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MASTER'S DEGREE IN SOUTHEAST EUROPEAN STUDIES



MASTER'S DEGREE THESIS
***EUROPEAN UNION READMISSION AGREEMENTS WITH GREECE'S
NEIGHBORING COUNTRIES (EMPHASIZING ON READMISSION
AGREEMENTS WITH ALBANIA, FORMER YUGOSLAV REPUBLIC OF
MACEDONIA AND TURKEY)***

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I. Introduction

“Faced with growing economic stress, a gathering backlash against globalization and flawed integration strategies, the EU really needs to get immigration right” stressed the Financial Times on June 1st, 2008¹. This imperative is reflected on initiatives both at the European Union and member states level. In May, the President of France, Nicolas Sarkozy, suggested the adoption of a European Pact on Migration and Asylum including a “fresh drive to return unlawful entrants to their home countries”². In June, the “Return Directive”³ was adopted after 3 years of negotiations while in August the Italian government declared the country in a state of emergency in fear of massive inflow of illegal immigrants⁴.

Given the increasing importance that the EU and its member states assign to the Return and Readmission policy, as integral parts of the European Immigration and Asylum Policy, it is important to study their implications and challenges for countries directly affected such as the Southeastern European states. This paper examines the EU Readmission Agreements with Albania, Former Yugoslav Republic of Macedonia and Turkey and attempts to reveal the various incentives of both sides for negotiating and signing such agreements, their implications for these countries and the extent to which they are successfully implemented.

Driven mainly by security and financial concerns, the European Union and its member states have sought to restrict illegal immigration and to engage third countries as well in this endeavor through a variety of initiatives including Readmission Agreements. The latter is a standard component of the European foreign relations with third countries as the EU has become increasingly aware that it cannot tackle illegal migration without their cooperation. Thus, it has sought to conclude

¹ Financial Times, "Europe must get immigration Right", 1/6/2008, available online: <http://www.ft.com/cms/s/0/0005409e-2ffe-11dd-86cc-000077b07658.html>

² Laitner S., "EU disagrees over asylum safe list", *Financial Times*, 25/5/2006, available online: <http://www.ft.com/cms/s/0/bf7810a6-eb8a-11da-823e-0000779e2340.html>

³ Directive on Common Standards and procedures for returning illegally staying third country nationals,

⁴ Fakatselis A., “Coup d’état spaghetti” [Πραξικόπημα Σπαγγέτι], *Kyriakatiki Eleftherotypia*, Sunday, 17 August 2008, page 28.

Readmission Agreements with major countries of origin and transit of illegal migrants, including Albania, FYR of Macedonia and Turkey.

According to T. Balzacq, readmission is “a policy by which two or more states agree to readmit their own nationals or third country nationals who transited through their country, and who do not or no longer fulfill the conditions for entry or stay in the territory of the requesting state”⁵. The implementation of this policy, however, has raised serious concerns about the protection of human rights and more specifically refugees’ rights, the financial and institutional burden it entails for third contracting countries and its implications for the latter’s foreign relations with their neighbors.

EU Readmission Agreements with Albania and FYR of Macedonia entered into force in 2006 and 2008 respectively. The EU has been negotiating a Readmission Agreement with Turkey since 2003 while the latter signed a Readmission Protocol with Greece in 2001. The difficulties and speed of negotiations, the motives for conclusion and the successful implementation differ in each of these cases. Albania (an emigration and transit country), FYR of Macedonia (a transit country) and Turkey (an immigration, emigration and transit country) perceive migration differently but all of them have been under pressure by the EU to combat illegal migration and are more or less committed to the perspective of EU integration.

This paper argues that the conclusion of Readmission Agreements is conditional on the attractiveness of incentives offered in return by the European Union, the way non EU countries perceive immigration and their experience in migration policy while the implementation of these agreements will ultimately depend on the institutional and financial capacity, domestic and foreign policy priorities of non EU countries.

Assuming that states are rational actors weighing decisions in terms of costs and benefits, it would be useful to first study the recent developments and tendencies in the European Immigration and Asylum Policy and then examine the characteristics, the actors involved, the concerns and consequences of the Readmission Policy. In this comprehensive framework, I shall then compare and contrast the various aspects and results of EU Readmission Policy on Albania, FYR of Macedonia and Turkey. What’s more, it would be interesting to examine the Greek – Turkish Protocol and its

⁵ Balzacq T., "The implementation of European Neighbourhood Policy in the Context of border controls (Readmission Agreements, Visa Policy, Human Rights)", *Centre for European Policy Studies, European Parliament*, March 2008, available online at: http://www.libertysecurity.org/IMG/pdf_EST20253Balzacq.pdf, page 18

implementation dynamics and results in comparison to European Union Readmission Agreements.

Given the limited research conducted on EU Readmission Agreements, this paper is based on a number of books and scientific articles from the thriving literature on the development and securitization of European migration policy and its external dimension. Furthermore, it has been imperative to study key European Union documents on readmission and migration, reports by international organizations, NGOs and think tanks such as the International Organization for Migration, the Migration Asylum Refugees Regional Initiative (MARRI), and PRO ASYL. In order to assess the positions and policies of Albania, FYR of Macedonia and Turkey, it was also crucial to study their governments' action plans and the European Commission Progress Reports. Finally, an effort was made to gather articles on illegal migration and readmission policy from the Greek and international press.

For the purposes of this research, a questionnaire [see Annex] was prepared and sent to NGOs, scholars, the Albanian, Macedonian and Turkish embassies in Greece, the Greek Ministry of Interior⁶, the European Commission Directorate General of Freedom, Security and Justice as well as the Directorate General of Enlargement. The questionnaire, influenced methodologically by a similar one published in a relevant Report of IOM, the Greek Ministry of Interior and European Commission⁷, included multiple choice answers and offered the respondent the possibility to elaborate on questions if necessary. The questions covered a number of issues brought up during the progress of research such as human rights, obstacles encountered during negotiations and implementation. In any case, the purpose of this questionnaire was to supplement the lack of bibliographical sources and information (for instance about the EU Readmission Agreement with FYR of Macedonia). In this respect, a number of interviews and contacts were conducted as well with scholars, the Greek Ombudsman, the IOM in Skopje and Tirana, the Directorate General of Freedom, Security and Justice as well as Enlargement and the Hellenic Institute of Migration Policy and ELIAMEP. It is worth noting that academia and NGOs view Readmission policy implications from a more critical and rather negative point of view due to their

⁶ The questionnaire sent to the Ministry was rephrased in order not to include personal opinion questions.

⁷ Mackenzie C. (ed.), "Return and Readmission to Albania- The Experience of selected EU member states", *International Organisation of Migration, European Union, Hellenic Ministry of Interior, Public Administration and Decentralisation*, August 2001, available online at: <http://www.iomtirana.org/al/en/e-library/Books/EC%20research.pdf#page=13>, p. 91-92

potential implications on human rights and non EU countries while policy makers tend to evaluate them positively in terms of implemented procedures.

In the following sections, a short historical overview of the development of European migration policy as well as recent tendencies that affect readmission policy shall be first presented. Then, the EU Readmission policy will be examined and analyzed before elaborating on the specific characteristics and aspects of the Albanian, Macedonian and Turkish case studies.

II. European Immigration and Asylum Policy: tendencies and characteristics

The migration policy in Europe has gone through radical changes during the last 50 years. From the permissive migration regimes in the 1950s and 1960s, an initial state intervention and migration control during the 1970s and the politicization of migration issues in the 1980s to the predominance of the sociopolitical, law and order concerns in immigration discourse in the 1990s⁸. In parallel, cooperation among European states was enhanced from informal, ad hoc or intergovernmental consultations (1985-1991) outside the Community framework (for instance the Schengen Agreement)⁹ to regular consultations through the creation of the third pillar of EU on Justice and Home Affairs (Maastricht Treaty) and the partial communitarization of the immigration and asylum policy by the Treaty of Amsterdam¹⁰.

According to M. Baldwin Edwards, “immigration is one of the major and more perplexing issues of the late twentieth century: it goes to the heart of matters such as national identity and sovereignty as well as affecting economic, social and demographic objectives”¹¹. Migration is perceived as a “danger to public order, cultural identity, domestic and labor market stability; it has been securitized”¹².

⁸ Lahav G., "Immigration and Politics in the New Europe, *Cambridge University Press*, 2004, pp. 30-31.

⁹ Launched initially by a small group of countries in order to develop common border policies ranging from developing a common list of countries from which member states would require visas to creating policies to implement to procedural asylum matters. The Schengen acquis was incorporated in the Treaty of Amsterdam (1998).

¹⁰ The Treaty of Amsterdam provided for the gradual move of the competences of asylum and immigration from the third pillar (Justice and Home Affairs – intergovernmental cooperation) to the first pillar (European Community – supranational cooperation).

¹¹ Baldwin Edwards M., "The Emerging European Immigration Regime: Some Reflections on Implications for Southern Europe", *Journal of Common Market Studies*, Vol 35, No 4, December 1997, p. 497.

¹² Hyusmans J., "The European Union and the Securitization of Migration", *Journal of Common Market Studies*, Vol. 38, No. 5, 2000, p. 752.

Huysmans argues that the securitization of migration has been a “spillover result of the economic project of internal market into an internal security project”¹³.

Indeed, the accomplishment of the common market and the abolition of internal borders to achieve intra-Community freedom of movement were complemented by the “creation of comparable and converging policies to be applied to the Community’s external borders”¹⁴. The abolition of internal border controls created the need for enhanced external border controls as compensatory measures. Security concerns have thus created a momentum for European migration policy and deeply influenced its restrictive character. The terrorist attacks in the United States (2001) and in Spain (2004) exacerbated these concerns and made the goal of free intra-Community movement more difficult, as Guild argues: “the borders are no longer defined in terms of the territory which they contain but of the people moving across them”¹⁵.

In parallel to this process of securitization of migration, the European immigration policy has influenced third countries policies towards immigration. Brubacker argues that international immigration is a “matter of international interdependence: where a person cannot be expelled from one territory without being expelled into another, [he/she] cannot be denied entry into one territory without having to remain in another”¹⁶. The EU has sought to engage third countries in the fight against illegal migration.

To begin with, the Treaty of Amsterdam endowed the EU with the capacity to act internationally in the domain of Justice and Home Affairs¹⁷. The European Council of Tampere in 1999 called for “a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit. (...) To that end, the Union as well as the Member States are invited to contribute, within their respective competence under the treaties, to a greater coherence of internal and external policies of the Union. Partnership with third countries concerned will also be a key element for the success of such policy, with a

¹³ Ibid.

¹⁴ Lavenex S., Ucarer E., *Migration and the externalities of European Integration*, Lanham, Boulder, New York: Lexington Books, 2003, p.4.

¹⁵ Apap, J, Carrera, S, Kirisci, K. "Turkey in the European Area of Freedom, Security and Justice", *Centre for European Policy Studies, EU-Turkey Working Papers*, No.3, (August 2004), p. 6.

¹⁶ Lavenex S., Curer E., "The external dimension of Europeanization: The Case of Immigration Policies", *Cooperation and Conflict: Journal of the Nordic International Studies Association*, Vol. 39, No 4, 2004, p. 425.

¹⁷ Monar J., "The European Union as an international actor in the domain of Justice and Home Affairs", *European Foreign Affairs Review*, Vol. 9, 2004, p. 395.

view to promoting co-development”¹⁸. The need to use foreign policy instruments to attain Justice Home Affairs goals was underlined by the European Council in Laeken in 2001¹⁹.

Christina Boswell argues that the externalization of migration control involved two main components:

1. “Restrictive – Control oriented approach: The exportation of classical migration control instruments to sending or transit countries outside the EU (border controls, measures to combat illegal migration, smuggling and trafficking, and capacity building of asylum systems and migration management in transit countries). Provisions for facilitating the return of asylum seekers and illegal migrants to third countries (readmission agreements).
2. Preventive Approach: Proposals for addressing the root causes for refugee flows in countries of origin through more targeted use of development assistance, trade, foreign direct investment or foreign policy instruments; and proposals to promote so-called “reception in the region”, namely support for refugee protection in countries or regions of origin, so that they would not be obliged to seek asylum in Europe”²⁰.

These arrangements contributing to the externalization of the migration policy have also had an effect of sharing or rather shifting the burden of asylum seekers and illegal migrants to countries outside the EU. D. Bouteillet –Paquet stresses that “the orientation defined within this framework has so far produced little more than an extension of the restrictive immigration policies, rather than directing political, development or economic cooperation from a human rights perspective to prevent root causes of economic and forced displacements. This new partnership policy has proved to be an euphemism for a policy orientation that is rooted in the well known phenomenon of burden-shifting”²¹.

¹⁸ European Council, Presidency Conclusions, Tampere, 15-16 October 1999, available online at: http://www.europarl.europa.eu/summits/tam_en.html?textMode=on

¹⁹ Wardemann A., "Reflections on the European Migration Policy: Relations with Countries of Origin and Transit", Masters Degree Dissertation, *University of Barcelona, Department of International Law and Economics*, May 2005, available online at: <http://www.eliamep.gr/eliamep/files/PN06.01.pdf>, p.11

²⁰ Boswell C., "The external dimension of EU immigration and asylum policy", *International Affairs*, Vol. 79, No 3, 2003, pp. 622, 624.

²¹ Bouteillet Paquet D., "Passing the Buck: A critical analysis of the Readmission Policy Implemented by the European Union and its Member States", *European Journal of Migration and Law*, Vol. 5, No. 3, November 2003, p. 373.

The European Asylum Policy, in particular, has created numerous concerns. A number of notions such as the safe country of origin²², safe third or transit country²³ or manifestly unfounded asylum applications that were incorporated in the London Resolutions of 1992, in combination with the stringent border controls and readmission agreements have served to externalize the responsibility of thousands of asylum seekers. L. Long and S. Celebic suggest that by transferring responsibility of processing asylum applications to its outermost borders, the European Union makes it all the more difficult for legitimate asylum seekers to have their claims heard. Furthermore, the EU is shifting the burden for future waves of refugees to its newest neighbors.²⁴

In this framework, M. Garlick stresses that “scope exists for an asylum applicant to be sent back without any examination of his or her protection needs in the EU, to a country with an asylum system –but which may have, for example, a zero recognition rate, or no operative refugee status determination procedure of an acceptable standard”²⁵. This hypothesis, however, suggests that the current framework entails some risks of refoulement.²⁶

This danger is exacerbated by the migration asylum nexus, the links between irregular migration and asylum, the fact that the population movements are mixed including both irregular migrants and asylum seekers. Contemporary migration flows from East to West constitute a complex phenomenon that renders the differentiation between refugees’ and illegal migrants’ movements a “major challenge for legal and

²² Countries that have democratic institutions and don’t produce refugees that would meet the requirements of the 1951 Geneva Convention offer the receiving state the possibility to reject an asylum application of a national of such countries on grounds that the latter are safe.

²³ Countries through which an asylum seeker has transited on its way to the receiving state are responsible for processing his/her asylum application.

²⁴ Mackenzie C. (ed.), "Return and Readmission to Albania- The Experience of selected EU member states", *International Organisation of Migration, European Union, Hellenic Ministry of Interior, Public Administration and Decentralisation*, August 2001, available online at: <http://www.iomtirana.org/al/en/e-library/Books/EC%20research.pdf#page=13>, p. 22

²⁵ Garlick M., "The EU Discussions on extraterritorial processing: Solution or Conundrum?", *International Journal of Refugee Law*, Vol. 18, September/December 2006, p. 613.

²⁶ The article 33 of the 1951 Geneva Convention stipulates the principle of non refoulement according to which “no state party shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, nationality, membership of a particular social group or political opinion”. Phuong, C. "Minimum Standards for Return Procedures and International Human Rights Law", *European Journal of Migration and Law*, Vol.9, 2007, p. 106.

administrative structures”.²⁷ Morrison has pointed out that “the attempts by EU member states to make territorial access more difficult can have the effect of creating the category “illegal asylum seeker”, unknown up until now in international law, because the only way to enter an EU Member state would be to do so in a way defined by national and EU law as illegal”²⁸.

Overall, Velutti concludes that the focus of EU measures in migration policy consists of reactive rather than proactive measures; “a lowest common minimum denominator approach to convergence has been adopted with low minimum standards and a wide margin of discretion for the Member states with restrictive exceptions even to the protection of basic rights”²⁹. The lack of a European Immigration policy can be attributed to the member states’ “suspicious and uncompromising attitude towards matter of immigration and their consequent lack of genuine will to work together in this domain in a spirit of EU solidarity” stressed the Migration News Sheet in October 2006³⁰.

Based on this analysis, it can be argued that two sets of contradictory dynamics are embedded in the formation and implementation of European Immigration and Asylum policy: the tension between securitization and human rights and the tension between national sovereignty and supranational governance. It is in this policy framework that EU Readmission Agreements rationale and purposes need to be analyzed and evaluated.

²⁷ Peshkopia R., "Asylum in the Balkans: European Union and United Nations High Commissioner for Refugees Assistance to Balkans countries for establishing asylum systems", *Southeast European and Black Sea Studies*, Vol. 5, No 2, May 2005, p. 214.

²⁸ Geddes A., "Europe's Border Relationships and International Migration Relations", *Journal of Common Market Studies*, Vol. 43, No 4, 2005, p. 797.

²⁹ Velluti, S. "What European Union Strategy for Integrating Migrants? The Role of OMC Soft Mechanisms in the Development of an EU Immigration Policy", *European Journal of Migration and Law*, Vol.9, 2007, p. 62.

³⁰ Migration Policy Group, *Migration News Sheet*, October 2006, p.6

III. EU Readmission Agreements: Rationale and implications

The conclusion and implementation of Readmission Agreements is not a new practice in Europe. In fact, there are several generations of Readmission Agreements; the first comprises the ones that were signed in the 1960s to deal with irregular migration flows among the member states; the second includes the ones with countries of Central Europe after the fall of Communist regimes in 1989 while after the mid-1990s the third generation aimed to ease concerns about the human and political situation in countries of origin. The fourth generation emerged with the externalization of European migration policy and the increasing interest of EU member states to deal with the root causes of migration.³¹

The Readmission Agreements form a central part of the Schengen acquis (Article 23.1 of the Convention implementing the Schengen Agreement)³². However, the formal legal basis is the Article 63(3) b of the Treaty of Amsterdam stipulating that: “The Council, acting in accordance with the procedure referred to in Article 67, shall, within a period of five years after the entry into force of the Treaty of Amsterdam, adopt [...] measures on immigration policy within the following areas [...] illegal immigration and illegal residents, including repatriation of illegal residents [...]”³³.

Furthermore, since the 1990s considerable efforts have been made to harmonize and standardize the readmission practices of EU member states. In 1992, the Edinburgh European Council adopted a Declaration on the Principles governing External Relations and Migration Policy that stressed the potential destabilizing impact of uncontrolled migratory flows and the need to use Readmission Agreements to cope with illegal migrants from the Central and Eastern European countries (CEECs)³⁴. In 1994, the Council adopted a Recommendation concerning a specimen bilateral readmission agreement between a member state and a third country³⁵. In its

³¹ For a more detailed analysis of Readmission Agreements’ generations: Bouteillet Paquet D., “Passing the Buck: A critical analysis of the Readmission Policy Implemented by the European Union and its Member States”, *European Journal of Migration and Law*, Vol. 5, No. 3, November 2003, pp. 359-377.

³² “Aliens who do not fulfill or who no longer fulfill the short stay conditions applicable to the territory of a Contracting Party shall normally be required to leave the territories of the Contracting Parties immediately” and “Such aliens may be expelled from the territory of that contracting Party to their country of origin or any other state to which they may be admitted, in particular under the relevant provisions of the readmission agreements concluded by the Contracting Parties”.

³³ Balzacq T., op.cit., p. 19.

³⁴ Bouteillet – Paquet D., op.cit., p. 363.

³⁵ Council of the European Union, Council Recommendation concerning a Specimen Bilateral Readmission Agreements Between a Member State and a Third Country, Official Journal C274,

Communication on a Common Policy on illegal immigration of 15 November 2001, the European Commission stressed the need for the adoption of a common return policy. Furthermore, in 14 October 2002, the Commission Communication on a Community Return Policy on Illegal Residents underlined that an effective return policy is an “essential aspect for the credibility of any policy for fighting illegal immigration”³⁶.

The European Council of Seville (2002) stipulated that any future association or cooperation agreement between the EU/EC with any third country should include a clause on joint management of migration flows and on compulsory readmission in the event of illegal immigration³⁷. In November 2002, the Council adopted a Return Action Program consisting of four elements: “(i) practical cooperation including exchange of information and best practices, common training, mutual assistance by immigration officers and joint return operations, (ii) common minimum standards for return, (iii) country specific programs and (iv) intensified co-operation on return with third countries”.³⁸

The same year, the Council identified a set of criteria based on which readmission agreements should be negotiated with countries of origin or transit:

1. Nature and size of migratory flows towards the EU
2. Geographical position in relation to the EU
3. Need for capacity building concerning migration management
4. Existing framework for cooperation
5. Attitude towards cooperation on migration issues³⁹.

In its Green Paper on a Community Return Policy, the European Commission underlined that the Readmission Agreements are a “valuable instrument in an active return policy as they set out clear obligations and procedures in order to facilitate speed –up returns. They are a reliable institutional framework for cooperation and help undermine the credibility and financial interests of the smuggling networks

19/09/1996, 0020-0024, Brussels, 1994a, available online at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996Y0919\(07\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996Y0919(07):EN:HTML)

³⁶ Commission of the European Communities, Communication to the Council and the European Parliament on a Community Return Policy on Illegal Residents, COM (2002), 564 final, Brussels, 14 October 2002, p. 4.

³⁷ Balzacq T., op.cit., p. 20

³⁸ Kruse I., "EU Readmission Policy and its Effects on Transit Countries - The Case of Albania", *European Journal of Migration and Law*, Vol. 8, No. 2, July 2006, pp. 118.

³⁹ Council of the European Union, Draft Council Conclusions on intensified cooperation on the management of migration flows with third countries, 13894/02, Brussels, 2002, available online at: <http://register.consilium.eu.int/pdf/en/02/st13/13894en2.pdf>, p. 4.

involved. The Commission acknowledged, however, that since the Readmission Agreements are solely in the interest of the Community, their successful conclusion depends on the leverage at the Community's disposal. It is important to note, the Commission continues, that in the field of Justice and Home Affairs there is little that can be offered in return.”⁴⁰

According to Article 300 TEC, the Council concludes Readmission Agreements after consultation of the European Parliament⁴¹. The negotiations, however, are conducted by the Commission after a mandate is given to the latter by the Council. From 1999 to 2006, the Commission received 11 negotiating mandates, 5 of which are stalled. In general, the Commission has stressed that no quick results should be expected from negotiations as Readmission Agreements are solely in the interest of the Community⁴². Readmission Agreements are complicated, quite technical and detailed instruments which require by their very nature extensive negotiations⁴³. According to M. Schieffer, among the most difficult issues to settle during negotiations are the readmission of third country nationals (TCNs), the time limits applicable, means of evidence and the relation between community and bilateral readmission agreements⁴⁴. Once an EC Readmission Agreement has entered into force, it takes precedence over any readmission agreement between a member state and the respective third country.

In order to facilitate negotiations and increase its leverage, the Commission has proposed to offer incentives in return. It argues that negotiations can succeed only if they are part of a wider cooperation agenda, which takes duly into account the problems encountered by partner countries; to effectively address such problems, the issue of incentives should be examined on a country by country basis⁴⁵. These

⁴⁰ Commission of the European Communities, Green Paper on a Community Return Policy on Illegal Residents, COM (2002) 175 final, Brussels 2002, available online at: http://eur-lex.europa.eu/LexUriServ/site/en/com/2002/com2002_0175en01.pdf, p. 23

⁴¹ Monar J., op.cit., p. 404.

⁴² Commission of the European Communities, Communication from the Commission to the Council and the European Parliament: Integrating Migration Issues in the European Union's Relations with Third Countries, COM (2002)703 final. Brussels, 2002, available online at: http://ec.europa.eu/external_relations/migration/migration_in_eu/en_acte2_revised_en.pdf, p. 25

⁴³ Answer to question 4 from the questionnaire filled in by the European Commission DG Freedom, Justice and Security.

⁴⁴ Schieffer M., "Community Readmission Agreements with Third Countries-Objectives, Substance and Current State of Negotiations", *European Journal of Migration and Law*, Vol. 5, No. 3, November 2003, p. 355.

⁴⁵ Commission of the European Communities, Communication from the Commission to the Council and the European Parliament: Integrating Migration Issues in the European Union's Relations with

incentives include the prospect of EU membership, Visa Facilitation Agreements, legal immigration quotas, funding through the AENEAS Program⁴⁶, closer economic and trade cooperation. Furthermore, during the Seville Council the adoption of sanctions for non cooperating countries was proposed but it was assessed as harmful to third countries and dropped⁴⁷.

Readmission Agreements do not only establish the principle of mutual readmission of persons residing without permission (contracting parties' own nationals, third country nationals, stateless persons⁴⁸ including rejected asylum seekers) but also regulate a whole range of procedural and technical issues such as the transfer modalities and modes of transportation, transit return arrangements, the means of evidence, data protection, time limits for submitting the application for readmission by the requesting state and the issuance of travel documents by the requested state, and cost⁴⁹ distribution. The Agreement is implemented by a Joint Readmission Committee consisting of representatives of the European Commission and the other contracting party.

According to the Council of the European Union, "the objective of readmission is to make the Member States and third States take responsibility for the failings of their border control systems"⁵⁰. Furthermore, they are considered crucial for safeguarding the credibility of the asylum, migration policies and systems⁵¹,

Third Countries, COM (2002)703 final. Brussels, 2002, available online at: http://ec.europa.eu/external_relations/migration/migration_in_eu/en_acte2_revised_en.pdf, p. 25

⁴⁶ 5 year funding program (budget of € 250 million) to offer financial and technical assistance in the migration and asylum field. European Parliament, Council of the European Union, Regulation (EC) No 491/2004 of 10 March 2004, "Establishing a Programme for financial and technical assistance to third countries in the areas of migration and asylum" (AENEAS), Official Journal of the European Union, L80, 18 March 2004.

⁴⁷ For a more detailed catalogue of positive and negative incentives: Roig A., Huddleston T., "EC Readmission Agreements: A Re-evaluation of the political impasse", *Journal of European Migration and Law*, Vol. 9, No. 3, August 2007, pp. 378-379.

⁴⁸ Third Country Nationals (TCNs): any person who holds a nationality other than that of the Member States or the one of the other contracting party.

Stateless persons: any person who does not hold a nationality.

⁴⁹ Without prejudice to the right of the competent authorities to recover the costs associated with the readmission from the person to be readmitted or third parties, all transport costs incurred in connection with readmission and transit operations pursuant to this Agreement as far as the border of the State of final destination shall be borne by the requesting State. (Art. 15 of Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorisation – Declarations, Official Journal L 124 , 17/05/2005 P. 0022 – 0040, [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22005A0517\(02\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:22005A0517(02):EN:HTML))

⁵⁰ Council of the European Union, Catalogue or recommendations for the proper application of the Schengen acquis and of best practices -removal and readmission, 12790/1/01, Brussels, November 2001, available online at: <http://register.consilium.eu.int/pdf/en/01/st12/12790-r1en1.pdf>, p. 9.

⁵¹ Kruse I., op.cit., p. 122.

undermining of the smuggling network operations and providing clear and specific procedures for safe, organized and efficient returns.

Readmission is not an easy process as it “involves complex diplomatic, technical, infrastructural and human dimensions”⁵². It involves three actors, the requesting state (host country), the requested state (country of origin or transit) and the person to be readmitted, whose interests are rather conflicting. The requesting state is willing to expel the person residing illegally in its territory claiming the integrity of its legislative system on asylum and migration or security reasons. The requested state may retard identification or documentation of the individual in question either due to inadequate administrative structures⁵³ or because it deems that it is against the interest of a citizen who doesn’t wish to return despite his illegal situation⁵⁴ or because it denies that the person is a citizen or a TCN that transited its territory⁵⁵. Let’s not forget that some countries of origin depend on remittances of emigrants. The person is the object of this process; it can either leave voluntarily or stay in illegality but in fear of being forcibly removed in case of detection.

The Readmission Agreements reckon the principle of reciprocity as the basis on which return procedures are to take place. I. Kruse, however, underlines that this argument is hypocritical claiming that “it is hard to imagine many EU citizens illegally residing in neighboring countries like Albania or Ukraine”⁵⁶. Furthermore, according to R. Keohane, “Readmission Agreements characterize relations among unequals above all when they involve two signatory countries that have a significant level of development asymmetry”⁵⁷ while J.P. Cassarino further stresses that “the obligations contained in Readmission Agreements are typically unequal; the inequality lies in the structural, institutional and legal capacity of the contracting parties to deal with the removal of aliens and asymmetric impact of implementation

⁵² International Organization for Migration (Tirana), "Report on Readmission and Return Experiences in the Western Balkan Region", Regional Forum on Return and Readmission (5-6 March 2008), *IOM, Hellenic Ministry of Interior, Hellenic Migration Policy Institute*, Tirana 2008, p. 51.

⁵³ Noll G., "Rejected asylum seekers: the problem of return", *International Migration*, Vol. 37, No 1, March 1999, p. 274.

⁵⁴ International Organization for Migration (Tirana), op.cit, p.34.

⁵⁵ Kruse I., op.cit., p. 119.

⁵⁶ Ibid, p. 122.

⁵⁷ Cassarino J.P., "Informalising Readmission Agreements in the EU Neighbourhood", *The International Spectator*, Vol. 42, No 2, 2007, p.182.

of the Readmission Agreements. Perceived costs and benefits of Readmission Agreements differ substantially for contracting parties”⁵⁸.

Furthermore, Readmission Agreements include non affection clauses both in the preamble and in article 17. The EU-Albania Readmission Agreement stipulates that: “This Agreement shall be without prejudice to the rights, obligations and responsibilities of the Community, the Member States and Albania arising from International Law and, in particular, from the European Convention of 4 November 1950 for the Protection of Human Rights, the Convention of 28 July 1951 and the Protocol of 31 January 1967 on the Status of Refugees, and international instruments on extradition”⁵⁹. Despite this provision, Readmission Agreements have been heavily criticized of “not referring to human rights or refugee law⁶⁰” and not safeguarding the human rights of readmitted persons⁶¹.

According to L. Long and S. Celebic, “the EC legislation which focuses on returns and detention lacks the safeguards and international protections afforded to refugee and citizens of EU member states”⁶². However, EU officials stress: “Readmission Agreements are not the only instrument intervening in this process; they are only a part of the EU – third country relations. What’s more, they are not designed to safeguard human rights but to facilitate safe and efficient return and they are applied to persons illegally present in states’ territories including asylum seekers whose applications have been rejected; they only take effect after all legal means are exhausted and at the end of the process. States are bound by the respective international law and treaties obligations in the field of human rights”⁶³.

There are also questions about the legitimacy and the compatibility of the Readmission Agreements themselves with international law concerning the readmission of TCNs. According to Prof. Hailbronner, “the principle of readmission of one’s own nationals is generally recognized in the contractual practice under international law. It is also valid on the basis of a universal opinion iuris and common

⁵⁸ *ibid.*

⁵⁹ Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorisation, Official Journal, L 124, 17 May 2005, pp. 0022-0040.

⁶⁰ Trauner F., Kruse I., “EC Visa Facilitation and Readmission Agreements: Impelementing a New EU Security Approach in the Neighbourhood”, *Centre for European Policy Studies*, CEPS Working Document No. 290, April 2008, p. 26.

⁶¹ Balzacq T., p. 28.

⁶² Mackenzie C. (ed.), *op.cit.* p. 22.

⁶³ Interview with European Commission (DG Freedom, Security and Justice) official in charge of Readmission Agreements.

practice of states as a principle of Customary International Law. [...] Home states are obliged according to the principles of equity, to collaborate in the implementation of the re-acceptance of their own nationals and to this end to issue necessary substitute papers within reasonable time”⁶⁴.

The same cannot be claimed for the readmission of TCNs which is one of the main impediments of the negotiations conclusion and “against EU member states’ objective of promoting sustainable return”⁶⁵. The Treaty of Amsterdam provided, however, only for the conclusion of readmission agreements that include the return of TCNs as well on grounds of the principle of neighborliness and responsibility of a state for those impairments caused to other states from the insufficient control of its territory. It is based, thus, on the ideas of good neighborliness and solidarity⁶⁶. It is claimed that through this practice, the EU and its member states attempt to transform international law and integrate the readmission of TCNs into customary law.⁶⁷

Finally, the goal of concluding a high number of readmission agreements with all the states neighboring the EU could be considered as an attempt to create “concentric circles of demarcation”⁶⁸ transferring the responsibility of processing asylum claims and expelling irregular immigrants outside the EU territory. According to Prof. F. Crepeau, the Readmission Agreements’ first objective is to create a safety net at the entry of the EU⁶⁹. These trends concern third countries and render the signature of Readmission Agreements more difficult as the latter do not wish to transform into “buffer zones”, “waiting rooms”⁷⁰ or “dumping grounds” for the European Union’s unwanted immigrants.

⁶⁴ Inter-Governmental Consultations for Asylum, Refugee and Migration Policies in Europe, North America and Australia, “IGC Report on Readmission Agreements”, January 2002, available online at: <http://www.baliprocess.net/files/ReturnsProject/IGC%20Report%20on%20Readmission%20Agreements%20Jan%202002.pdf>, p. 36

⁶⁵ Roig A., Huddleston T., “EC Readmission Agreements: A Re-evaluation of the political impasse”, *Journal of European Migration and Law*, Vol. 9, No. 3, August 2007, p. 365.

⁶⁶ Trauner F., Kruse I., op.cit. p. 9.

⁶⁷ Kruse I., op.cit. p. 123.

⁶⁸ The inner circle is the Schengen area; the middle circle includes the network of Readmission Agreements while the outer circle the pre-embarkation checks, Trauner F., Kruse I., op.cit. p. 8-9.

⁶⁹ Bouteillet Paquet D., op.cit., p. 364.

⁷⁰ Wallace C., “Opening and Closing Borders: migration and mobility in East Central Europe”, *Journal of Ethnic and Migration Studies*, Vol. 28, No 4, October 2002, p. 604.

Total Number of Refused and Apprehended Aliens in the EU-15, 2000-2003

	2000	2001	2002	2003
Refused Aliens	257,064	254,741	253,850	909,403
Apprehended Aliens	615,046	617,383	519,223	363,511

Source: European Commission, Berlin Institute for Comparative Social Research, G  DAP, "Migration and Asylum in Europe 2003"⁷¹.

Unfortunately, there are no EU wide valid data on the number of readmissions effected. It is estimated that around 30 million people cross international borders irregularly, of whom 400,000-500,000 enter the EU territory. It is s also estimated that around 3mil people reside irregularly in the EU⁷². However, the magnitude of the phenomenon becomes obvious from the number of removed, refused and apprehended aliens presented in these two tables.

Total Number of Removed Aliens (2003-2006)

Country	2003	2004	2005	2006
Austria	11,070	9,408	5,239	4,904
Belgium	9,996	9,647	10,302	9,264
Bulgaria	814	1,271	1,608	1,501
Cyprus	3,307	2,982	3,015	3,222
Czech Republic	2,602	2,649	2,730	1,228
Denmark	3,100	3,093	2,225	1,986
Germany	30,176	26,807	19,988	15,407
Estonia	171	101	60	91
Finland	2,773	2,775	1,900	1,410
France	11,692	15,672	18,120	21,271
Greece	40,930	35,942	51,079	54,756
Hungary	4,804	3,980	4,348	3,057
Ireland	n.a.	n.a.	n.a.	n.a.
Italy	31,013	27,402	24,001	16,597
Latvia	375	234	162	141
Lithuania	846	306	182	168
Luxembourg	n.a.	n.a.	n.a.	n.a.
Malta	847	680	962	781
Netherlands	23,206	17,775	12,386	12,669
Poland	5,879	6,042	5,141	9,272
Portugal	2,798	3,507	6,162	1,079

⁷¹ European Commission, Berlin Institute for Comparative Social Research, G  DAP, "Migration and Asylum in Europe 2003", available online at: http://ec.europa.eu/justice_home/doc_centre/asylum/statistics/docs/2003/2003_annual_statistics_report.pdf, p. 96.

⁷² Trauner F., Kruse I., op.cit., p. 1.

Romania	500	650	616	680
Slovenia	3,209	2,632	3,133	3,173
Slovakia	1,293	2,528	2,569	2,185
Spain	26,757	27,364	25,359	33,235
Sweden	7,355	11,714	8,122	3,793
United Kingdom	21,380	n.a.	n.a.	n.a.
Total	246,893	215,161	209,409	201,870

Source: European Commission, 2008⁷³

IV. Readmission policy and Greece's neighbors

The fall of Communist regimes in western Balkans, the regional conflicts during the 1990s, the geographical position of the region at the crossroads of south, north, east and west and its economic disparities with EU neighbors created large flows of emigrants including both economic migrants and asylum seekers, the majority of whom settled and resided irregularly in the different European countries. The Western Balkans are also countries of transit for Asian and Middle Eastern refugees. According to former British Home Secretary Jack Straw "Clandestine entry through the Western Balkans...accounts for over half of all clandestines entering the EU"⁷⁴. It is also evident that there are two main routes: "a southern route runs through FYR of Macedonia and Albania to Greece and southern Italy and a northern route runs via Serbia to Croatia and Hungary and then into Austria or Northern Italy"⁷⁵.

Agreements linked to readmission concluded between the EU-27 and non-EU countries	
	Non EU Countries in Eastern Europe and the Balkans
Formal Readmission Agreements	87
Memoranda of understanding	1
Exchanges of letters	0
Police cooperation agreements	3
Other cooperation deals	0
Total	91

Source: MIREM, <http://www.mirem.eu>, January 2007⁷⁶

⁷³ Trauner F., Kruse I., op.cit., p. 28.

⁷⁴ Peshkopia R., op.cit., p. 221.

⁷⁵ Ibid.

⁷⁶ Cassarino J.P., op.cit., p. 188.

Javier Solana, the EU High Representative for the Common Foreign and Security Policy, has remarked that “the Balkans and Southern Mediterranean deserve the EU’s utmost attention, because their political and economic evolution can have serious implications for European prosperity and even its security”⁷⁷. As a result, the EU has sought to engage the Western Balkans in its fight against illegal migration.

In the aftermath of the Kosovo war, at the Zagreb meeting of 2000, the EU established its Stabilization and Association Process (SAP) and granted the non-member states of Southeast Europe the status of “potential candidates for EU membership”⁷⁸. The Stabilization and Association Agreements (SAA) that were to be signed with Southeast European states in the framework of the SAP provided for “the readmission of any national of these countries illegally present on the territory of a Member State of the EU, upon the request of the latter and without further formalities once such a person has been positively identified as such”⁷⁹.

Within the framework of the Stability Pact for Southeast Europe, the Tirana meeting on Regional Cooperation in Southeastern Europe to Manage and Stabilize Population Movements took place in 2002 in order to deal with issues related to migration, asylum and refugee return. What’s more, the Declarations of Zagreb (2001) and Sarajevo (2001) were perceived as steps towards the implementation of the Council Decision of 25 November 1999 for the inclusion of model readmission clauses in agreements between the European Community, its member states and third countries⁸⁰.

In 2001, the Western Balkans were included in EU’s negative visa list. The European Council of Thessalonica (2003) provided the Western Balkans with the prospect of visa liberalization; the ease of visa restrictions would be made conditional on to the signature of Readmission Agreements and more broadly on substantial efforts by these countries⁸¹.

According to R. Peshkopia, there is a discrepancy between the EU and the Balkans’ interests. Governments lured by EU membership act to satisfy EU demands without however domestic need to spend funds and energy for asylum and

⁷⁷ Tzifakis N., "European Union's region building and boundary drawing policies", *Journal of Southern Europe and the Balkans*, Vol. 9, No 1, April 2007, p. 47.

⁷⁸ Trauner F., Kruse I., op.cit., p. 12.

⁷⁹ Peshkopia R., op.cit., p. 235.

⁸⁰ Ibid, p. 224.

⁸¹ Trauner F., Kruse I., op.cit., p. 13.

immigration institutional building and despite other more urging internal problems.⁸² As Geddes underlines, however, “to make a formal policy commitment does not mean that this commitment will be fulfilled if legal, bureaucratic and administrative resources are lacking”⁸³.

On the other hand, Turkey has been a rather experienced country in the field of migration. It is one of the main gateways to Europe for immigrants from Iran, Iraq, Afghanistan and Asian countries including China⁸⁴. While, its relations with the European Community/Union date back to 1963 when an Association (Ankara) Agreement was signed, K. Kirisci claims that it is “since Turkey became a candidate country (2004) that EU’s impact on Turkish immigration and asylum policy has gained in importance”⁸⁵. However, the EU – Turkish Readmission Agreement negotiations have been stalled.

Albania, FYR of Macedonia and Turkey are the only non-EU neighbors of Greece in Southeast Europe. They all face serious problems with inefficient bureaucratic systems, corruption and large informal economy which facilitate irregular migration flows⁸⁶. Greece has been under considerable pressure as a major transit and destination country for illegal migrants coming from or transiting Albania, FYR of Macedonia and Turkey. Greece has now more immigrants than any southern European country in proportion to its population⁸⁷. During 2007, 112,364 irregular migrants were apprehended for illegal stay or entry by the Greek authorities while 25,113 applied for asylum⁸⁸.

For over 15 years now, the main goal of Greek migration policy has been the restriction of migration⁸⁹ while the country is trying to come to terms with the new reality of being a host rather than a country of origin. Greece has both tried to

⁸² Peshkopia R., op.cit., p. 219.

⁸³ Peshkopia R., "Asylum capacity building in the Balkans: A rational answer to leaders' concerns", *Albanian Journal of Politics*, Vol. 1, No 1, 2005, p. 36.

⁸⁴ Vayrynen R., "Illegal Immigration, Human Trafficking and Organised Crime", *World Institute for Development Economics Research, United Nations University*, Discussion Paper No. 2003/72, October 2003, p.12.

⁸⁵ Lavenex S., Ucarer E., *Migration and the externalities of European Integration*, Lanham, Boulder, New York: Lexington Books, 2003, p. 126.

⁸⁶ The idea of factors facilitating irregular migration can be found in: Fakiolas R., "Regularising undocumented immigrants in Greece: procedures and effects", *Journal of Ethnic and Migration Studies*, Vol. 29, No 3, May 2003, pp. 535-561.

⁸⁷ Papadopoulou A., "Smuggling into Europe: transit migrants in Greece", *Journal of Refugee Studies*, Vol. 17, June 2004, p. 169.

⁸⁸ Data provided by the Hellenic Ministry of Interior.

⁸⁹ Τριανταφυλλίδου Άννα, "Ελληνική Μεταναστευτική Πολιτική: Προβλήματα και Κατευθύνσεις", *ΕΛΙΑΜΕΠ*, Κείμενα Πολιτικής No 6, 2005, p.10.

legalize irregular migrants and expel as many undocumented migrants as possible; from 1990 to 2003, Greece expelled 2.3 million migrants⁹⁰. It signed a Greek-Turkish Readmission Protocol in 2001 and included readmission clauses in its Policy Cooperation Agreement with Albania and Police Cooperation Protocol with FYR of Macedonia (not yet ratified). According to the Hellenic Ministry of Interior, "Readmission Agreements are a good and useful tool in the hands of authorities to face satisfactorily the problem of irregular migration in their territory, as long as the relevant provisions are implemented⁹¹".

IVa. EU Readmission Agreement with Albania

After several decades of political isolation, Albania established pluralist institutions and a multiparty system in 1991. During the 1990s, Albania experienced one of the world's highest emigration rates⁹² with one fourth of Albanians and a half of the Albanians professionals leaving the country. In 2001, Albania received \$ 615 million in remittances from national emigrants⁹³. In its National Strategy on Migration, the Albanian government has identified a number of reasons for this massive emigration such as economic factors (lack of economic opportunities and poor living conditions), public security (civil unrest and poor public security), weak institutions and lack of rule of law.⁹⁴

Albania has had some experience in signing and implementing bilateral readmission agreements with European states: Italy (1997), Switzerland (2000), Hungary (2001), Belgium (2001), Germany (2002)⁹⁵. However, readmission agreements have exercised an adaptive pressure on Albania, a country with underdeveloped migration-related administrative structures and limited economic

⁹⁰ Fakiolas R., op.cit., p. 537.

⁹¹ Hellenic Ministry of Interior, answer to Question 12 of the questionnaire.

⁹² There were two waves of mass emigration: in 1991 after the dissolution of Communist regime and in 1997 after fall of the pyramid schemes in the Albanian economy.

⁹³ Martin P., Midgley E., Teitelbaum M., "Best Practice Options: Albania", *International Migration*, Vol. 40, No 3, September 2002, p. 103.

⁹⁴ Albanian Government, International Organization for Migration, "National Strategy on Migration", 2004, available online: [http://www.migrationinfo.gov.al/NSM_ENG/web-content/PAGES/WORD/Final%20eng-version%20approved%20by%20CM-%2019\[1\].11.2004.htm#_Toc86124736](http://www.migrationinfo.gov.al/NSM_ENG/web-content/PAGES/WORD/Final%20eng-version%20approved%20by%20CM-%2019[1].11.2004.htm#_Toc86124736)

⁹⁵ It has also signed Readmission Agreements with Romania (2002), Bulgaria (2002), Croatia (2003), United Kingdom (2003) and FYR of Macedonia (2004). According to the Commission Progress Report of 2006, some initial steps were also made for a Readmission Agreement with Turkey.

capacity to create them⁹⁶. Hence, when the European Commission sent a draft text for a Readmission Agreement to the Albanian government in March 2003 after receiving a mandate for negotiations in November 2002, “the Albanian authorities expressed their concerns about the lack of appropriate infrastructure for the implementation of the Agreement particularly regarding TCNs. Furthermore, the public opinion opposed it as they perceived the agreement as an obligation to take back all Albanian emigrants from the EU”⁹⁷.

However, the negotiations started in May 2003 as the EU followed an incentive driven strategy and policy of conditionality rendering the signature of a Readmission Agreement a prerequisite for signing a Stabilization and Association Agreement⁹⁸ which offered a long term but definite prospect of Albanian EU membership. The EU suggested that a Readmission Agreement should be signed with Albania as the latter is a major source of economic migrants and transit country for Kosovo refugees and asylum seekers as well as other TCNs. The instability of state institutions, the poor economic conditions, corruption, organized crime contribute to Albania being a “critical actor in the chain” of irregular migration flows in the region.

L. Long and S. Celebic present in their report the ways in which the EU views Albania: “The EU views Albania in relation to Kosovo. [...] Issues of corruption, public order, and the attitude towards the Kosovo crisis have introduced elements of vulnerability in the political, social, economic and institutional areas. Albania is further cited as the poorest country in Europe in a position of technological backwardness unparalleled in Europe. This has provoked the exodus of thousands of Albanians in Greece and Italy, with Albanians representing the highest share of TCNs in both countries. [...] Albania is also considered a country of origin (with 15% of the population or one person for each Albanian family having emigrated) and a county of transit for Kurds, Indians, Pakistani, Filipino and Chinese”⁹⁹.

During negotiations, the Albanian delegation submitted a number of proposals such as a 21-day instead of 14-day period for the verification of a person’s identity, a transition period of 5 years for the entry into force of the provisions concerning third country nationals in order to establish the necessary legal framework and institutional

⁹⁶ Kruse I., “The EU’s Policy on Readmission of Illegal Migrants”, *Max Planck University for the Study of Societies*, available online at: <http://sosci2.ucsd.edu/~aronatas/scrretreat/Kruse.Imke.pdf>, p. 19

⁹⁷ International Organization for Migration (Tirana), op.cit, p. 9.

⁹⁸ Mackenzie C. (ed.), op.cit., p. 11.

⁹⁹ Ibid, p. 24.

structures. However, the Albanian demands were rejected by the European negotiating team.

According to I. Kruse, the lack of experience of Albanians in international negotiations may have placed the EU at a privileged position. Furthermore, the Albanian Parliament was not involved in the negotiations process and the Prime Minister F. Nano “made the negotiations his personal – and secret topic. [...] This government agrees on everything the EU asks but without thinking about implementation”¹⁰⁰. The Albanian government has been quite eager to prove itself a cooperative partner for the EU but it is doubtful whether the country will respond satisfactorily to its obligations under the Agreement.

As stated in the governmental National Strategy on Migration, “Albania has shown good will by concluding the readmission agreement with the EC, in particular by accepting that it will cover third country nationals”¹⁰¹. The agreement was signed in April 2005 and came into force in May 2006 with a 2 years transition period for third country nationals (entry into force May, 2008). The European Parliament in its Report on the agreement stressed the considerable difficulties that Albania would face in implementing the relevant provisions because of shortages in human and material resources. It also reiterated Albanian authorities’ concerns over their inability to remove third country nationals from their territory due to high costs, weak mechanisms in handling irregular migration and lack of corresponding agreements with the respective countries of origin and/or transit. As a result, the European Parliament underlined the risk of readmission traps and dangers for the sustainable return of illegal migrants. Finally, it suggested that readmission issues should be linked with economic development in Albania while the country should be rewarded for its cooperation through visa facilitation provisions¹⁰².

Concerning readmission traps, I. Kruse has remarked that there is a possibility of Albania becoming a country of destination as “it will be extremely difficult to convince countries of origin to sign readmission agreements with Albania, let alone

¹⁰⁰ Kruse I., "The EU's Policy on Readmission of Illegal Migrants", *Max Planck University for the Study of Societies*, available online at: <http://sosci2.ucsd.edu/~aronatas/scrretreat/Kruse.Imke.pdf>, p. 21-22.

¹⁰¹ Albanian Government, International Organization for Migration, op.cit.

¹⁰² European Parliament, Report on the proposal for a Council decision concerning the conclusion of the Agreement between the European Community and the Republic of Albania on the readmission of persons residing without authorisation, Committee on Civil Liberties, Justice and Home Affairs, A6-0214/2005, June 2005, available online at: <http://www.europarl.europa.eu>

implement them while uncertainty over the number of returnees creates major difficulties regarding personnel, administrative capacities and reintegration programs”¹⁰³. Even though it is evident that the number of TCNs readmitted to Western Balkans is moderately increasing¹⁰⁴, EU officials point that “we should de-dramatize the provisions concerning TCNs and focus on practical implications; so far, no grave incident of readmission trap has occurred thanks to the monitoring system of Readmission Agreements. Furthermore, the prime effort is to send illegal migrants to their country of origin. Assisting Albania or FYR of Macedonia in concluding Readmission Agreements with third countries is difficult so long as the EU faces similar problems itself. Providing funds to Albania and FYR of Macedonia for the readmission of TCNs to their countries of origin/transit would be quite costly”¹⁰⁵.

Since the beginning of the 1990s, the EC has provided Albania with considerable funds to support socially and economically the transition to democracy and market economy. Since 2000, Albania has received EU funding through the budget B7-667 and its successor, the AENEAS Program. In particular, € 10 million in 2001, € 12.5 million in 2002 and € 20 million in 2003 were allocated to Albania for migration management and the fight against illegal immigration and trafficking in human beings. Furthermore, € 2 million were offered to Albania under the AENEAS program in 2004 for readmission programs. From 2001 to 2003, the Community Assistance for Reconstruction, Development and Stabilization (CARDS) program channeled € 129 million to Albania for Justice and Home Affairs, and administrative reforms.¹⁰⁶ According to the Commission Progress Report of 2007, the pre-accession financial assistance to Albania under the Instrument for Pre-Accession Assistance allocated to the latter € 61 million for the year 2007 targeted to Justice and Home Affairs, administrative capacity building, socio-economic development and democratic stabilization¹⁰⁷.

Numerous initiatives were taken by the Albanian institutions to review their facilities and procedures given the problems encountered including the lack of skilled

¹⁰³ Kruse I., op.cit., p. 127.

¹⁰⁴ International Organization for Migration (Tirana), op.cit, p. 33.

¹⁰⁵ Personal interview with official from the European Commission Directorate General of Freedom, Security and Justice.

¹⁰⁶ Data retrieved from: Mackenzie C. (ed.), op.cit., pp. 26-27.

¹⁰⁷ Commission of the European Communities, Albania Progress Report 2007, Brussels, 6 November 2007, COM (2007), 663 final available online at: http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm, p. 5.

and trained concerning human rights staff, insufficient technical equipment, and inadequate accommodation facilities for returnees¹⁰⁸. The Law on foreigners regulating aspects of removal was adopted while a legal basis for establishing reception centres was introduced in 2002. Reception facilities are under construction while border police and migration officers have had continuous training in return and readmission issues¹⁰⁹.

Albanian Nationals returned from EU countries in 2007

Country	No. of Albanian Nationals
Greece	64,060
Italy	1,848
United Kingdom	769
Switzerland	356
Croatia	319
Germany	269
France	234
Belgium	216
Slovenia	108
The Netherlands	64
Total	68,243

Source: International Organization for Migration (Tirana), "Report on Readmission and Return Experiences in the Western Balkan Region", Regional Forum on Return and Readmission (5-6 March 2008), IOM, Hellenic Ministry of Interior, Hellenic Migration Policy Institute, Tirana 2008, p.11.

In September 2007, Albania signed a Visa Facilitation Agreement¹¹⁰ with EC complementing the Readmission Agreement, a long desired Albanian goal. During the Regional Forum on Return and Readmission which took place in 2008 in Tirana, complaints were expressed by Albanian representatives that the current visa regime has isolated western Balkans while Europe remains a fortress behind the Schengen wall for those outside waiting for invitation¹¹¹.

In its successive progress reports (2006-7), the European Commission has underlined the need for Albania to improve its capacity to implement the EU Readmission Agreement; it has also remarked that Albania continues to be a transit country for economic migrants, asylum seekers and trafficked persons, the National

¹⁰⁸ Kruse I., op.cit., p. 134.

¹⁰⁹ International Organization for Migration (Tirana), op.cit, p. 11.

¹¹⁰ It entered into force in January 2008.

¹¹¹ Ibid., p. 42.

Strategy on Migration has not produced tangible results and the need to enhance cooperation with neighbouring countries on irregular migration control.¹¹²

In these reports, it has also been recommended to Albanian authorities to “evaluate the impact of readmission agreements on the Albanian asylum system”¹¹³. The Commission Progress Report of 2007 remarks that “there is limited progress on asylum issues, no coherent single asylum strategy is yet in place while the Albanian protection regime for those granted asylum remains weak”¹¹⁴. According to UNHCR in Albania, non-transparent and insufficient asylum procedures could deprive persons refused at the borders from legitimate protection. The number of asylum seekers in Albania is low for the moment; in 2003 there were around 50 cases. However, it is doubtful whether this weak asylum system could function if an influx of readmitted TCNs sought asylum. Albania cannot be considered a safe third country according to UNHCR criteria and this “indicates that the return of rejected asylum seekers to Albania might imply a lowering of asylum standards below internationally accepted standards”¹¹⁵.

Overall, the Albanian representative in the Regional Forum on Return and Readmission evaluated positively the Readmission Agreement pointing to the rationalisation of return procedures, the existence of specific timeframes, the better exchange of information and expertise at the regional level¹¹⁶. There are concerns about return of TCNs and the need to sign readmission agreements with their countries of origin but their numbers are still limited since the clause entered into force last May. In any case, it can be argued that the EU Readmission Agreement has not negatively affected Albania as readmitted Albanians would not find it difficult to return irregularly to destination countries¹¹⁷ while its signature initiated a new phase in EU-Albanian relations.

¹¹² For more details, please see: Commission of the European Communities, Albania Progress Report 2006, Brussels, 8 November 2006, SEC (2006) 1383, available online at: http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm.

Commission of the European Communities, Albania Progress Report 2007, Brussels, 6 November 2007, COM (2007), 663 final available online at: http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm

¹¹³ Commission of the European Communities, Albania Progress Report 2006, op.cit., p. 40.

¹¹⁴ Commission of the European Communities, Albania Progress Report 2007, Brussels, 6 November 2007, p. 45.

¹¹⁵ Kruse I., op.cit., p. 137.

¹¹⁶ International Organization for Migration (Tirana), op.cit, p. 9.

¹¹⁷ From personal interview with staff from the Hellenic Institute of Migration Policy (I.MEPO).

The EU has managed to exercise sufficient leverage on Albania by continuously offering new incentives in order to achieve compliance with its conditionality (SAA, Visa Facilitation Agreement). However, the commitment of the Albanian government to its European integration prospect has been undermined by domestic political and economic shortcomings.

IV b. EU Readmission Agreement with the Former Yugoslav Republic of Macedonia

In 1991, FYR of Macedonia declared its independence from the Socialist Federal Republic of Yugoslavia. The state that emerged had numerous internal and external problems to deal with. The Socialist Republic of Macedonia was the third most underdeveloped state of Yugoslavia¹¹⁸ while there were major economic discrepancies between the various regions within the former. Furthermore, the multiethnic society was and still is deeply segregated and divided in almost all walks of life; there is a delicate interethnic balance in FYR of Macedonia between the Macedonian majority and the main minority, the Albanians who maintained close relations with their compatriots in Kosovo.

Population Profile (2002 census)

Macedonian	64.2%
Albanian	25.2%
Turkish	3.8%
Roma	2.7%
Serb	1.8%
Bosniacs	0.8%
Vlachs	0.5%
Other	1%

Despite major interethnic tensions during the 1990s, FYR of Macedonia managed for almost a decade to remain stable. The conflict in Kosovo, however, in 1998 disturbed the delicate interethnic balance. The Kosovo Liberation Army (KLA) crossed the porous Macedonian borders to seek refuge and recruit Macedonian Albanians while well developed criminal networks smuggled weapons, drugs and human beings from Albania, through FYR of Macedonia to Kosovo and beyond¹¹⁹.

¹¹⁸ For more details, please see: Κοππά Μ., Κώνστας Δ., Μια εύθραυστη δημοκρατία: *Η Πρώην Γιουγκοσλαβική Δημοκρατία της Μακεδονίας ανάμεσα στο παρελθόν και το μέλλον*, Παπαζήσης 1994.

¹¹⁹ For an analysis on the impacts of Kosovo conflict to the Macedonian crisis of 2001: Bellamy A.J., "The new wars at the door: Conflict in Macedonia", *Civil War*, Vol. 5, No 1, 2002, pp. 117-144 and

According to United Nations High Commissioner on Refugees, around 225,000 Kosovar Albanians sought refuge in FYR of Macedonia, 80,000 of whom lived in refugee camps while the rest with Macedonian Albanian families¹²⁰.

In January 2001, a conflict broke out in FYR of Macedonia between the two major ethnic groups. Although there are doubts whether the insurgents were actually willing to secede from FYR of Macedonia, the crisis escalated and it was thanks to EU that the Macedonian side conceded to negotiate with the insurgents. The EU offered the Macedonian government the prospect of closer EU relations through the conclusion of a Stabilization and Association Agreement¹²¹. This was a major incentive for the Macedonian side to sign the Ohrid Framework Agreement and end the conflict. FYR of Macedonia was the first Western Balkans country that signed a SAA with the EU in 2001.

The Stabilization and Association Agreement with FYR of Macedonia entered into force in 2004, the same year the government submitted an application of EU membership while in 2005 it was granted the status of candidate country. In February 2004, all Macedonian political parties in the Parliament issued a joint declaration stressing that the country's accession to the EU is a national strategic goal¹²². Furthermore, from 2001 to 2004, the government prepared a number of action plans to accelerate reforms such as the National Strategy for European Integration (September 2004) or the Model EU Alignment Strategy on Migration (2004-2005). However, despite these measures and the granting of candidate status, the European Commission remains skeptical about Macedonia's progress in reforms and its potential to initiate negotiations.¹²³

For the FYR of Macedonia, the questions of asylum and migration would not have been prioritized if it was not for the EU pressures and conditionality. In fact, "before 2004, migration was regulated by old laws of the Socialist Federal Republic of Yugoslavia; the EU and the prospect of European integration had a catalytic effect

Hislope R., "Between a bad peace and a good war: insights and lessons from the almost war in Macedonia", *Ethnic and Racial Studies*, Vol. 26, No 1, 2003, pp. 129-151.

¹²⁰ Bellamy A.J., op.cit., p. 129.

¹²¹ Hislope R., op.cit., page 142.

¹²² Commission of the European Communities, Analytical Report for the Opinion on the application from the Former Yugoslav Republic of Macedonia for EU Membership, Brussels, 9 November 2005, SEC (2005) 1425, available online at: http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm, p. 6

¹²³ Van Selm J., "Macedonia: at quiet crossroads", *Migration Policy Institute*, June 2007, available online at: <http://www.migrationinformation.org/Profiles/display.cfm?ID=608>, p. 8.

on the adoption of new laws such as the Law on Foreigners”¹²⁴. Apart from the conclusions of the EU-Western Balkans Summit held in Thessalonica on 21 June 2003 which clearly provided for the engagement of Western Balkans in the fight against illegal migration, it was mainly the position of FYR of Macedonia as a transit country for illegal migrants (mainly from Albania and Kosovo) and the smuggling and human trafficking operations of criminal networks within the Macedonian territory that made the signature of an EU Readmission Agreement imperative.

Furthermore, the article 76 (2) of the SAA stipulated that: “[t]he Parties agree to conclude, upon request, an agreement between the former Yugoslav Republic of Macedonia and the European Community regulating the specific obligations for the former Yugoslav Republic of Macedonia and for the Member States of the European Union for readmission, including an obligation for the readmission of nationals of other countries and stateless persons.”¹²⁵

On these grounds, the Government of the FYR of Macedonia adopted a conclusion for intensifying procedures for concluding readmission agreements. In this context, the Ministry of Interior created a draft text –bilateral Readmission Agreement and Protocol for its implementation – and made a proposal for delivering it to EU member states and candidate states¹²⁶. The draft text was compatible with EU standards on readmission agreements while the same year an inter-ministerial group was created to work on concluding readmission agreement procedures¹²⁷.

FYR of Macedonia has signed several bilateral readmission agreements with EU member states and third countries such as Italy, Slovenia, France, Slovakia, Hungary, the Federal Republic of Germany and others; in 2007, it was estimated that there were 14 ratified readmission agreements with EU member states and 6 with third countries¹²⁸. Despite these agreements, FYR of Macedonia claims that “states (except

¹²⁴ From personal interview with person responsible for Readmission Agreements at the International Organization of Migration in Skopje.

¹²⁵ Commission of the European Communities, Proposal for a Council Decision concerning the signing of the Agreement between the European Community and Former Yugoslav Republic of Macedonia on readmission, Brussels, 19 July 2007, COM (2007) 432 final, 2007/0147 CNS, p. 2.

¹²⁶ Migration, Asylum, Refugees, Regional Initiative, Questionnaires filled in by Albania and Former Yugoslav Republic of Macedonia on National Migration Management Organisation, 2007, available online at: [http://www.marri-rc.org/upload/Documents/Resources/Questionnaire%20on%20Migration%20Management%20\(December%202006\).pdf](http://www.marri-rc.org/upload/Documents/Resources/Questionnaire%20on%20Migration%20Management%20(December%202006).pdf), p. 27.

¹²⁷ Ibid., p. 28.

¹²⁸ Commission of the European Communities, Former Yugoslav Republic Of Macedonia Progress Report 2007, Brussels, 6 November 2007, COM (2007) 663 final, available online at: http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm, p. 53.

for Germany and Switzerland) have not been honouring existing readmission agreement or have been honouring them very rarely [...] due to the specific categories of returning persons”¹²⁹.

In November 2006, the Council authorised the Commission to start negotiations with FYR of Macedonia. During the same month, negotiations started for both a Readmission and a Visa Facilitation Agreement and were concluded in September 2007; the former entered into force in January 2008. Nevertheless, negotiations were not easy. The FYR of Macedonia delegation objected to the inclusion of provisions concerning the readmission of TCNs mainly because the majority of these would be transit migrants or stateless persons with some connection to FYR of Macedonia, mainly Kosovar Albanians¹³⁰. Given that the bilateral Readmission Agreement with Germany contained such a clause, with the latter being the host country of the largest community of Kosovar Albanian in Europe, FYR of Macedonia had to compromise.

In fact, a separate article (Art. 3) was included in the EU Readmission Agreement stipulating that: “The former Yugoslav Republic of Macedonia shall also readmit, upon application by a Member State, former nationals of the Socialist Federal Republic of Yugoslavia who have acquired no other nationality and whose place of birth, and place of permanent residence on 8 September 1991, was in the territory of the former Yugoslav Republic of Macedonia”¹³¹. Furthermore, the swift conclusion of the Readmission Agreement could be attributed to the parallel negotiations of the Visa Facilitation Agreement¹³². FYR of Macedonia rather aimed at a visa liberalization regime but this was not possible¹³³.

Overall, officials from FYR of Macedonia positively evaluate the rationale and implications of the Readmission Agreements. “The Readmission Agreements are beneficial for the effective border control; faster return procedure; specifying type and level of evidence required for the nationality to be established, high level of protection

¹²⁹ Migration, Asylum, Refugees, Regional Initiative, op.cit., p. 33.

¹³⁰ Van Selm J., op.cit., p.8.

¹³¹ Commission of the European Communities, Proposal for a Council Decision concerning the signing of the Agreement between the European Community and Former Yugoslav Republic of Macedonia on readmission, Brussels, 19 July 2007, COM (2007) 432 final, 2007/0147 CNS, p. 16.

¹³² Personal interview with official from the European Commission Directorate General of Freedom, Security and Justice.

¹³³ Van Selm J., op.cit., p. 9.

human rights to the persons who are returned under the readmission agreements and the identification of the party that needs to cover the cost in specific situations”¹³⁴.

On the other hand, the country faces several difficulties as administrative capacity remains weak and resources to recruit new staff and buy new equipment are lacking¹³⁵. “Moreover, FYR of Macedonia faces several challenges after the conclusion of the agreement such as proper training of the personnel, arrangements for the transfer modalities, funding for effecting readmission of people. Arrangements of visa and transport modalities are quite expensive for the limited Macedonian budget; in the past, readmissions had to be funded by the IOM because of lacking economic resources. FYR of Macedonia also places particular emphasis on the re-integration process of the returnees and this will ultimately determine the sustainability of return. This is why the government has established a committee to work on ways to facilitate proper integration of the returnees for the years 2009-2010”¹³⁶.

The EU pre-accession financial assistance to FYR of Macedonia for 2006 was €43.6 million; under the CARDS programme the country has received € 195.5 million since 2002. Despite the lack of an integrated database on migration, some data for 2007 are available. The Ministry of Interior managed 1,820 cases of persons who tried to cross the border irregularly; of these 1,706 were Albanians, 107 Serbs, 3 Bulgarians, 3 Romanians and 1 from the Dominican Republic.

No of Persons Readmitted from EU member states to FYR of Macedonia in 2007

Country	No. of Readmitted Persons
Germany	188
Republic of Austria	28
Norway	16
Denmark	15
Belgium	16
France	21
Italy	46
Bulgaria	9

¹³⁴ From personal interview with person responsible for Readmission Agreements at the International Organization of Migration in Skopje.

¹³⁵ Commission of the European Communities, Former Yugoslav Republic Of Macedonia Progress Report 2007, op.cit., p. 54.

¹³⁶ Information from personal interview with person responsible for Readmission Agreements at the International Organization of Migration in Skopje.

Slovenia	18
Sweden	17
The Netherlands	8
Poland	3
Finland	1
Luxemburg	3
Slovakia	2
Greece	1
Spain	1
Total	365

Source: IOM, Skopje, 2008.

FYR of Macedonia can be considered a safe third country according to EU officials¹³⁷ as asylum institutions and laws are in place and are compatible with EU standards. However, the European Commission in its progress reports has underlined that FYR of Macedonia should be better prepared for a possible mass influx of refugees while more training, technical and financial support is necessary to all staff in order to improve their expertise, independence and transparency in asylum cases.¹³⁸

Based on this analysis, we could conclude that given the limited volume of emigration and immigration in FYROM, the EU Readmission Agreement has not had grave implications for the country. Despite the country's unwillingness to readmit TCNs and given its delicate interethnic balance, negotiations for the readmission agreement were concluded rather quickly thanks to its commitment to European integration and its eagerness for visa facilitation. However, the successful implementation shall depend on further allocation and improvement of material and human resources in this policy area; this is difficult though due to the country's economic problems.

¹³⁷ Personal Interview with official from the European Commission Directorate General of Enlargement.

¹³⁸ Commission of the European Communities, Analytical Report for the Opinion on the application from the Former Yugoslav Republic of Macedonia for EU Membership, op.cit., p. 115.

IV c. EU Readmission Agreement with Turkey

According to Apap, Kirisci and Carrera, “the founders of the modern Turkish state were concerned to create a homogeneous sense of national identity in an otherwise ethnically and culturally diverse country. Exclusive priority was given to encouraging and accepting immigrants who were either Turkish speaking Muslims or who were considered to belong to ethnic groups that would easily melt into a Turkish identity such as Albanians or Bosnians”¹³⁹. Turkey’s national immigration policy and the question of who is admitted in the country are closely linked to the Republic’s perception of national identity and citizenship¹⁴⁰.

These notions and policy choices can be explained by Turkey’s geographical location in a rather unstable migrant producing region, its long history as a transit country (since the 1980s) and recent experience as an immigration country (since the mid 1990s)¹⁴¹. According to data provided by the Turkish Embassy in Greece, nearly 700,000 illegal immigrants were apprehended during the period 1995-2007¹⁴².

Due to security concerns, Turkey has also developed a rather idiosyncratic asylum system. The country has imposed a geographic limitation on the application of the 1951 Geneva Convention creating a two tier asylum policy. The first tier includes Convention refugees, people coming from Europe seeking protection in Turkey. The second tier includes non Convention refugees, people from geographic regions outside Europe. This provision has been heavily criticised by western governments¹⁴³ while the Commission in its progress reports has suggested that it should be lifted. Furthermore, the Commission has remarked that aliens apprehended away from the Turkish border are not always permitted to submit an asylum claim as they are

¹³⁹ Apap J, Carrera S, Kirisci K, "Turkey in the European Area of Freedom, Security and Justice", *Centre for European Policy Studies, EU-Turkey Working Papers*, No.3, (August 2004), p. 18.

¹⁴⁰ Migration Research Group, "Country Profile: Turkey", *Focus Migration*, Hamburg Institute of International Economics, No 5, April 2006, available online at: www.focus-migration.de/typo3_upload/groups/3/focus_Migration_Publikationen/Laenderprofile/CP_05_Turkey.pdf, p. 3.

¹⁴¹ Icduygu A, "Irregular Migration in Turkey", *International Organization for Migration*, Migration Research Series No 12, Geneva, 2003, available online at: <http://www.iom.int/documents/publication/mrs%5F12%5F2003.pdf>

¹⁴² Abstract from the Reply of the Turkish Embassy in Greece to the questionnaire.

¹⁴³ For more details on the Turkish asylum system please see: Lavenex S., Ucarer E., "The external dimension of Europeanization: The Case of Immigration Policies", *Cooperation and Conflict: Journal of the Nordic International Studies Association*, Vol. 39, No 4, 2004, p. 128.

considered to have acted in bad faith¹⁴⁴; thus, it appears that there is scope for refoulement of asylum seekers.

K. Kirisci underlines that Turkey has attracted EU's attention because "it has been for long a country of emigration with almost 3.5 million Turkish citizens residing in Europe; it has been among the top countries of origin for asylum seekers in Europe; it has been a major destination and transit country for illegal immigrants and it has been an important potential partner for EU member states in terms of combating illegal immigration"¹⁴⁵.

Turkey's way towards European integration has been a long lasting one, starting in the 1960s with the Association Agreement. In 1987, the country applied for EC membership but this was rejected in 1989, in 1996 the Customs Union entered into force, in 1999 it was excluded from the list of candidate countries at the Luxembourg Summit. In 1999, EU-Turkish relations entered into a new phase with Turkey being granted candidate status. In 2000, the Accession Partnership, the cornerstone of the pre-accession strategy for Turkey, was signed.

This long and uneasy process has undermined Turkish officials' commitment to EU integration and compliance with EU's imperatives in the field of migration and asylum. They are faced with a dilemma, according to K.Kirisci, "they fear a situation where they may actually choose to cooperate with EU harmonizing their asylum policies and broader immigration without this revision leading to actual membership. [...] Turkish security would be undermined if Turkey were to adopt the *acquis* without membership"¹⁴⁶.

Under the Accession Partnership Document (APD - 2000), Turkey is expected among other things to "enhance its border controls, implement the Schengen *acquis*, harmonize its policy to the EU *acquis* on visa, adopt EU *acquis* on migration in order to prevent illegal migration"¹⁴⁷ and hence sign Readmission Agreements with the EU and third countries. In response to APD, the government prepared its National Program for the Adoption of the *Acquis* in 2001 which provided for the necessary

¹⁴⁴ Commission of the European Communities, Turkey Progress Report 2004, Brussels, 6 October 2004, SEC(2004) 1201, available online at: http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm, p. 140

¹⁴⁵ Kirisci K., "The Question of Asylum and Illegal Migration in European-Turkish Relations", *Turkish Studies*, Vol. 4, No 1, Spring 2003, p.80.

¹⁴⁶ Ibid., p. 81.

¹⁴⁷ Kruse I., op.cit., p. 331.

reforms for the harmonization of Turkish legal and institutional structures with EU standards.

However, Turkey has been quite negative towards the signature and adoption of Readmission Agreements. The country has considerable experience in the negotiations and signature of Readmission Agreements with its neighbouring states but also with Balkan, Eastern European and Middle Eastern countries. However, Turkey considers these agreements inefficient as the restrictive EU visa regimes instigate illegal migration and it is difficult to achieve sustainable return. Furthermore, it argues that economic and development discrepancies between Europe and its regional neighbours that cause migration flows cannot be dealt with solely by Turkey¹⁴⁸. This is why Turkey advocates that “bearing the return costs of such high number of illegal immigrants puts heavy financial burden on the strained resources of Turkey. Thus, Turkey suggests further developing effective cooperation with her EU partners in the spirit of burden sharing”¹⁴⁹.

Turkish officials uphold that the implementation of an EU Readmission Agreement could render the Turkish territory into a “dumping ground” for Europe’s unwanted immigrants; this perception is fuelled by difficulties that Turkey encounters in the conclusion of Readmission Agreements negotiations with migrant sending countries¹⁵⁰. Turkish officials also feel that they are treated differently from other candidate states and that their initiatives and efforts to combat illegal migration are not adequately recognised by the EU; these feelings are major sources of distrust of Turkey towards the EU.¹⁵¹ What’s more, Turkish officials fear that imposition of strict visa regimes and conclusion of readmission agreements with neighbouring countries could be detrimental to its relations with them, given that most have enjoyed liberal visa requirements from Turkey, the presence of Turkish minorities in their grounds and the close economic relations¹⁵².

Instead of signing a readmission agreement, Turkey has offered to readmit its own nationals, legal residents in Turkey and persons that legally transited its territory towards Europe and were arrested for illegal entry into the EU as long as the demand

¹⁴⁸ Ibid p. 35.

¹⁴⁹ Abstract from the Reply of the Turkish Embassy in Greece to the questionnaire.

¹⁵⁰ Apap J, Carrera S, Kirisci K, op. cit., p. 22.

¹⁵¹ Ibid., p. 23.

¹⁵² Ibid., p. 29.

for the readmission of the latter is submitted with 48 hours from having transited Turkey.¹⁵³

In November 2002, the Council authorized the Commission to open negotiations for a Readmission Agreement with Turkey. The draft text was submitted to the Turkish Ministry of Foreign Affairs during March 2003 but it was not until a year later that the Turkish government agreed to open negotiations¹⁵⁴. According to L. Long and S. Celebic, Turkey turned out to be a “tough negotiator”, very comfortable in negotiating in English and well aware of all legal intricacies¹⁵⁵. Despite the fact that the offer of financial assistance and visa facilitation¹⁵⁶ were linked to the signature of the EU Readmission Agreement, and the opening of EU accession negotiations in October 2005, the fourth round of talks on the latter were held in December 2006 without any tangible results. According to EU negotiators “Turkey argued that the Readmission Agreement would come into force automatically on the country’s entry into the EU and was therefore unnecessary. It tied its signature of the Readmission Agreement to completion of the accession process”¹⁵⁷.

Turkey has been accused of using irregular migration as a political weapon to pressure Europe. According to K.Kirisci, this allegation is exaggerated as Turkey is interested in combating illegal migration and other criminal activities threatening its security. They have been constrained though by insufficient human and financial resources, lack of cooperation from countries of origin, inadequate legal frameworks and corrupt officials¹⁵⁸.

After the recognition of Turkey as a EU candidate state in 1999 and the Greek Turkish rapprochement, a bilateral Agreement was signed for cooperation in the fight against terrorism, organised crime, drug smuggling and illegal migration in 2000¹⁵⁹. To implement the article 8 of this agreement, Greece and Turkey signed a Readmission Protocol. During negotiations, Turkey objected to include provisions for

¹⁵³ Kirisci K., op.cit., p. 97-8.

¹⁵⁴ Commission of the European Communities, Turkey Progress Report 2004, Brussels, 6 October 2004, SEC(2004) 1201, available online at: http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm, p. 139

¹⁵⁵ Mackenzie C. (ed.), op.cit. p. 26.

¹⁵⁶ Turkey was interested in visa liberalization according to an official of the Commission Directorate Enlargement.

¹⁵⁷ Mackenzie C. (ed.), op.cit. p. 25.

¹⁵⁸ Kirisci K., op.cit., p. 96.

¹⁵⁹ Νικολακόπουλος Δ., "Η αντιτρομοκρατική Συμφωνία μεταξύ Ελλάδας και Τουρκίας. Το Βήμα αποκαλύπτει το πλήρες κείμενο επί του οποίου έχουν συμφωνήσει Αθήνα και Άγκυρα", *Το Βήμα*, 19/12/1999, στο διαδίκτυο: http://tovima.dolnet.gr/print_article.php?e=B&f=12792&m=A05&aa=1

readmission of TCNs in the agreement and advocated that the time limit of identification of persons should be set to 7 days. However, it was finally agreed that the Protocol would provide for the readmission of TCNs as well and the time limit was set to 14 days.¹⁶⁰

The implementation of the Greek Turkish Readmission Protocol has been a failure¹⁶¹. According to the Hellenic Ministry of Interior, “Since April 2002, when the Protocol entered into force, Greece has submitted 3,466 applications for the readmission of 47,065 persons, of whom Turkey has agreed to readmit 5,685. In practice, only 2,133 irregular migrants were readmitted because of delays and beyond the time limits responses of the Turkish side”¹⁶². The European Commission Progress reports (2002, 2003) have urged Turkey to enhance its capacity to implement the Greek Turkish Protocol¹⁶³.

Numerous press articles have been published denouncing the negative stance and lack of cooperation from the Turkish side¹⁶⁴ claiming even that “Turkey favours smugglers” or that “Ankara uses irregular migrants for political reasons”¹⁶⁵. Similar allegations have been made by the Turkish side as well against Greece¹⁶⁶. According to M. Baldwin Edwards, “interstate relations are a core component of the management of irregular migration flows; the strained Greek Turkish relations have had negative implications for migration management and for the human rights of illegal migrants and asylum seekers”¹⁶⁷.

The Greek Turkish Protocol has been denounced by a number of NGOs such as the German PRO ASYL “because it does not include provisions for the protection of

¹⁶⁰ Αδάμ Κ., “Κάμφθηκαν οι αντιρρήσεις της για επαναπροώθηση και πολιτών τρίτων χωρών-Συμφωνία της Τουρκίας για τους λαθρομετανάστες”, *Ελευθεροτυπία*, 9/11/2001, στο διαδίκτυο: http://www.enet.gr/online/online_print?id=82457084,60506876,88246140,1871676

¹⁶¹ From personal interview with staff of the Hellenic Institute of Migration Policy (IMEPO).

¹⁶² Abstract from the Answer to question 12 of the questionnaire submitted to the Hellenic Ministry of Interior.

¹⁶³ Commission of the European Communities, Turkey Progress Report 2002, Brussels, 9 October 2002, SEC (2002) 1412, available online at: http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm, p. 115

Commission of the European Communities, Turkey Progress Report 2003, Brussels, available online at: http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm, p. 120.

¹⁶⁴ Μπουρδάρης Γ.Σ., “Παυλόπουλος: «Η Τουρκία ευνοεί τους δουλέμπορους»”, *Η Καθημερινή*, 4/6/08, στο διαδίκτυο: http://news.kathimerini.gr/4dcgi/_w_articles_ell_2_04/06/2008_272562

¹⁶⁵ *Η Καθημερινή*, “Πολιτικό παιχνίδι Αγκυρας με λαθρομετανάστες”, 9/10/07, στο διαδίκτυο: http://news.kathimerini.gr/4dcgi/_w_articles_ell_2_09/10/2007_244430

¹⁶⁶ Ibid.

¹⁶⁷ Baldwin Edwards M., “Migration between Greece and Turkey: from the exchange of populations to non-recognition of borders”, *Southeast Europe Review*, Issue 03, 2006, p.115.

refugees or for others in need of international protection”¹⁶⁸. Furthermore, the Norwegian NGO NOAS in cooperation with the Greek and Norwegian Helsinki Committees issued a report this year remarking that practices used under the Greek Turkish Protocol could lead to refoulement of potential refugees¹⁶⁹. The Greek National Committee on Human Rights has, finally, expressed its concerns about the implementation of the article 8 of the Greek Turkish agreement against terrorism, organised crime, drug smuggling and illegal migration and its potential negative implications for asylum seekers; it also claimed that the 1951 Convention on Refugees should be referred within the agreement instead of vague non affection clauses¹⁷⁰. On the other hand, the Greek Ombudsman has stated that “as long as the states abide by the procedures provided in the agreement and their obligations towards human rights protection, there is no problem. In theory, the readmission protocol is compatible with human rights and even useful but it is rather a matter of real safeguards provided by both sides in the implementation of the agreement”¹⁷¹.

Overall, Turkey has had significant experience in migration and asylum policies and is well aware of the challenges of the illegal migration management and this is why it seeks for a burden strategy approach in its relations with the EU. The fact that it perceives migration as a security issue, just like the EU, makes the conclusion of a Readmission Agreement difficult. Furthermore, the long and uneasy accession process has negatively affected its trust towards the EU and without a clear membership prospect the country is reluctant to bear the costs of the illegal migration management. Turkey is aware of the importance of its geographical position at the gate of EU and could use this asset to maximise its benefits. Finally, this analysis has made clear that bilateral readmission agreements can easily become void if interstate relations are strained or it is valued as costly to national interests.

¹⁶⁸ Pro Asyl. "The truth may bitter, but it must be told. The situation of the refugees in the Aegean and the practices of the Greek Coast Guard", 2007, available online at: <http://www.proasyl.de>, p. 26

¹⁶⁹ NOAS, Norwegian Helsinki Committee, Greek Helsinki Monitor, "A gamble with the right to asylum in Europe. Greek Asylum Policy and the Dublin II Regulation", Oslo and Athens, 9/4/2008, available online at: http://noas.no/opd_admin/files/files/Greek%20asylum%20policy%20and%20the%20Dublin%20II%20Regulation.pdf, p.28

¹⁷⁰ Εθνική Επιτροπή για τα Δικαιώματα του Ανθρώπου, "Κρίσεις για το Σχέδιο Νόμου για την Κύρωση του Πρωτοκόλλου για την Εφαρμογή του Άρθρου 8 της Συμφωνίας μεταξύ της Κυβέρνησης της Ελληνικής Δημοκρατίας και της Κυβέρνησης της Δημοκρατίας της Τουρκίας για την καταπολέμηση του Εγκλήματος, ιδιαίτερα της τρομοκρατίας, του οργανωμένου εγκλήματος, της παράνομης διακίνησης ναρκωτικών και της παράνομης μετανάστευσης", Έκθεση 2002, σελ. 91-92, στο διαδίκτυο: www.nchr.gr

¹⁷¹ Abstract from personal interview with the Greek Ombudsman.

V. Conclusions

Our analysis has attempted to reveal the rationale of EU Readmission Agreements with Greece's neighbouring countries: Albania, FYR of Macedonia and Turkey. Assuming that states and international actors such as EU are rational in their behaviour, weighing the costs and benefits of their initiatives and decisions, this paper has intended to shed light on the problems encountered during negotiations and implementation of Readmission Agreements due to third countries' own concerns and considerations or the EU's inability to provide them with the adequate incentive in return.

Readmission Policy "has by its nature a negative connotation" according to a EU official¹⁷². Given the securitized and state centred framework of European Immigration Policy that attempts to transfer the burden of irregular migrants and asylum seekers to third countries with often contested human rights record, it is only natural that concerns are expressed over the implications of Readmission Policy. However, readmission agreements were built to regulate efficient and safe return, and they only constitute a part of EU relations with third countries.

It has become evident that Readmission Policy works solely in the interest of the European Union. This has been a deterrent factor for countries to sign readmission agreements and has urged the EU to offer incentives in return. The continuous offer of incentives to Albania such as the signature of the SAA and a Visa Facilitation Agreement bended its reluctance to sign the Readmission Agreement and sustained the government's willingness to cooperate.

However, these incentives have not always proved enough to convince a country to sign such an agreement, there are also other considerations and factors that determine states' willingness to make such concessions. To begin with, factors such as the volume of migration flows, the experience in handling them and the extent to which the burdens of this policy are shared have been central in countries' considerations. It has been argued that FYR of Macedonia despite its limited migration flows developed an immigration policy according to European standards due to EU's urges and conditionality. On the other hand, Turkey which has been a major immigration and transit country in Southeast Europe and had to develop ways to handle migration pressures independently from EU, argues that it cannot handle

¹⁷² Personal interview with official from the European Commission Directorate General of Freedom, Security and Justice.

migration pressures on its own, that there needs to be a burden sharing mechanism. The difference in magnitude of readmission implications on these two countries can be shown statistically as well; in 2007, 365 people were readmitted to FYR of Macedonia under a EU Readmission Agreement while in 2004 119 people (out of 4,006 applications)¹⁷³ were readmitted to Turkey under the bilateral Greek-Turkish Protocol alone.

Furthermore, the Readmission of TCNs has been a major obstacle to the conclusion of such agreements. This issue is quite delicate as it is connected to national sovereignty that states cannot limit without credible EU membership prospective. Given its delicate interethnic balance, FYR of Macedonia was reluctant to concede to readmission of TCNs provided that the majority of them would be Kosovar Albanians. However, the country signed the Readmission Agreement because there were also other priorities in its political agenda that could enhance stability or prosperity such as a Visa Facilitation Agreement and in the long run a EU membership perspective; this goal has a unifying impact on opposite sides.

On the other hand, Turkey with its long and uneasy integration process no longer views incentives such as economic assistance or visa facilitation as worthy for conceding to what it perceives as a security challenge. However, a credible membership prospect and burden sharing in terms of migration management would ease its concerns. Given its stance and demands during negotiations, it appears that Turkey values that the magnitude of the migration phenomenon and its strategic position would worth more concessions from the EU side. Furthermore, the failure of the Greek Turkish Protocol implementation suggests that interstate relations, domestic and foreign policy priorities can influence the success of a Readmission Agreement.

Finally, Readmission Agreements implementation is a demanding task. Countries such as Albania and FYR of Macedonia need EU assistance to enhance their administrative, legal and financial capacity, avoid problems such as readmission traps and successfully implement the readmission agreements.

Based on this analysis, we could argue that the conclusion of Readmission Agreements is conditional on the attractiveness of incentives offered in return by the European Union, the way non EU countries perceive immigration and their experience in migration policy while the implementation of these agreements will

¹⁷³ Pro Asyl, op.cit., p. 26

ultimately depend on the institutional and financial capacity, domestic and foreign policy priorities of non EU countries.

Given the developments in EU migration policy area with proposals such as mobility partnerships to enhance circular migration, the European Pact on Migration and Asylum that aims to address effectively and comprehensively migration and its root causes through a multitude of measures including the engagement of diasporas in the improvement of conditions in the home countries, further research is needed on Readmission Agreements and their efficiency within this policy framework. It appears that policy makers are becoming increasingly aware that Readmission Agreements are not enough to fight irregular migration or sustain return of migrants to their home countries¹⁷⁴. Thus, it would be interesting to further study the position and rationale of these agreements within this new migration policy approach.

¹⁷⁴ From personal interview with staff from the I.ME.PO.

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VII. Annex:

- Questionnaire sent to NGOs, Think Tanks and the European Commission
- Questionnaire sent to the Hellenic Ministry of Interior

University of Athens
Department of Political Science and Public Administration
Master's Degree in Southeast European Studies

Katerina Kokkinou

**Dissertation Subject: EC Readmission Agreements with Greece's neighbors:
Turkey, FYR of Macedonia and Albania**

QUESTIONNAIRE

1. What is the approach of European immigration policy to illegal migration?
2. What are the legal provisions based on which the European Readmission Policy is implemented?
3. Do you think that Readmission Agreements are effective means for combating illegal immigration?
 - A. Yes
 - B. No

Remarks:

4. What are the obstacles/difficulties during the Readmission Agreements negotiations?
 - A. EU only benefits from such agreements.
 - B. Third countries do not dispose of the institutional and financial ability to implement them.
 - C. Third countries deem that such agreements turn them into buffer zones where the EU sends unwanted migrants.
 - D. Third countries consider such agreements ineffective and thus avoid signing them.

Remarks:

5. What are the benefits from the implementation of Readmission Agreements?

6. Are there any negative implications for third countries and readmitted persons from the implementation of Readmission Agreements and how can they be dealt with?
7. Do you think that procedures stipulated by the Readmission Agreements are implemented?
- A. Yes
 - B. No because: i. They are complicated, ii. It is hard and time consuming to identify persons, iii. Deadlines cannot be met, iv. The other contracting party doesn't respond in a timely manner.

Remarks:

8. Are these agreements compatible with the obligations of EU member states that stem from international human rights treaties?
- A. Yes
 - B. No

Remarks:

9. Are countries like Turkey, FYR of Macedonia and Albania able to cope with the flows of readmitted persons? Do the latter countries have the institutional capacity and financial means to implement the readmission agreements and how can EU support them?
- A. Yes
 - B. No

Remarks:

10. Does EU support them effectively in order to implement the agreements?
- A. Yes
 - B. No

Remarks:

11. Are the rights of readmitted persons safeguarded? Do Readmission Agreements provide for the integration of these persons to the countries of readmission?
- A. Yes

B. No

Remarks:

- 12.** Do you think that Readmission Agreements have a negative impact on asylum seekers?

A. Yes

B. No

Remarks:

- 13.** Have readmission agreements contributed positively in the fight against human trafficking and smuggling of persons?

A. Yes

B. No

Remarks:

- 14.** Do you think that Readmission Agreements can influence positively EU relations with Turkey, Albania and FYR of Macedonia and relations between neighboring states?

A. Yes

B. No

Remarks:

Κατερίνα Κόκκινου

Διπλωματική Εργασία: EC Readmission Agreements with Greece's neighbors: Turkey, FYR of Macedonia and Albania [Συμφωνίες Επανεισδοχής της Ε.Κ. με τις γειτονικές χώρες της Ελλάδας: Τουρκία, Πρώην Γιουγκοσλαβική Δημοκρατία της Μακεδονίας και Αλβανία]

ΕΡΩΤΗΜΑΤΟΛΟΓΙΟ

15. Ποιοι είναι οι βασικοί άξονες/προτεραιότητες της ελληνικής μεταναστευτικής πολιτικής για την διαχείριση των παράνομων μεταναστών; Ποια μέτρα έχουν ληφθεί για την καταπολέμηση της παράνομης μετανάστευσης;
16. Ποιοι είναι οι στόχοι των Συμφωνιών Επανεισδοχής;
17. Ποιες είναι οι νομικές διατάξεις που διέπουν την εφαρμογή των Συμφωνιών Επανεισδοχής; Ποιες νομικές εγγυήσεις παρέχονται στα άτομα που υποβάλλονται σε αυτή τη διαδικασία για τη μη επαναπροώθησή τους σε χώρες όπου θα κινδύνευε η ζωή τους;
18. Ποια θεσμικά όργανα εμπλέκονται στην εφαρμογή των Συμφωνιών Επανεισδοχής;
19. Ποια άτομα υπόκεινται στη διαδικασία επανεισδοχής;
20. Ποιες είναι οι διαδικασίες που ακολουθούνται για την επανεισδοχή των μεταναστών στις χώρες προέλευσης/διέλευσης;

21. Πώς επηρεάζει η εφαρμογή των Συμφωνιών Επανεισδοχής τους αιτούντες άσυλο;
22. Έχουν επικυρωθεί από το Ελληνικό Κοινοβούλιο οι Συμφωνίες Επανεισδοχής της Ε.Κ. με την Αλβανία και την Πρώην Γιουγκοσλαβική Δημοκρατία της Μακεδονίας;
23. Έχουν υπογραφεί διμερείς Συνθήκες Επανεισδοχής μεταξύ Ελλάδας –Αλβανίας ή Ελλάδας- Πρώην Γιουγκοσλαβικής Δημοκρατίας της Μακεδονίας;
24. Συνεπικουρούνται οι Συμφωνίες Επανεισδοχής με Συμφωνίες Αστυνομικής Συνεργασίας ή Διευκόλυνσης των διαδικασιών χορήγησης Visa με την Αλβανία, ΠΓΔΜ και Τουρκία; Αν ναι, έχουν τεθεί σε εφαρμογή αυτές οι Συμφωνίες;
25. Έχουν συμβάλει οι Συμφωνίες Επανεισδοχής στην καταπολέμηση του φαινομένου της διακίνησης ανθρώπων;
26. Ποια η συμβολή της Ευρωπαϊκής Ένωσης στην εφαρμογή των Συμφωνιών Επανεισδοχής;