012). FF notes that, at many moments during the crises, the leaders were only willing to agree on minimal or lowest common denominator solutions, rather than opt for comprehensive reforms that would truly fill the gaps in the governance framework. Such reform measures were often prepared, negotiated, and adopted outside the normal Community-based action channels (Lavenex 2018: 1098). Yet by opting for such incremental measures, the leaders were basically only setting the stages for the next round of negotiations. During the crisis years, this next round would come very quickly, and the leaders would be called back to the table to deal with the next small step. The results were series
of incomplete solutions, for instance in the areas of banking regulation or asylum policy (Jones et al. 2016; Lavenex 2018; Scipioni 2018).

What both perspectives have in common is a focus on individual leaders and their activities at the highest political level (what we call ‘the control room’). What is missing, and what this article intends to contribute, is an in-depth analysis of the proceedings in the machine room, which refers to the level of ambassadors and civil servants. For this, we first need to define more clearly the role of the European Council as such in this new inter-institutional set-up. To be sure, the HOSG have always been the deciders in chief, setting the overall priorities of the European project and settling key points of contention in end-game negotiations (Ross and Jenson 2017: 114–15; Tömmel 2013: 797). What is new is that the Heads increasingly concern themselves also with operational matters, even in areas that are not traditionally considered ‘Chefsache’ (Bocquillon and Dobbels 2014: 22). The leaders repeatedly chose to by-pass formal channels of delegation. Instead, they favoured more informal, ad hoc action channels. At various stages of the Eurozone, refugee crisis, and British renegotiations, we saw sub-sets of actors from specific member states or institutions deciding to take matters into their own hands.

The institution primarily affected by this was the European Commission. This explains why, in the early stages of the Eurozone and refugee crisis, the Commission presidents were so keen to defend their formal prerogatives and present themselves as ‘Champions of the Community method’. President José Manuel Barroso championed a Community-based European Financial Stability Facility/European Stability Mechanism (EFSF/ESM) (May to October 2010), while President Jean-Claude Juncker tried to strong-arm the member states into mandatory and Commission-led refugee relocation schemes (April to September 2015). In line with the conjectures of NI and FF, the political levels of the Commission initially considered the rise of the European Council as a threat.2

We believe that such images of threat and competition apply only to the control room. We note another paradox of European Council centred governance, which is an enhanced dependence on the European institutions to translate broad leader priorities into meaningful reforms. In the new inter-institutional set-up, the control room is not directly linked to the machine room. As insiders note, the European Council and the Council of Ministers represent ‘different layers of the atmosphere’.3 These layers have become further detached by the diminished role of the rotating Council presidency. In previous rounds of European integration, like the Single European Act or the Treaty of Maastricht, national governments could play a pivotal role, when chairing both Council and
European Council meetings as well as the ensuing intergovernmental conferences (Beach 2005). To the contrary, during the Eurozone and refugee crisis, there were multiple instances in which the European Council and Council were out of sync, and ministers, even from larger member states, were caught off-guard by unanticipated moves of their leaders.

The institutions are there to fill the gap. Due to the informal and ‘isolated’ character of decision making at EC level, the HOSG increasingly had to rely on institutional actors to translate their political declarations into substantively meaningful and legally sound texts. These texts subsequently needed to be shepherded through the rest of the machinery. Institutional influence in this process is exercised through ‘routine’ activities like setting agendas, drafting, and process management. There is a familiar saying in Brussels: ‘The thicker the fog on the mountain, the greater the need for a guide’ (Bostock 2002: 232). Because we are dealing with unfamiliar action channels and unstandardised operating procedures, the role of these institutions was enhanced, rather than diminished. This is because, even though much of the decision making took place outside the formal structures of daily EU policy making, the existing machinery was still utilised. Tracing the effects of such ‘day-to-day’ process management is far more difficult, because many of these activities are undocumented and generally take place behind the scenes. We will use insights from the informal governance literature to unpack these machine room proceedings.

**Analytical framework: informal governance at grand bargains**

Informal governance studies the ‘operation of networks of individuals and collective, public and private, actors pursuing common goals – which lead to cooperation, patterned relations and public decisions – through regular though non-codified and not publicly sanctioned exchanges’ (Christiansen et al. 2003: 7). Informal governance typically comes into play when a situation cannot be handled (in a satisfactory manner) through the formal rules and established procedures (Helmke and Levitsky 2004: 727; Kleine 2013: 246). In the field of EU politics, there has been ample research on how informality works, for instance in areas like legislative politics, internal Council proceedings, conventions or trilogues (Christiansen and Neuhold 2013; Reh 2007).

We believe that similar elements of informal governance have played a key role in shaping the so-called grand bargains of European integration. Kleine (2013: 246, 249), for instance, shows how, in crisis situations, member states tend to provide the institutions with more leeway to sidestep typically rigid formal rules and action channels. Hennessy (2013:
notes how even powerful member states, like Germany, have difficulty controlling or altering the course of the decision making. Neyer (2004: 32) and others have highlighted the problem-solving capacities of the institutional machinery, which in large part stem from its ability to avoid dealing with pressing problems through high-level political bargaining. Important parallels can furthermore be drawn with the experimentalist governance literature, in terms of an institutional architecture that ‘protects core institutions from political turbulence’ (Sabel and Zeitlin 2008: 272) and makes use of ‘escape routes’ in the shape of extra-legal workarounds to overcome deadlock (Héritier 1999: 8).

However, the deliberative policy networks that this literature talks about are more inclusive than what we will see in the EU–Turkey case and in other major reform negotiations, which were managed by a small and relatively closed ‘in group’ of key actors. Also, informal governance so far has primarily focused on horizontal or ‘non-hierarchical negotiations systems’ within a ‘non-hierarchical institutional framework’ (Christiansen et al. 2003: 9). It therefore somewhat neglected the vertical dimension within and between institutions. Instead, our focus is on crisis (i.e. short-term, high-pressure) governance on issues that are politically salient. Such issues require constant involvement, or at least continued backing, from the political level. The institutions therefore have an additional role in ‘linking’ these control and machine room proceedings.

Informal governance has also played a role in shaping the EU Asylum policy. Asylum policy has always been politically salient, but the events in 2015–2016 made them part of high-level crisis governance. Vink and Engelmann (2012: 544) note how, in the past, complex and time-consuming formal decision-making structures in asylum policy have been bypassed, so that actors could focus on getting things done informally. Specifically, the ‘externalisation’ of EU asylum policies, whereby the institutions were invited to engage with third countries to control migration flows, is part of a long-term trend (Lavenex 2006: 331). For member states, this was a way to avoid having to deal with domestically contentious issues, like refugee quotas or the country of first entry principle. This has resulted in a process of reluctant, partly even tacit, communitarisation, in which the institutions were provided with a flexible, partly informal, mandate for dealing with issues like resettlement or relocation (Lavenex 2006: 336). The institutions were constantly aware of the fact that they should not get too far ahead of the member states on these matters. With the 2015 crisis, the pendulum swung back to ‘intergovernmental protectionist’ policies, instead of the ‘right-enhancing’ policies that were propagated by some of/in the supranational institutions.
Yet integrative steps were still taken and the institutions played a pivotal role in determining what these steps would come to look like.

To flesh out the contribution of the EU institutions to the EU–Turkey deal, we adopt a three-step analytical approach (Helmke and Levitsky 2004: 733–4):

1. **Mapping the network.** What did the informal network look like? What were the types of connections between which actors and at what levels?
2. **Tracing the activities.** How was the process managed by the network? What activities did they engage in in order to secure the outcome?
3. **Determining the effects.** What impact did these activities have on the most salient issues of the decision making?

We use process tracing to analyse one ‘influential case’ (Gerring 2017: 100–2). Process tracing focuses on the identification of causal mechanisms, which model the process by which causal forces are transmitted through a causal chain, resulting in a particular outcome (Beach and Brun Pedersen 2019: 29–41). The two main elements of a process tracing analysis are (1) to formulate a process theory that details how the mechanism works in actual cases, (2) trace the empirical fingerprints that these activities leave on the outcome. In our analysis of the EU–Turkey deal, we identify five key elements that were crucial for securing an effective deal. These are:

1. **Linking** (vertically) the different levels of the negotiations; more specifically linking proceedings at the level of the control room and machine room, by ensuring impetus and timely endorsements from the control room that allowed the machine room to proceed.
2. **Bridging** (horizontally) institutional divides; in particular building bridges between the intergovernmental and supranational pillars of decision making, thereby avoiding having to go through the vertical hierarchies that could cause delays.
3. **Shielding** the negotiations from bureaucratic action channels and from member states. This means that certain institutional and national actors (for instance, the college of Commissioners, representatives from line ministries or the EP) were kept at arm’s length, meaning that they were involved but only to a certain degree.
4. **Laying the tracks** along which the negotiations could proceed. As the terminology implies, those who lay the tracks have a major impact on what the journey would come to look like, even if they do not determine the final destination.
5. Finding creative fixes on key issues that would have otherwise resulted in deadlock or lowest common denominator outcomes. This results in more ambitious outcomes than governments left to themselves would have been able to agree on.

The remainder of this article serves to show how these five elements were operational in the EU–Turkey deal. Because our process theory illustrates how these elements work together, we learn more about the phenomenon of informal institutional governance than if we just establish the presence and ‘test’ the effect of individual elements across different cases. The analyses are based on first-hand observations. Next to publicly available data such as European Council Conclusions, Commission documentation, and press reports, we rely to a considerable degree on insider recollections and in-depth interviews. The authors have held multiple rounds of in-depth, document-based interviews with the main participants within the inter-institutional network and key representatives from member states and Turkey. We corroborated these insider recollections with evidence that is publicly available.

**Empirical analyses**

The EU–Turkey deal consists of two elements. The first is the EU–Turkey Joint Action Plan of 15 October 2015, which was negotiated by the European Commission and endorsed (ad referendum) by the European Council of the same day and formalised at the EU–Turkey Summit of 29 November 2015. The second element is the EU–Turkey Statement of 18 March 2016, which resulted from two meetings of the EU HOSG with Turkey on 7 March and 18 March. The overarching goal was to engage with Turkey in a number of different ways to deal with irregular migration flows across the Aegean Sea. The analysis focuses on the activities of key actors in the run-up to and aftermath of these summits. First, we map the inter-institutional network that dealt with the issues, highlighting the linkages and bridges. Second, we look at the activities that the people inside this network engaged in during the period from September 2015 to March 2016, that laid the tracks and shielded the negotiations from extensive institutional and member state involvement. Third, to show that the institutions were not just neutral process managers, we discuss how and where their involvement resulted in significantly different outcomes – different from what member states left to themselves would have been able to agree on – on the main issues: funding, visa liberalisation, re-energising accession, and (additional) resettlement.
Mapping the inter-institutional network

Who were the engineers behind the EU–Turkey JAP and Statement? Figure 1 provides an overview of the inter-institutional network. The first thing to note is that at the political (or ‘control room’) level there appear to be three parallel processes. By September 2015, all three sides agreed on the need to cooperate with Turkey to stem the flow of migrants from Turkey to Greece and further along the so-called ‘Balkan route’. President Donald Tusk made a first visit to Turkish President Recep Tayyip Erdogan, on his tour of the Balkan countries, to discuss how to prevent illegal migration. The need for a dialogue with Turkey was formally acknowledged by the European Council of 23 September 2015. Around the same time, Germany started to express its desire for bilateral engagement with Turkey. On the side of the Commission, Juncker’s deputy head of cabinet, Richard Szostak, had a first meeting with Turkish ambassador Selim Yenel on 28 September, in which he posed the question: ‘what would it take for the flows to stop’? Their initial discussion already produced the four elements, financial support, visa liberalisation, re-energising accession and resettlement, which would become the cornerstones of the EU–Turkey deal.

In the following six months there would be a multitude of meetings by representatives of these three ‘action channels’ with representatives from

Figure 1. Map of the inter-institutional network with bridges (horizontal) and links (vertical).
Turkey. There were occasional turf battles, along with some confusion about who was in the lead at a particular point in time. The most telling episodes, discussed in more detail below, are the mini-summits organised by the German Chancellor and supported by the Commission President. However, below the political level, there was intensive coordination and collaboration. The three parallel processes were linked at the machine room level, through the inter-institutional triangle of Piotr Serafin (Tusk’s chef de cabinet), Jeppe Tranholm-Mikkelsen (Secretary General of the Council), and Martin Selmayr (Juncker’s chef de cabinet). These three top officials formed the core of the informal network on the EU side. Yet they played a less prominent role in the negotiations as such.

Within the Commission, the lead was given to first Vice-President Frans Timmermans and his cabinet, who would be able to draw upon expertise from key Directorate-General (DG) (primarily DG Home, DG Near) and from the Commission head of the legal service, Luis Romero. This was intra-institutional collaboration outside of the normal hierarchical structures of the Commission. There was therefore limited involvement of the College, the Secretary General, Alexander Italianer, and other key actors, like the European External Action Service (EEAS) and High Representative Frederica Mogherini as well as the nominally responsible Commissioners, Dimitris Avramopolous (DG Home) or Johannes Hahn (DG Near). Selmayr and Richard Szostak from the Juncker cabinet provided the political backing that allowed the Timmermans team to operate rather autonomously on the dossier.

On the side of the European Council, President Tusk made use of his trusted lieutenant Serafin, who worked hand-in-hand with Secretary General Tranholm-Mikkelsen, and of his JHA experts, Hugo Brady and Carl Hartzell. They would occasionally draw in expertise from Christine Roger, the Director General on JHA, but the Directorate General as such played no role in the process. Member states were involved (only) at the general level of the Sherpas or the Coreper, rather than at working group level, thus avoiding the regular consultation processes in which member states would be involved in discussing draft text on the basis of instructions coming from line ministries. From the side of the member states, the process was handled by key officials in the German Chancellery and the Dutch Ministry of Justice, Jan Hecker and Jan-Willem Beaujean, rather than by various representatives from different line ministries.

The key participants from the different sides – Serafin, Tranholm-Mikkelsen, Smulders, Ruete, Mordue, Hecker, and Beaujean – would meet with Turkey in different configurations, even though it was not always the same institution that was in charge. There would be only one occasion in which the Dutch and Germans were flying solo, which will be
discussed below. This was the ‘extra’ deal on one-for-one resettlement of 6/7 March 2016, which they discussed separately with Mehmet Samsar, the representative of Turkish Prime Minister Ahmed Davutoglu.\textsuperscript{10} However, the same group of people met immediately afterwards to craft the final deal, as it is reflected in the EU–Turkey Statement of 18 March 2016.

\textit{Tracing the activities of the network}

Appendix 1 provides a detailed overview of the key moments in the EU–Turkey negotiations. Rather than discussing all activities in chronological order, we explain how the process was structured and managed by the institutions, fleshing out elements of linking, bridging, shielding, and laying the tracks.

The first thing to highlight is that a lot of how the process and substance would come to look was decided already in the weeks between the 23 September and the 15 October Summits. The momentum was with the Commission in this first stage. In terms of linking, Vice-President Timmermans had the opportunity to move up and down the organisational hierarchy to find the necessary political support and substantive input. The Timmermans team established close collaboration with specific people within the different DGs, but they eliminated the old system of inter-service communications in favour of a more ad hoc and open coordination process. High-level people from DG Home, DG Near, or DG Trade were allowed to work directly with, and receive instructions from, Timmermans. His chef de cabinet, Ben Smulders, oversaw the work on what would become known as the JAP, in which selected officials were tasked with working out specific elements; for instance, the Director General of DG Home, Matthias Ruete, was responsible for the visa liberalisation part, the Director for Turkey, Simon Mordue, dealt with the re-energising of accession.

The JAP laid out the tracks for all subsequent debates about EU–Turkey cooperation. In a process that much resembled the launch of the banking union in June 2012, the member states were asked to endorse a deal without knowing all the details (‘shielding’). In the Coreper meeting of 15 October, the ambassadors had raised some doubts and concerns, but nevertheless the European Council of that same day ‘welcomed’ the plan and expressed their readiness ‘to step up their political and financial engagement’ and ‘to re-energize the accession process’.\textsuperscript{11} While the Commission had been very careful in the explanations to the European Council, to the outside world it was sold as a done deal (Ludlow 2015b: 17).
It was by no means a done deal. In the second stage, which was the run-up to the 29 November 2015 EU–Turkey Summit, the EC President’s team played a prominent role. The Commission’s note of 22 November and draft of 25 November were not well received by the member states. In the ensuing Coreper meetings, practically all member states raised objections. Tusk and Tranholm-Mikkelsen, who had been the Danish Coreper ambassador, then took over the drafting and the job of defending what was now the Presidency’s draft in Coreper. The most heated debate was about paragraph 4, the listing of accession chapters. The Presidency’s draft was far more explicit in separating the preparatory work of the Commission from an eventual decision by the Council. Nevertheless, due to reservations by Cyprus, the paragraph had to be put in brackets. There were other concerns, particularly about the funding and monitoring of the deal, which will be discussed in the next section. But Tusk and Tranholm-Mikkelsen were able to shepherd the statement past the member states, leaving the essential elements intact. Meanwhile, a German proposal for additional resettlement from Turkey was shot down in Coreper on 26 November 2015.

The process from the end of November 2015 until the EC Summit of February 2016 was again more Commission driven, as it focused on the operational follow-up to the JAP. The second and third mini summits were only relevant in the sense that the German Chancellor was able to get the Commission to further develop the idea of additional resettlement through a voluntary humanitarian admission programme (VHAP). The third and final stage started after the European Council of 18/19 February 2016. This Summit was crucial in setting the stage (‘laying the tracks’) for the decisions in March. Some say this is the Summit where the Heads agreed to close the Balkan route. Incorporating language from President Juncker’s letter to Slovenia’s Prime Minister, Miro Cerar, the EC Conclusions clearly expressed the need to put ‘an end to the wave-through approach’ of the second half of 2015 and to ‘apply fully the Schengen Borders Code’. At the political level, there had been much dispute about whether the EU should come up with such a plan B, in case plan A, which was assisting Greece and engaging with Turkey, did not bring about sufficient results. Commission President Juncker now sided with President Tusk, rather than Chancellor Merkel. This also meant that the window for doing additional deals with Turkey was closing. At a subsequent meeting in Ankara, President Tusk could tell Prime Minister Davutoglu that Turkey’s leverage was disappearing quickly.

From the perspective of process management, the third round looked similar to the first round, with the member states again being brought into a situation in which they had to endorse a last-minute deal, leaving
the Coreper ambassadors with very little time to brief the political leaders. This was not due to mismanagement by the institutions, but rather an episode of ‘disruptive innovation’ by the Dutch and German representatives. On Thursday 3 March, President Tusk and Vice-President Timmermans had reached an agreement with Prime Minister Davutoglu on taking back all migrants, without explicitly mentioning the Syrians. For Chancellor Angela Merkel, this was not enough. In a dinner meeting afterwards with Mehmet Samsar, Jan Hecker and Jan-Willem Beaujean floated the idea of a one-for-one resettlement: for every Syrian taken back by Turkey from the Greek Islands, another Syrian would be resettled from Turkey to the EU. The Turkish Prime Minister then invited Chancellor Merkel and Prime Minister Mark Rutte to the Turkish Embassy in Brussels the evening before the Summit. Davutoglu presented them with a 12-point piece of paper, which contained the one-for-one scheme along with other Turkish demands.

After this brief episode of competition, a new round of inter-institutional collaboration was launched, in which Serafin, Tranholm-Mikkelsen, Selmayr, Szostak, and Smulders were joined by Hecker and Beaujean to draft a new text for the Summit of 7 March. For Selmayr this was a game changer, but Tusk, via Tranholm-Mikkelsen, made it clear that he would not ask the Heads of Government to sign up to this. The leaders would merely ‘agree to work on the basis of the principles they contain’. At the Summit, the other leaders did not hide their discontent about the German–Dutch ‘Alleingang’ (Ludlow 2016: 60). Commission President Juncker pushed for President Tusk to be in charge of the follow-up to the European Council of 17/18 March. The Commission would provide the substantive input through its Communication on the next operational steps in the EU–Turkey cooperation of 16 March. The debate was not so much about the one-for-one scheme, but rather about whether and how the EU would be able legally to send back refugees.

As in October 2015 and earlier in March, the member states were kept at arm’s length (‘shielding’). This means that they were involved at a general level, at a very late stage in the process, making it difficult for them to alter the course of the proceedings or change the substance of the deal. What they could still do was to put up some reservations that needed to be solved at the Summit of 17/18 March. President Tusk then played his part by having a very strong steer on these Summit negotiations. The EC President decided to involve Prime Minister Rutte in the process. Furthermore, Tusk did not allow any bilateral negotiations with Turkey and in the final stage only allowed comments, rather than amendments, to the Joint Statement (Ludlow 2016: 78). Tusk’s team further appeased member states’ concerns by reiterating: ‘that the EU Turkey
Statement does not establish any new commitments on Member States as far as relocation and resettlement are concerned. 24

What to take from this reconstruction of process-level dynamics, related to elements of linking, bridging, shielding, and laying the tracks? First, we note that within this informal governance network actors were able to move up and down the organisational chains and side-step institutional hierarchies, thereby keeping up the momentum and getting timely endorsement from the political level. Second, through inter-institutional bridging, the process could move from nominal guidance of the Commission to the EC President and back with relative ease. What looked like a sprint between three political actors was in reality a relay race. Third, we note that what made such a quick deal possible was the fact that the member states were kept at arm’s length, and that the usual intra- and inter-institutional action channels were avoided. Fourth, it is clear that the track that eventually led to the EU–Turkey deal was effectively laid out already in September–October 2015, by a few key actors around Vice-President Timmermans. The focus would be on financial support, visa liberalisation and a rather ambiguous commitment to ‘re-energise’ accession. Even (additional) resettlement had already been addressed in October 2015. In the next section, we look at the creative solutions that were found on these issues.

**Mapping the effects of informal institutional governance**

In this section we analyse the effects of informal institutional governance. Appendix 2 provides an overview of what was agreed on the four main issues. We show that there is sufficient ground for claiming that the institutions significantly shaped the EU–Turkey deal, taking it further on funding, visa liberalisation, and accession, and providing the framework but limiting the scope for resettlement. The coup of 15 July 2016 would derail the process of EU–Turkey rapprochement, so we look at the progress that was made before July 2016. First, we note that the overall legal form, a political statement, was not the most difficult issue. In view of the short time frame, there were few other options. 25

**Funding: ‘voluntary’ contributions and monitored spending**

With regard to the funding, two issues required creative solutions: the shape of member states contributions and the format for disbursements. It was certainly not the size of the funding that caused problems. In fact, both Turkish and member states representatives were surprised about the remarkable ease with which the institutions were able to procure the two tranches of €3 billion in financial support. As one participant noted: ‘they
didn’t even blink when Davutoglu mentioned the second 3 billion, which is a clear sign that Turkey could have asked for more'.

More problematic was the shape of these contributions. On the one hand, such contributions had to be ‘voluntary’ and ‘off-budget’ so as to avoid obstacles like the need to get approval from national parliaments. At the same time, the institutions and Turkey needed to have sufficient guarantees that the money would be forthcoming. The solution, which was agreed to in principle at the Coreper meeting of 18 December 2015, was to use so-called ‘contribution certificates’. This was the first time that such certificates would be used on such a scale on an off-budget basis. It was based on an understanding, basically a gentlemen’s agreement, at Coreper level, underpinned by explicit language in the EC Conclusions that: ‘the EU and its Member States stand ready to step up their financial engagement’ (italics added).

The other tricky part was finding a format in which the money could actually be disbursed. To avoid the impression of writing a blank cheque to President Erdogan, the money needed to be earmarked for specific purposes. On the other hand, Turkey valued some degree of autonomy in choosing how it would employ the funding. These matters came to a head at the G20 meeting in Antalya, in a rather unpleasant exchange between President Erdogan and President Juncker, after which it was decided that Vice-President Timmermans should fly to Turkey for the follow-up. Turkey had initially anticipated cash transfers, but the Commission opted for a programme-based approach, by setting up the Facility for Refugees in Turkey.

The format and modalities were taken over from the Instrument for Pre-Accession Assistance (IPA) and European Civil Protection and Humanitarian Assistance (ECHO) programmes, through which money would be disbursed.

**Visa liberalisation: benchmarks and commitments**

The money was the most visible element, but visa liberalisation held centre stage, certainly from a Turkish perspective. In the ongoing visa liberalisation dialogue, issues of border management and the readmission of third country nationals had already been extensively discussed. For countries with which the EU foresaw a close relationship, like Turkey, this process contained a set of tailor-made benchmarks:

On issues like anti-corruption, data protection, criminal law, the benchmarks went way beyond what we would normally ask for on visa liberalisation; this process was clearly anticipating accession chapters and can be considered as the first step in this regard.

However, for other countries, for example in Latin America, the visa liberalisation process was less demanding. At various moments during the
negotiations, Turkish officials would demand to be treated similarly to, for instance, Columbia. The member states, however, were adamant that all benchmarks would be upheld. The institutions obviously could not circumvent this elaborate process, with its 72 benchmarks and regular progress reports, so instead they had to be creative at times: ‘We had to go with commitments and look at trends, but we were not always able to establish a track record over years, like we would normally have done’.29

In its third progress report the Commission noted that Turkey had met all but seven benchmarks. However, it would not be possible to meet the remaining seven – which included full implementation of the EU–Turkey Readmission Agreement – before June 2016, because these required a solid track record of implementation. The Commission services then came up with a double creative fix: which was to adopt the legal proposal for visa liberalisation, ‘under the understanding that the Turkish authorities will fulfil, as a matter of urgency … the outstanding benchmarks of its Visa Liberalisation Roadmap’.30 This decision would be accompanied by a visa suspension mechanism, which would allow member states to react more quickly if faced with strong migration pressures that might arise from visa-free travel with a third country. Overall, the institutions came very close to turning visa liberalisation into a reality, had it not been for the July 2016 coup.

**Re-energising the accession process: chapters and procedures**

With hindsight, the re-energising of accession was the least tangible (or most symbolic) element of the deal. Turkey was eager to open new chapters, but from the outset it was clear that the country would not be willing to address the underlying issues regarding Cyprus.31 At the machine room level, both sides were well aware of these obstacles. However, at the political level, Turkey might have been given the impression that other member states would put pressure on Cyprus (and Greece) to give in.32 In the run-up to the EU–Turkey Summit of 29 November 2015, six chapters had been mentioned, 15 (Energy), 17 (EMU), 23 (Judiciary and Fundamental Rights), 24 (Justice, Freedom, Security), 26 (Education), and 31 (Foreign Security and Defence Policy). But in the end, the only progress came when France agreed to drop its objections to opening Chapter 17 (Economic and Monetary Union [EMU]).

On this and other chapters, the main thing the institutions could do was to speed up their part of the process. Commission screening and benchmark reports would thus be delivered in record time, after which it would be up to the Council to take the decision on the opening. As on visa liberalisation, the institutions obviously could not ignore existing procedures, but they were nevertheless able to procure some deliverables.
Although we are talking about counterfactuals, had this matter been left to the member states, the most likely result would have been either a vague general promise to re-energise accession with no follow-up, or else the explicit mentioning of chapters in the draft conclusions, followed by a veto from Cyprus and Greece. By speeding up its part of the procedures, the Commission could put pressure on the Council (and EP) to do the same. In March 2016, the institutions were able to find another, less controversial, chapter (Chapter 33, budget) to open. But again, the July 2016 coup interfered.

**Resettlement: communitarising an intergovernmental deal**

Resettlement was the most sensitive part of the deal. Resettlement had been part of the discussions even before September 2015. After all, it was clear that the dialogue with Turkey could never be about blocking migration so that these migrants would be ‘stuck’ in Turkey. Nor was it in Turkey’s interest to become a permanent transit country. Formally, it was about replacing ‘disorderly flows’ by ‘regulated’ migration. In 2014, Commission explorations had resulted in setting up ‘a resettlement and relocation forum’ aimed at resettling 5000 people. At the time, even this number was considered highly controversial. But through this forum, the Commission was able to develop a format (‘lay the tracks’) for dealing with resettlement, that could eventually be drawn into the EU–Turkey deal. By July 2015, the number had increased to 20,000 people.33

The JAP promised to ‘support existing Member State and EU resettlement schemes and programmes’ (italics added). A creative solution needed to be found for the additional resettlement. The fact that the German Chancellor decided to convey separate ‘mini-summits’ around the issue, and even chose to chair the second one herself, was instrumental but not essential for the process. The Commission, perhaps learning from the demise of the relocation schemes, felt that it might be better if the Chancellor would take the heat.34 Within the inter-institutional network, the Commission still provided the substantive framework, by means of the December 2015 VHAP, while the Council Secretariat defined the scope of the mechanism.

The final mechanism for one-for-one resettlement was in itself a creative fix that was produced in the days between the two March summits. To appease member states’ concerns regarding the numbers – at the time there were approximately 2.7 million Syrians in Turkey – Tranholm-Mikkelsen transformed the scope, if not the purpose, of the one-for-one scheme.35 It became a targeted, temporary instrument, designed ‘to meet the objective of ending the irregular migration’.36 The stated upper limit of $18,000 + 54,000$ came from combining the original resettlement scheme
of July 2015 with the unused capacity for relocation (from Hungary) of September 2015. Due to budgetary limitations, the mechanism would have to be ‘reviewed’ or even ‘discontinued’, when this upper limit was (almost) reached. To further discourage illegal crossings, ‘priority would be given to migrants who have not previously entered or tried to enter the EU irregularly’. Last but not least, the VHAP would be activated only when the numbers of irregular crossings ‘are ending or at least have been substantially and sustainably reduced’. Compared to what the German, Dutch, and Turkish representatives originally had in mind, this VHAP activation clause constituted a significant reorientation.

Conclusion

Both in terms of process and substance, the EU–Turkey deal was unique. Negative reactions from many sides make it unlikely that anything similar will be repeated in the near future with other countries or on other issues. Informal governance arrangements traditionally hit upon challenges of democratic legitimacy, due to their non-codified and behind-closed-doors nature. On other major dossiers, notably the Brexit negotiations, there was a call for more transparency. It is therefore important to reflect on the wider applicability of the mechanism, and the conditions under which it operates.

We have identified some of the main elements of informal governance in high-level decision making. Obviously, we do not expect to find the same network operating in exactly the same fashion with exactly the same effects in other dossiers, but we do expect to find similar elements (bridging, linkage, shielding, laying out tracks, creative fixes) in other cases, in which they operate in a similar fashion and with similar effects. For instance, there are notable similarities with other major reform dossiers, like the British renegotiations of 2015–2016 (Beach and Smeets 2018), where practically the same informal network pivoting around Serafin, Selmayr, and Tranholm-Mikkelsen took control of the machine room proceedings, proactively laying out the tracks for the negotiations, shielding the process from institutional turf battles and extensive member state involvement, and finding creative solutions particularly on immigration-related issues (restrictions on in-work benefits and preventing abuses). We also saw the strong, informal role of the institutions in linking control and machine room proceedings, on major dossiers in the Eurozone crisis, like the banking union (e.g. Nielsen and Smeets 2018: 1250).

Overall, we have sought to nuance the conventional narrative of intergovernmentalism and incrementalism, as propagated by NI and FF. Our analyses have shown that the increased involvement of the European
Council has enhanced, rather than diminished, the role and influence of the institutional actors that are tasked to carry out their orders. European Council centred governance leaves a gap that can be filled by informal institutional governance. Whether this actually happens depends on a number of things. First, there should be a clear, functional need to move beyond the formal action channels, intra-institutional hierarchies and entrenched inter-institutional procedures. Crises create such a pressure cooker atmosphere along with a need for major reform. Consequently, informal governance played a crucial role in the early stages of the refugee crisis, but less so in the subsequent ‘ordinary’ legislative processes to reform the CEAS. Second, there should be a moderate degree of EC involvement, such that it provides the institutional network with sufficient discretion, but at the same time gives them a strong mandate that allows them to steer machine room proceedings. This means that the Heads of State or Government should be involved, in the sense that they can be called upon to endorse the work that is being done in the machine room or to settle key issues, but they are not trying to deal with these matters themselves. For our case, EC President Tusk deliberately kept the highly divisive issues of mandatory relocation off the EC agenda, because he perceived that this could only result in division or deadlock.

Third, from the side of the different institutional actors, it requires flexibility and a willingness to waive institutional prerogatives and transcend inter-institutional rivalries. This willingness is not a given. In the early stages of the refugee crisis, President Juncker played a rather different role, relying on his institutional right of initiative to push for a mandatory relocation scheme, openly clashing with EC President Tusk (Ludlow 2015a: 9). This attempt to provide (‘transforming’) leadership at the political level created a lot of mistrust, which spilled over into the subsequent negotiations about reforming the Dublin Regulation. One of the crucial factors behind the EU–Turkey deal was a willingness of key Community officials – at cabinet and services level – to put their manpower and expertise at the disposal of these nominally intergovernmental structures and processes. From that perspective, the fact that the EU–Turkey deal was an orphan, i.e. lacking one clearly identifiable father, is one of the main reasons for its success.

Notes

1. Author’s interviews, EC President cabinet and Commission cabinet level, Brussels, 22 January, 25 May 2018.
2. Author’s interviews, Commission (services) level, 7 June 2017.
4. Although ‘clientelism’ which restricts competition within closed circles might be considered a more exclusive form of informal governance (Christiansen et al. 2003: 16).
5. Author’s interview, Commission cabinet level, 13 July 2018. A telling example is the initially very modest proposals for resettlement of 5000 asylum seekers.
6. A case is considered ‘influential’ because of its potentially large impact on the feasibility of an analytical framework, here our model of informal institutional governance.
7. Author’s interviews, Commission cabinet and Turkish representatives, 21 and 29 January 2019.
8. A potential fifth element was the upgrading of the customs union.
10. Author’s interview, Commission services and member states representatives, 6 June 2018, 15 January 2019.
12. Revised version of draft EU‒Turkey Statement, Brussels, 27 November 2015.
13. European Council Conclusions, 17/18 December 2015: 1g.
15. Author’s interview, Council Secretariat, 9 January 2019.
18. There was ‘constructive ambiguity’ on the Syrians, but on the EU side the reference to Turkey as a safe third country implied that Syrians could be included as part of this deal.
19. Author’s interview, member states and Turkish representatives, 15 and 21 January 2019.
20. Statement Meetings of the EU Heads of State or Government with Turkey, 7 March 2016: 1.
23. This debate took place in the Coreper meetings of 11 and 16 March.
25. Author’s interviews, Commission services, 13 July, 16 August 2018. An international agreement would have required extensive consultations, national ratification, and would have been legally challengeable.
26. Author’s interviews, Commission, member states and Turkish representatives, 15, 21 and 29 January 2019.
27. Author’s interviews, Council Secretariat and Commission services, 8 May, 13 July 2018.
28. Author’s interview, Commission services, 13 July 2018.
29. Author’s interview, Commission services, 16 August 2018.
31. Accession negotiations had started in 2005, but until Turkey agrees to apply the additional protocol of the Ankara Association Agreement to Cyprus,
eight chapters will not be opened and no chapter will be provisionally closed.

32. Author’s interview, Commission (Cabinet) and Turkey, 21 and 22 January 2019.
34. Author’s interview, Commission cabinet level, 12 July 2018.
36. Meeting of the EU Heads of State or Government with Turkey, Brussels, 18 March 2016: 2 (italics added).
37. Each member state would get €6000 from the EU budget per resettled Syrian refugee

Acknowledgements

We thank Simon Mordue for his help and contribution to this project. We would like to thank the editors and anonymous reviewers for their valuable comments and suggestions.

Disclosure statement

No potential conflict of interest was reported by the authors.

Funding

This work is part of a research project supported by the Danish Council for Independent Research under Grant DFF-4003-00199.

Notes on contributors

Sandra Smeets is Assistant Professor at the Department of Political Science, Aarhus University and the Institute for Management Research, Radboud University. [s.smeets@fm.ru.nl]

Derek Beach is Professor in the Department of Political Science, Aarhus University. [derek@ps.au.dk]

References


Appendix 1. Overview of the key moments in the EU–Turkey deal.

<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Level of the negotiations</th>
<th>Substance of the debate</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 April 2015</td>
<td>European Council (special meeting)</td>
<td>Conclusions state: ‘step up cooperation with Turkey in view of the situation in Syria and Iraq’. Message repeated at Summit of 25/26 June.</td>
</tr>
<tr>
<td>9 September 2015</td>
<td>European Council</td>
<td>On trip to the Balkan capitals, President Tusk meets Erdogan in Ankara to discuss how to prevent illegal migration.</td>
</tr>
<tr>
<td>18 September 2015</td>
<td>Sherpas</td>
<td>Uwe Corsepius stresses the need for high-level (bilateral, German) engagement with Turkey at Sherpa meeting.</td>
</tr>
<tr>
<td>23 September 2015</td>
<td>Turkey</td>
<td>Davutoglu sends a letter to HOSG about the large burden of Syrian refugees, and need for ‘possible common steps’.</td>
</tr>
<tr>
<td>23 September 2015</td>
<td>European Council (informal)</td>
<td>Extra meeting after controversial JHA Council. Agrees to reinforce the dialogue with Turkey at all levels.</td>
</tr>
<tr>
<td>28 September 2015</td>
<td>European Commission</td>
<td>First meeting of Turkish ambassador with Juncker cabinet. Director General of DG Near, Christian Danielsson makes an extended visit to Ankara. In Brussels work begins on first draft of what would become EU–Turkey Joint Action Plan.</td>
</tr>
<tr>
<td>5 October 2015</td>
<td>Turkey</td>
<td>Erdogan meets with Presidents Tusk and Juncker (and Schultz), and shows an interest in a deal. Preparations begin for Timmermans to visit Ankara.</td>
</tr>
<tr>
<td>18 October 2015</td>
<td>Merkel</td>
<td>Visits Erdogan and Davutoğlu in Ankara. Speaks with Tusk about having a EU–Turkey Summit end of November.</td>
</tr>
<tr>
<td>25 October 2015</td>
<td>Mini summit</td>
<td>Merkel organises first mini-summit, chaired by Juncker, on the basis of German draft. Presumably no discussions on Turkey.</td>
</tr>
<tr>
<td>12 November 2015</td>
<td>Valletta Summit</td>
<td>Informal meeting European Council, with quite hostile negotiations on quota. Timmermans briefs HOSG.</td>
</tr>
</tbody>
</table>

(continued)
### Timeframe | Level of the negotiations | Substance of the debate
--- | --- | ---
15 November 2015 | G20 Summit Antalya | Erdogan meets with Presidents Tusk and Juncker, after which Timmermans is invited to Turkey to prepare draft Summit.
26/27/28 November 2015 | Coreper | New debates on the basis of EC President’s draft. Tough but constructive debates and redrafting. Cypriot reservations until Summit.
29 November 2015 | Mini-summit | Merkel organises (and chairs) second mini-summit, focusing on extra resettlement of refugees from Turkey. Including Commission but excluding EC President from process.
29 November 2015 | EU–Turkey Summit | Meeting of the EU Heads of State or Government with Turkey. Formalising October deal, resulting in a statement (drafted by Commission, redrafted by Tusk) to accompany the Joint Action Plan.
November 2015 to March 2016 | Merkel | Continues their own high-level negotiations with Turkey, mostly on (extra) resettlement.
4 December 2015 | Sherpas | While Commission officials are drafting for third mini-summit, Selmayr convenes Sherpa meeting to discuss EU–Turkey deal.
15 December 2015 | European Commission | Presents recommendation for a voluntary humanitarian admission programme (VHAP) with Turkey.
17 December 2015 | Mini-summit | Merkel organises third mini-summit, chaired by Faymann (Austria), little support for Commission plan on voluntary resettlement scheme from Turkey.
17 December 2015 | European Council | On eve of Summit, Selmayr rebuffed for his claim that numbers had dropped due to Joint Action Plan. At meeting Tusk and Orban question willingness of Turkey, while Merkel wants to task Coreper to mobilise the €3 billion.
18 December 2015 | Coreper | Extra meeting, called by Luxembourg Christian Braun, in which the €3 billion were effectively mobilised.

(continued)
<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Level of the negotiations</th>
<th>Substance of the debate</th>
</tr>
</thead>
<tbody>
<tr>
<td>4/18 January 2016</td>
<td>Member states</td>
<td>Lofven PM (Sweden) ends open border approach. Cerar PM states that Slovenia cannot handle flows anymore and suggests assistance to Macedonian border guards. V4 support in February for this plan B.</td>
</tr>
<tr>
<td>25 January 2016</td>
<td>European Commission</td>
<td>In a letter, President Juncker makes U turn to Tusk’s line, i.e. back to Schengen: end of wave-through approach + need for plan B if plan A (Turkey and Greece) would not work.</td>
</tr>
<tr>
<td>16 February 2016</td>
<td>Mini Summit</td>
<td>Fourth mini-summit. Faymann states that ‘Plan A isn’t enforceable’ and announces that he will put a cap on number of asylum seekers.</td>
</tr>
<tr>
<td>16 February 2016</td>
<td>European Council</td>
<td>Tusk visits Berlin to discuss draft EC Conclusions: end of wave-through approach, applying Schengen and support Greece and European Civil Protection and Humanitarian Aid Operations (ECHO).</td>
</tr>
<tr>
<td>17 February 2016</td>
<td>European Council</td>
<td>Tusk organises working lunch with Juncker and Balkan leaders. Meanwhile intensive negotiations and redrafting of the draft EC Conclusions. Merkel bombards Tusk with amendments (including burden sharing via resettlement from Turkey). Tusk defines new consensus in Conclusions.</td>
</tr>
<tr>
<td>18 February 2016</td>
<td>European Council</td>
<td>Intensive Germany vs. rest negotiations on Conclusions particularly over Turkey. Merkel wants extra summit in March to enhance implementation of Joint Action Plan. Tusk’s approach (borders, back to Schengen) has overhand over Merkel’s (Greece, Turkey, resettlement, relocation).</td>
</tr>
<tr>
<td>1-4 March 2016</td>
<td>European Council</td>
<td>Tusk, Serafin and Tranholm-Mikkelsen tour de Balkan capitals, Vienna and Ankara. Tusk (&amp; Hartzell) lets Commission take lead on Turkey negotiations. Avoids talking about plan B.</td>
</tr>
<tr>
<td>3 March 2016</td>
<td>Member states</td>
<td>Germany organises high level dinner in Ankara, attended by Hartzell, but lead with German, Dutch and Commission officials.</td>
</tr>
<tr>
<td>4 March 2016</td>
<td>European Commission</td>
<td>Presents communication on Roadmap back to Schengen. Initiates ‘new’ negotiations with Turkey, involving Hecker, Beaujean.</td>
</tr>
</tbody>
</table>

(continued)
Appendix 2. Overview of the statements and decisions on the main elements of the EU–Turkey deal.

<table>
<thead>
<tr>
<th>Timeframe</th>
<th>Level of the negotiations</th>
<th>Substance of the debate</th>
<th>Funding (2 x €3 billion)</th>
<th>Speeding up visa liberalisation</th>
<th>Re-energising accession (Additional) resettlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 March 2016</td>
<td>Member states</td>
<td>Merkel and Rutte have working dinner with Turkish PM. Tranholm-Mikkelsen, Serafin, Selmayr are invited by de Gooijer to work on new text.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7 March 2016</td>
<td>European Council</td>
<td>Meeting EU HOSG with Turkey. Preparatory work done by Merkel and Dutch presidency Tusk. Part of ‘Turkish’ proposal is the one-for-one ‘trading’ for Syrian refugees. Two sessions with heavy redrafting of the texts in between.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8-17 March 2016</td>
<td>European Council</td>
<td>Tusk, Serafin, Tranholm-Mikkelsen take the lead, effective cooperation with Commission to work out the operational details of the deal. On the basis of Commission non paper 10 March discussed by Coreper on 11 March.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>16 March 2016</td>
<td>European Commission</td>
<td>Presents proposals on next operational steps in EU–Turkey cooperation. Update from German/Dutch proposal of 7 March with some significant changes. Discussed in Coreper 16 March.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>17/18 March 2016</td>
<td>European Council and EU–Turkey Summit</td>
<td>Agrees to EU–Turkey Statement to end the irregular migration from Turkey to the EU, as part of comprehensive strategy, agrees on additional €3 billion, opening accession Chapter 33.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Joint Action Plan October 2015**: Does not mention the figure of €3 billion. Text states that the money should be mobilised ‘in a sustained manner’. The EU and Turkey would jointly provide ‘a comprehensive joint needs assessment as a basis for programming’. Sets out measures that will ‘build on the visa liberalisation dialogue, the visa roadmap’. This, primarily means providing ‘financial assistance … to support Turkey in meeting the requirements’ for visa liberalisation. Does not mention the re-energising of the accession process, through the opening of chapters in the negotiations. Promises to ‘support existing Member State and EU resettlement schemes and programmes’.
Continued.

<table>
<thead>
<tr>
<th>Event</th>
<th>EU–Turkey Summit 29 November 2015</th>
<th>EC Conclusions 15 October 2015</th>
<th>EC Conclusions 17/18 December 2015</th>
<th>EC Conclusions 18/19 February 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>EU–Turkey Summit</td>
<td>Stated that ‘the EU is committed to provide an initial 3 billion euro of additional resources’. Conclusions ‘underlined the importance of burden-sharing’.</td>
<td>Stated that ‘the EU and its Member States stand ready … to step up their financial engagement substantially within the established framework. The accession process re-energized’.</td>
<td>Stated that ‘successful implementation will contribute to accelerating the fulfilment of the visa liberalisation roadmap’. Progress will be assessed already in the spring of 2016.</td>
<td>Stated that ‘the accession process needs to be re-energized with a view of achieving progress in the negotiations in accordance with the negotiating framework and the relevant Council conclusions’.</td>
</tr>
<tr>
<td></td>
<td>Envisioned ‘the lifting of visa requirements’ by October 2016, Commission to provide a second progress report in March 2016 and a third report in the autumn of 2016.</td>
<td>Stated that ‘the EU and its Member States stand ready … to step up their financial engagement substantially within the established framework. The accession process re-energized’.</td>
<td>Specified that Chapter 17 (EMU) would be opened in December, while the Commission would complete the preparatory work for opening of ‘a number of chapters without prejudice to the position of Member States’.</td>
<td>States that ‘the flows of migrants arriving in Greece from Turkey remain much too high’ and calls for ‘full</td>
</tr>
<tr>
<td>2nd Mini Summit</td>
<td>Commission promises to come up with ‘voluntary resettlement scheme’ to be presented at the next mini-summit.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3rd Mini Summit</td>
<td>Stated that ‘the EU is committed to provide an initial 3 billion euro of additional resources’. Conclusions ‘underlined the importance of burden-sharing’.</td>
<td>Task Coreper ‘to rapidly conclude its work on how to mobilize the 3 billion for the Turkey Refugee Facility’.</td>
<td>‘Welcomes the agreement reached on the Facility for Refugees in Turkey’ and calls for a swift</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(continued)
Continued.

<table>
<thead>
<tr>
<th>Meetings HOSG with Turkey 7 March 2016</th>
<th>EU–Turkey Statement (and EC Conclusions) 18 March 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreed ‘to speed up the disbursement of the initially allocated 3 billion’ and ‘to decide on additional funding for the Refugee Facility for Syrians’.</td>
<td>Agreed ‘to further speed up the disbursement’, stated that ‘once these resources are about to be used to the full, and provided all 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’.</td>
</tr>
<tr>
<td>Agreed ‘to accelerate the implementation of the visa liberalisation roadmap … with a view of lifting the visa requirements at the latest by the end of June 2016’.</td>
<td>Stated that ‘fulfilment of the visa liberalisation roadmap will be accelerated … with a view of lifting the visa requirements for Turkish citizens at the latest by the end of June 2016, provided that all benchmarks have been met’.</td>
</tr>
<tr>
<td>Promised ‘to prepare for the decision on the opening of new chapters in the accession negotiations as soon as possible, building on the October 2015 European Council Conclusions’.</td>
<td>Reconfirmed the commitment to re-energise the accession process … and decided, as a next step, to open Chapter 33 (budget) during the Netherlands presidency. Preparatory work for the opening of other Chapters will continue at an accelerated pace without prejudice to Member States’ positions in accordance with existing rules’.</td>
</tr>
<tr>
<td>Specified the ‘mechanism’ for every Syrian being returned, another Syrian will be resettled. Mechanism will be ‘reviewed’ if numbers approach 54,000 and ‘discontinued’ as numbers exceed that. Once irregular crossings at least have been substantially reduced, a Voluntary Humanitarian Readmission Scheme will be activated.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Funding (2 x €3 billion)</th>
<th>Speeding up visa liberalisation</th>
<th>Re-energising accession (Additional) resettlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>implementation of priority projects.</td>
<td></td>
<td>and speedy implementation of the Action Plan’. EC ‘welcomes the progress on preparing a credible voluntary humanitarian admission programme with Turkey’.</td>
</tr>
</tbody>
</table>

Agreed ‘to further speed up the disbursement’, stated that ‘once these resources are about to be used to the full, and provided all 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’. 

Stated that ‘fulfilment of the visa liberalisation roadmap will be accelerated … with a view of lifting the visa requirements for Turkish citizens at the latest by the end of June 2016, provided that all benchmarks have been met’. 

Reconfirmed the commitment to re-energise the accession process … and decided, as a next step, to open Chapter 33 (budget) during the Netherlands presidency. Preparatory work for the opening of other Chapters will continue at an accelerated pace without prejudice to Member States’ positions in accordance with existing rules’. 

Specified the ‘mechanism’ for every Syrian being returned, another Syrian will be resettled. Mechanism will be ‘reviewed’ if numbers approach 54,000 and ‘discontinued’ as numbers exceed that. Once irregular crossings at least have been substantially reduced, a Voluntary Humanitarian Readmission Scheme will be activated.