THE EU'S POLICY ON READMISSION OF ILLEGAL MIGRANTS

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Abstract

In the context of the harmonisation of asylum and migration policies the European Union (EU) recently initiated efforts to conclude readmission agreements of illegal migrants with eleven non-EU member states. In spite of a unified approach to these negotiations, they have turned out to be surprisingly difficult and complex in a number of cases. While some countries have already signed an agreement or are on the verge of doing so, others have only hesitantly commenced negotiations or resist entirely to date. This paper seeks to flesh out some reasons for the variation in success of and the roadblocks for these negotiations. Theories of international socialization identify institutional appropriateness and the extent of a true prospect for membership as critical determinants of third countries' willingness to adopt policy measures demanded by a supranational body such as the EU. Yet, when mapping the current status of negotiation on the institutional affiliation with the EU and on the feasibility of membership, no definite systematic relation between these two dimensions emerges at first glance. That is, a more viable membership perspective does not systematically result in more far-reaching willingness to cooperate on matters of illegal migration. I suggest that conditions at the national level appear to play a decisive role at various stages during the process. In particular, I point out two dimensions that are likely to shape a country's outlook and strategy in this particular policy field. The countries at hand differ with respect to the institutionalized emphasis on migration issues shaped by the historical role of migration. The same might hold true for the role of domestic opposition. To illuminate how these factors impinge upon the negotiation process, I present case studies from three countries, Albania, Ukraine, Morocco and Turkey to provide preliminary evidence for my contentions. Future research in this direction may help fill a critical blind spot in extant research on the European Union by exploring external effects of supposedly internal EU policies, and by underscoring the EU's emerging role as an international actor.

1. Introduction

Classical integration theories focused on the integration process shifting key areas of national policies towards the supranational level by analyzing the processes of adaptation and implementation and disregarded the EU's relations with non-member states. The extent to which external situations might affect the internal capacity to act as well as the framing of EU policies was largely ignored. However, in the international framework the EU operates as only one out of other actors and is decisively affected by the outside world—and even sometimes limited in its internal policies. This is what Friies and Murphy characterize as the "malleability of EU boundaries" which "provides it with both opportunities and incentives to extend governance to its European neighbors. The EU can maintain, strengthen, blur or move these boundaries in order to meet objectives with respect to non-members." (Friis/Murphy 1999: 216)

The growing number of illegal migrants heading towards the EU and the EU member states' incapability of significantly reducing these flows serves as an illustrative example for the EU's limited capacity to design an effective illegal migration policy because of its dependence upon the outside world. As long as countries of origin and transit do not act towards a reduction of emigration flows and root causes of international migration can not be significantly decreased EU policies regarding border control, immigration restriction or visa regulations will remain insufficient. In that sense internal development, i.e. substantial growth of numbers of illegal migrants in the EU and the public feeling of being "overwhelmed" by these migrants have started to shape the EU's policy towards the outside. EU actors in the field of Justice and Home Affairs—predominantly experts on internal policies—became to realize the so-called "external dimension" of migration policies which have become more and more integrated in the existing and future relations of the EU with third countries as a result.

One element of migration policies which is strongly linked to the EU's relations with third countries is readmission. During the last decade EU member states reported serious difficulties in returning illegal migrants and rejected asylum seekers to their home countries, and thus the instrument of readmission agreements attained increasing importance. The Amsterdam Treaty empowered the European Community to conclude readmission multilateral agreements with third countries on behalf of all member states that participate in a common migration policy.[1] Between 2000 and 2002 the European Commission began negotiations on readmission with 11 countries in the course of which it seeks to transfer classical migration control instruments on to non-member countries.

This paper studies the external effects of EU migration policies considering the negotiations on EU readmission agreements as empirical example. I first illustrate the instrument of readmission by shortly reconstructing its historical evolution, identifying the most important characteristics of multilateral agreements, putting the instrument into a political context and discussing its legitimacy (chapter 2). In the following, I present theoretical considerations on the EU's policy of conditionality and the role of membership as reward function (chapter 3), before elaborating on four empirical case studies of readmission negotiation (chapter 4). I conclude with an outlook on the next steps of my larger research project and present some speculations that might help to re-conceptualize existing approaches to the study of EU policies (chapter 5).

2. The Instrument of Readmission

The 1998 Strategy paper on immigration and asylum policy of the Austrian Presidency reported an increasing refusal of a growing number of states of origin to take back their own nationals from the country which they had entered illegally and characterized the pervious bilateral steps taken to establish the "widest possible network of readmission agreements" as

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[1] Denmark, Ireland and the United Kingdom do not participate in a common migration policy but have the opportunity to decide in each single policy measure whether they want to opt-in or not.

unsuccessful.[2] The presidency called for an EU policy of conditionality in the field of migration, so that e.g. economic aid should be made dependent on visa questions and readmission. In 1999, the Amsterdam Treaty empowered the European Community to conclude readmission agreements with third states (title IV, art. 63 (3) b).

According to the comprehensive plan to combat illegal immigration and trafficking in human beings in the European Union, the European Council had to adopt criteria for the identification of third countries with which multilateral readmission agreements should be negotiated.[3] Thus the EU presidency drafted a proposal on these criteria which then were examined by the Expulsion Working Party and by the Strategic Committee on Immigration, Frontiers and Asylum; the member states' delegations recorded agreement on the text. In the end, the following criteria were declared: nature and size of migratory flows towards the EU (migration pressure, number of persons awaiting return); geographical balance; need for capacity building concerning migration management; existing framework for cooperation; and attitude towards cooperation on migration issues.[4]

In September 2000, the Commission received the mandate for negotiations with Morocco, Sri Lanka, Russia and Pakistan, in May 2001 with Hong Kong and Macao, in June 2002 with Ukraine and in November 2002 with Albania, Algeria, Turkey and China.[5] The negotiation delegation of the Commission consists of representatives of two Directorates-General (DG): legal experts on readmission and return issues of the DG Justice and Home Affairs (JHA) and diplomats and respective country specialists of the DG External Relations (Relex) the latter leading the negotiations.

It is beyond dispute that EU readmission agreements are solely in the interest of the Community. Therefore, we can assume that their successful conclusion depends very

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[2] Council of the European Union, 9809/98, paragraph 19.
[3] Cf. Council of the European Union, 5398/2/02.
[4] Cf. Council of the European Union, 13894/02.
[5] Cf. Council of the European Union, 1009/02.

much on the leverage at the Commission's disposal during negotiations. According to the Commission there is little that can be offered in return in the field of JHA: "In particular visa facilitation or the lifting of visa requirement can be a realistic option in exceptional cases only (e.g. Hong Kong, Macao); in most cases it is not." [6] Thus the Council was asked to discuss the possibility of increasing complementarity with other Community policies in order to help achieving the Community's objectives in the field of return and readmission.

Framing of Readmission

Between 1999 and 2001, readmission was mainly discussed in the broader context of legal immigration in the sense that only when calls for voluntary return would have no effect readmission agreements could serve as a valuable instrument to facilitate returns.[7] Since then, however, the European Commission has turned its attention to illegal immigration "as the missing link of a comprehensive immigration and asylum policy", and in this context readmission policies increasingly received attention. In 2001 and 2002, the Commission released two very important documents which mark the change in focus: first, a communication on a common policy on illegal immigration which discussed readmission as an important instrument of a comprehensive community return policy, but emphasized the priority of voluntary return over forced return and called for consideration of the political and human rights situation in the country of origin and transit in case of readmission;[8] and second, a green paper which was specifically dedicated to the Community's return policy on illegal residents.[9] In the same period the 2002 Seville European Council almost exclusively stressed the importance of measures against illegal migration and called for speeding-up of ongoing readmission negotiations. The focus in EU migration policies had significantly

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[6] Commission of the European Communities, 2002 (COM) 175 final, p. 23.
[7] Cf. Commission of the European Communities, COM (2000) 757 final, p. 12.
[8] Commission of the European Communities, COM (2001) 672 final, p. 24-25.
[9] Cf. Commission of the European Communities, COM (2002) 175 final.

changed in tandem with the tone in public discussions . As a result, the call for Community readmission agreements became louder.

As the EU switched its focus to illegal migration, it increasingly became aware of the insufficiency of domestic border controls if not backed up by cooperation with countries of origin and transit, underscoring the external dimension of its once domestic policies in the field of JHA.[10] The 2001 Laeken European Council stressed the need to integrate policies on migratory flows, in particular on readmission, in the EU's foreign policy.[11] The idea was to include migration issues like return, readmission, and management of flows into all possible foreign policy dialogues with third countries. In reaction, the Commission prepared a specific communication on how to integrate migration issues in the EU's relations with third countries. In that, the Commission reported on difficulties to negotiate readmission agreements which are in the sole interest of the Community and asked for more comprehensive leverage, i.e. "providing incentives to obtain the cooperation of third countries in the negotiation and conclusion of readmission agreements."[12] According to the Commission, however, incentives in terms of better market access or tariff preferences should only be considered if they are fully WTO compatible; and compensatory migration policy measures like liberalization of visa restrictions or increase of quotas for migrant workers are difficult to negotiate on Community level because of complicated coordination between member states. The decision on leverage should "take into account in particular the importance of the third country in terms of emigration flow towards the EU and the state of its relations and cooperation with the Community and the member states."[13] With this communication, the Commission strongly appealed to the Council and the member states to

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[10] For the first time the external dimension of EU migration policy was mentioned by the Commission in 1991 when she called for an integration of migration issues into the EU's external policy; see Commission of the European Communities, SEC (1991) 1855 final.

[11] Cf. Presidency Conclusions of the Laeken European Council, 14-15 December 2001, paragraph 40; see also Council of the European Union, 13894/02, paragraph 7.

[12] Commission of the European Communities, COM 82002) 703 final, p. 25.

[13] Commission of the European Communities, COM (2003) 323 final.

be more sensitive in its relations with third countries during negotiations on readmission and to seriously take the problems of partner countries into account.

One can generally distinguish two approaches to deal with external dimensions of EU migration policy: the first approach seeks to externalize traditional tools of domestic or EU migration control to sending and transit countries, e.g. border control, while the second approach is of preventive nature and deals with fighting the root causes of migration (cf. Boswell 2003). These two approaches differ fundamentally in their perception of how to deal with substantial numbers of immigrants and most likely affect the EU's relations with third countries differently. The first is a restrictive and control-oriented approach in which the EU passes classical migration control instruments on to non-member countries that in addition have to accept provisions for facilitating the return of illegal migrants and rejected asylum seekers. The second approach seeks to abolish circumstances in the countries of origin which force people to migrate to the EU building on mutually beneficial forms of cooperation between the EU and these countries.

The European Union seeks to take both approaches into account; however, the more restrictive, first approach (for which readmission negotiations are a case in point) seems to have dominated the debate at the beginning of the millennium. Generally, the JHA Council in which the member states' ministries of the interior are represented as well as the DG Justice and Home Affairs of the Commission favor a policy of externalization of the control agenda because their focus lies on very detailed, mostly technical arrangements in this specific policy field; while the representatives of DG Relex and nation states' diplomats often argue from a different angle, as they tend to be concerned with the overall relationship with third countries:

> "There were concerns that introducing migration prevention as an important goal of development policy could have a negative impact on relations with third countries. Commission staffs were anxious that an explicit emphasis on the need to keep nationals of third countries out of the EU could be a source of tension and sensitivity for a number of governments." (Boswell 2003: 633)

This becomes especially obvious in blocked negotiation situations when different EU institutions are forced to deliberate on further concessions and strategies. However, after having realized the difficulties in negotiating readmission agreements, the Thessaloniki European Council tried to reconnect both legal and illegal migration issues again:

> "Given the top political priority ascribed to migration, there is a marked need for a more structured EU policy, which will cover the whole spectrum of relations with third countries including the prompt conclusion of readmission agreements with key third countries of origin as well as the promotion of further cooperation with them to be viewed as a two-way process in order to combat illegal migration and to explore legal migration channels under specific terms of reference."[14]

The framing of the specific policy of readmission seems to be of high significance for the EU's attitude towards countries of origin and transit. The fact that the member states and the Council have increasingly given the negotiations on EC readmission agreements with third countries top priority makes clear that the main emphasis is put on restrictive policies of demarcation. Having analyzed the framing of the policy instrument leads us directly to the question of its legitimacy.

Legitimacy of Readmission

The spread of readmission agreements initialed an international debate on whether it can be assumed that states are obliged to readmit their own nationals under international law. If so, a readmission agreement concerning citizens of the contracting partners could thus be understood as facilitating the implementation of readmission instead of reaffirming the obligation of readmission. In general, we have to distinguish between international obligations to readmit one's own nationals and the existence of rights of an individual to return home, as the obligations to readmit are not dependent upon the willingness of the individual to return: "The right to return does not constitute the right of the individual to choose not to return to his home state if the state of residence withdraws the right of

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[14] Presidency Conclusions of the Thessaloniki European Council, 19-20 June 2003, paragraph 9.

residence" (Hailbronner 1997: 45). Because of a consistent state practice today the principle of readmission of own nationals seems to be accepted as principle of customary international law. This obligation does not apply to third country nationals; however, in the case that a third country national has legally resided in another country the duration of stay might indicate an obligation to readmit the person in question.[15]

Nevertheless, the EU only signs readmission agreements that provide for the return of both citizens of contracting states and third country nationals. Such agreements constitute a legally binding instrument imposing an obligation to take back third country nationals which cannot be deduced from international law. They are being signed on the basis of the principle of reciprocity, which means that all contracting states must be prepared to readmit not only their own citizens but even third country nationals on the same terms. However, in case of readmission agreements between the EU on the one hand and non-EU member states on the other, the argument of reciprocity is hypocritical as those countries with which it is of interest for the EU to conclude agreements would not have any problems with expulsions to the EU. Therefore, if negotiations are blocked the EU might consider some other way of formulating reciprocity.[16]

In the absence of international legal statutes and aware of the problematic consequences readmission agreements entail for transit countries, EU documents frequently refer to the responsibility of each nation state to control its borders efficiently in order to justify its policy.[17] In addition, EU member states argue on behalf of national sovereignty which includes the right to decide who is allowed to stay in the country and emphasize the importance to enforce a decision of the immigration authorities to refuse an alien the right to stay for the credibility of sovereignty.[18] They further point to their

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[15] Council of the European Union, 7669/99; Council of the European Union, 7707/99.
[16] The Council pointed to this kind of asymmetrical reciprocity already at an early point of time; cf. Council of the European Union, 7669/99.
[17] See e.g. Council of the European Union, 12790/1/01; Council of the European Union, 127990/3/01.
[18] Council of the European Union, 7707/99.

responsibility to protect the international refugee system: "An agreement can be seen as part of the protection of asylum law and the efforts to prevent misuse of the asylum institute; the agreement may be of symbolic value as it underlines that decisions of return will actually be enforced."[19] Thus the EU's credibility depends on the possibility of authorities to refuse an alien the right to stay on the territory and to enforce such decision so that the alien in question can be returned to the home country. And the Commission alludes to the implications for integration policies as massive illegal immigration might result in the failure to improve the social situation of the rest of the immigrant population.[20] Finally, readmission agreements sometimes imply some kind of blackmail in the sense that they might be connected with quite vague promises for the future: "The existence of well established readmission procedures can lead to introduction of more lenient rules on visa."[21] A Ukrainian researcher commented on the legitimacy of readmission from the point of view of a transit country:

> "Who is responsible for third country nationals? Why is my country responsible for the nationals of [other countries]? I understand the general responsibility because they were admitted to Ukraine but Ukraine is not a supply country, it is just a transit country. It is not a very well developed ideology of readmission. What is readmission and what is the general principle? I think this principle of readmission could be normally implemented if just all countries recognize it, this principle. This should be based on the universal, some universal system of readmission. So at this stage there should be some provision, there should be some provisional thing on this." (U-RES-1, personal interview, 23.2.2004, Kiev)

The legitimacy of EU readmission policies is often argued to be strengthened by the following aspect: agreements must comply with the 1951 Geneva Convention and the 1967 Protocol on the status of refugees, internal treaties concerning extradition, transit, readmission of foreign nationals and asylum (in particular the 1990 Dublin Convention) and the 1950 European Human Rights Convention. They do not envisage any obligation to expel illegal migrants but only arrange for the technical procedures in case of

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[19] Council of the European Communities, 7707/99.
[20] Council of the European Communities, 7707/99.
[21] Council of the European Communities, 7707/99.

readmission without transferring the executive function from the member states to the EU: "As far as the expulsion of illegal migrants is concerned, it is the responsibility of each member state to ensure that expulsions are carried out in accordance with its obligations arising from the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and other relevant treaties."[22]

In sum, the legitimacy of the EU's ambition to create by means of readmission agreements a kind of concentric circle around its own borders, which consists of transit countries who are obliged to readmit not only their own but even third country nationals is not publicly discussed. But the question then remains why third countries should (and actually do) sign such agreements at all. To answer this question, the next chapter introduces theoretical explanations of on how an international organization influences nation states and gets them to adopt specific rules or norms.

3. Theoretical Considerations

International socialization is defined as "the process directed toward a state's adoption of the (constitutive) norms of an international community" (Schimmelfennig 2002: 1). This theory distinguishes between two logics of socialization, the constructivist logic of "appropriateness" and the rationalist logic of "consequentiality" (for further details see Schimmelfennig 2003a: 410-415; Johnston 2001). Many constructivist authors concentrate on the central roles of persuasion, argumentation and language in socialization as well as on the process of learning (see e.g. Checkel 2001; Fierke/Wiener 1999; Risse 1999; Finnemore/Sikking 1998; Payne 2001) while rationalist authors explain major integration decisions by instrumental calculations of social actors and states, the ends of which are "underlying economic interests, with geopolitical ideas playing a distinctly secondary role; relative power, understood in terms of asymmetrical

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[22] Council of the European Union, 5472/00.

interdependence; and the need for credible commitments to certain policies, with ideology playing a distinctly secondary role" (Moravcsik 2001; see also Keohane/Nye 1977; Moravcsik 1998; Moravcsik/Vachudova 2003). Thus one main explanatory factor is conditionality, that is "the use of incentives to alter a state's behavior or policies" (Checkel 2000: 1). Rationalist cost-benefit calculations take several aspects into account, like the denationalization of the economy, negative externalities for outsiders, the economic dependence on a regional organization, the relative strength of economic sectors or the geographical position (cf. Schimmelfennig/Sedelmeier 2002: 512). Rationalists focus on bargaining power and formal decision-making rules while constructivists concentrate on internalization and standards of appropriateness and legitimacy. Only recently, scholars have tried to synthesize both approaches in emphasizing constructivist explanatory variables such as the cultural environment, identity, values, and norms of states together with a rationalist conception of fixed preferences, instrumental social action, conditionality, incentives and constraining institutions (cf. Kelley 2003; Schimmelfennig 2000; Schimmelfennig 2003b).

The likelihood of these mechanisms to have any effect depends on several conditions at both national and international levels. At the national level, domestic salience, understood as the degree to which an international norm resonates with the culture of a society, as well as the domestic structure of the state and of state-society relations influence the process of international socialization (cf. Cortell/Davis 1996; Cortell/Davis 2000; Kelley 2003). At the international level, socialization requires some sort of asymmetrical relationship between the international organization and the nation state. This asymmetrical relationship might consist of the international organization's normative power or of its greater material bargaining power (cf. Ikenberry/Kupchan 1990). In addition, the characteristics of the particular policy field considered may influence the process of international socialization. Thus we would expect that the more

asymmetric the relationship between the international organization and the nation state, the more likely the nation state is to become socialized. According to the logic of appropriateness, the more the international norm resonates with the culture of a society, the more national actors seeks to imitate the behavior of the international organization or the more the national actor is convinced of the international norm the more likely is the nation state to cooperate with the international organization. In terms of the logic of consequentiality, the higher the social pressure on the national actor to comply or the higher the costs of norm-violating behavior the more likely is the nation state to cooperate with the international organization.

Even though some authors inevitably connect socialization with membership (cf. Johnston 2001: 494) and the majority of literature on international socialization thus deals with the accession process to international organizations (most often EU or NATO), this theoretical strand principally allows for broadening the perspective. As one of three explanatory models for rule adoption, Schimmelfenning/Sedelmeier identify the instrument of access to the system as a means of managing the relationship with the outside. According to this so-called external incentives model the EU sets its rules as conditions that non-member states have to fulfill in order to receive EU rewards—either assistance or institutional ties—of which the highest is membership (cf. Schimmelfennig/Sedelmeier forthcoming). They study empirical cases where the EU embarks on the strategy of reinforcement by reward, i.e. does not seek to change the cost-benefit assessment by inflicting extra costs (reinforcement by punishment) or offering extra benefits (reinforcement by support). However, this strategy can only be successful as long as the international organization in consideration is not critically dependent upon the cooperation of outsiders. As the phenomenon of illegal migration is by definition transnational across borders, the EU is simply unable to design effective policy measures without the cooperation of the countries where illegal migrants come from or through which they transit. In such a situation

characterized by dependence upon the cooperation of non-member states, the EU will not achieve its end by simply reinforcing by reward, but instead has to choose between either punishment or support. Whether punishment or support will successfully result in reinforcement very much depends upon the power of the international organization, i.e. whether the EU has something to deprive third countries of or to something really important to offer.

The external incentives model integrates membership as independent variable to explore whether the prospect of membership helps us understand the relationship between the supranational entity and individual nation states: "The likelihood of rule adoption increases with the size and speed of rewards" (Schimmelfennig/Sedelmeier forthcoming: 16), and membership is of the highest possible size. This model suggests that "conditionality will be most effective if rules and conditions are determinate, conditional rewards are certain, high, and quickly disbursed, threats to withhold the reward are credible, adoption costs are small and veto players are few" (Schimmelfennig/Sedelmeier forthcoming: 20). However, membership as an explanatory factor remains rather underdeveloped as long as we limit our study to candidate countries only. Membership perspective might not be a dichotomous variable, like having or not having it; nor needs it to be a linear process towards ultimate accession. In fact, we need to better conceptualize the various characteristics of membership as reward: What is of greater value, certainty or rapid disbursement? And does conditionality really function in a linear way, in the sense that the definite the point of accession the more willing to cooperate (or the less demanding) the non-member country?

The EU's attempt to reach readmission agreements with non-member states is one example how the EU operates as an international actor with its outside world, and in most of the cases the question of membership perspective plays a role. To better

understand the diversity of membership as reward during international negotiations I compare countries in different stages of membership perspective: Turkey, Albania, and Ukraine. I also include a country which lacks any viable membership perspective— Morocco. Here, an international organization approaches individual states asking for cooperation and thereby seeks to transfer its own norms and rules to these countries. Rooted in theories of international relations, the international socialization approach offers the perspectives of constructivism and rationalism to explore the relationship between national and international levels of policy-making. The remainder of this paper scrutinizes the explanatory power of these perspectives to make sense of the varying success and roadblocks in the Community's negotiation over readmission agreements with non-EU member states.

4. Empirical Analysis of Ongoing Negotiations

All eleven countries with which readmission agreements are to be negotiated are characterized by large migration flows to the EU. The number of persons already in the EU awaiting return to each of these countries is therefore high as well. In terms of geographical balance, we can group countries by countries of origin (China, Pakistan, Sri Lanka), pure countries of transit (Hong Kong, Macao) and mixed countries of origin and transit (Russia, Ukraine, Turkey, Albania, Morocco, Algeria).

From the EU's stance, negotiations with these countries follow an identical procedure, as the outcome is supposed to be more or less the same across all agreements. But increasingly, EU negotiators face major roadblocks to the progress of negotiations, some of them with countries where this came most unexpectedly:

> "(…) if one takes a realistic look at their course, one has to admit that showing a high degree of flexibility on technical issues will probably not be enough to bring them [negotiations] to a successful end. Although drawn up on a theoretically reciprocal basis, it is clear that, in practice, readmission agreements largely work in the interest of the Community. Their successful

conclusion therefore depends very much of the 'leverage' at the Commission's disposal, i.e., of sufficiently strong incentives to obtain the co-operation of relevant third countries on readmission. (…) With regard to ongoing negotiations, one might assume that Turkey, being a candidate country, should have enough of an incentive to closely co-operate with the EU also in the field of readmission, and the same might be true for Albania, which is in the process of negotiating a Stabilization and Association Agreement with the EU. However, with regard to Morocco, Pakistan, Russia, Ukraine, China and Algeria, it is not so easy to identify sufficiently attractive compensation if the Community is ruling out these countries' counterclaims for a more generous visa policy." (Schieffer 2003: 356)

Of course, we have to consider the fact that negotiations are ongoing and positions will change over time. It is very likely that after a couple of months the picture of status of negotiations will look quite differently. However, a reflection on socialization as a process from its inception allows us to analyze interactions during ongoing negotiations, to learn about unanticipated or counterproductive effects and delaying factors, to understang the function of the process itself with regard to the outcome, and to identify conditions for success or failure. Conversely, if one were to consider the process from its end, it would not be distinguishable from its results anymore. My approach leaves the question of success of failure open instead, since I include cases of potential success and failure in the analysis.

The remainder of this chapter is dedicated to a more detailed analysis of the countries' relationship to the EU, their migratory traditions and their concerns with regard to signing a readmission agreement. In line with the current state of actual negotiations, I start with Albania and Ukraine followed by Morocco and then Turkey. Presently, I will not be able to provide final results of the study, but preliminary ideas and thoughts that are intended to serve a screening function for ongoing empirical country studies and a subsequent, more systematic comparison.

Albania

Over decades, Albania had been deeply isolated and reclusive and hence completely unaffected by migration movements. After the collapse of the communist regime, however, large emigration flows have emanated from the country. Today, Albania is very much affected by the restrictive migration policies of European countries and is increasingly becoming a country of transit, because of its geographical location between the Middle East and Europe, its authorities' inability to control the border and its geopolitical environment characterized by political turmoil, conflicts and poverty.

Albania is a very small country population-wise and it is one of the poorest countries in Europe. It is still heavily suffering from the anarchic social disorder provoked by the collapse of the pyramid investment schemes in early 1997. Political life in Albania is of volatile and confrontational character. The two main problems are corruption and instable public order. The weak political system together with the government's indifference or even close ties to organized crime created an ideal environment for Albanian criminal clans involved in people smuggling and trafficking to and within Europe. In addition, the role of parliament is weak, the judiciary is in poor state and the administration is inefficient. Taken together, these problems have resulted in enormous emigration pressures. About 15 percent of the population or a total of 500,000 to 600,000 Albanians left the country between 1990 and 2000 (cf. ICMPD 2000: 84). In the year 2000, 350,000 to 400,000 Albanian nationals lived in Greece and 150,000 in Italy. In addition, r movements of higher skilled migrants to the US and Canada have recently picked up (cf. Piperno 2002: 6). About 418,000 Albanians who emigrated between 1990 and 1998 were between 20 and 45 years old which means that more than 35 percent of the population of this age emigrated and the labor force dropped to below 40 per cent of the population (cf. Gjonca 2002: 21-22; see also Mullan 2002: 2). There exist a few legal emigration possibilities since Albania has signed agreements on labor migration with

Germany (1992), Greece (1996) and Italy (1998), but substantial numbers of Albanians (approximately 400,000 people) live illegally in a foreign country. It is estimated that an additional 20,000 to 40,000 Albanians leave the country illegally each year, heading primarily towards Italy, Greece, Switzerland, Germany, USA, Canada and Australia (cf. Gjonca 2002: 34). Generally, both legal as well as illegal emigration flows are non-refugee related flows. Beyond its own emigration pressure, Albania is regarded as one of the weakest spots in the Balkan as regards illegal transit migration. The country's border control system with an underpaid and ill-equipped border police is insufficient. However, both the Albanian government and international organizations like the OSCE report substantial progress in the endeavor to proceed against trafficking in human beings.

In comparison to Turkey and Morocco, Albania has considerable experience with bilateral readmission agreements and even got positive feedback on its implementation record. Furthermore, as the country does not have any long-reaching migration experience whatsoever at least it will not be confronted with the task to change its established institutions. Nevertheless, signing a readmission agreement puts adaptational pressure on Albania. The country lacks any administrative migration-related structure and more than other countries even the economic capacity to create it. At first glance, signing a readmission agreement is contradictory to the country's economic dependence upon remittances of which a huge part stem from illegal emigrants. However, the EU has succeeded with an incentive-driven strategy and policy of conditionality that links the negotiations on a Stability and Association Agreement (SAA) with the negotiations on a readmission agreement: One of the conditions for concluding the SAA is that Albania has to sign a readmission agreement. At the beginning of 2003, the EU opened negotiations on an SAA although the European Commission and the High Level EU/Albania Steering Group had come to the conclusion that Albania was not yet in the position to meet the obligations of an SAA. They supposed that the perspective of

opening negotiations would be the "best way of helping to maintain the momentum of recent political and economic reform, and of encouraging Albania to continue its constructive and moderating influence in the region" (Commission of the European Communities 2001: 8; see also Commission of the European Communities 2003a: 20). In general, Albania has a definite, albeit long-term perspective to join the EU and does not have to push its luck with the EU, since its membership perspective–unlike Turkey--is ideologically undisputed.

In November 2002, the European Council authorized the European Commission to negotiate a Community level readmission agreement with Albania. In February 2003, the Commission started working seriously on this issue and submitted a draft text to the Albanian authorities in March. This was followed by the first personal negotiations in May; the second round, which had been scheduled for July, was delayed until September at Albania's request. The third round took place in Tirana on November 6, 2003, and the following day the European Commission announced the successful conclusion of negotiations with the Albanian government. The agreement will be the first of its kind with another European country and the forth agreement overall negotiated by the European Commission.

The first reason for the negotiations progressing so quickly is rooted in the parallel negotiations of an SAA. Article 80 of the draft text constitutes the Albanian obligation to sign a readmission agreement with the EU. Second, the broader Stabilization and Association Process guaranteed a clear membership perspective for the Western Balkan countries when having adopted the EU standards. Asked about what Albania gets in return from the EU, one member of the Albanian negotiation delegation stated: "The Albanian party has not seen this as a profitable element, but as one of the conditions that

we should meet to carry on the integration process with the EU."[23] It is what a European Commission representative in Tirana meant when saying "The thing to bear in mind is that Albania gains more than the EU if they sign the agreement, at the end of the day, if you look at the long-term because it is a phase of accession. (…) Some of the articles are tough. (…) but in the long-term Albania has more to gain."[24] And before the ultimate goal—membership—is reached the integration process contains the liberalization of the EU's visa regime, which became a clear mid-term goal of the Albanian government for which it seemed to be worth while to appear as good cooperation partner. To be clear, visa liberalization did not become part of the negotiation package; instead, the Albanian government sought to show its credibility as cooperation partner hoping that visa liberalizations were not too far down the road. Thirdly, the lack of experience in international negotiations on the Albanian side might have put the EU in a privileged position: "We are confronted with a very specialized team which is very experienced. They are experts in readmission policies. And our team is not so experienced in this field."[25] In addition, it was only the Albanian government who negotiated with the EU; the parliamentary opposition was not involved so that the coordination of positions on the Albanian side was not very difficult. The head of the Parliamentary Commission on European Integration and Stability and member of the opposition, Fatmir Mediu, commented:

> "Premier Minister Fatos Nano made the negotiations his personal – and secret – topic. It is bad or sad that the European Commission has not insisted in involving the parliament but has directly negotiated with the government. (…) The readmission agreement has not been discussed in parliament. The right of our citizens has completely been ignored. It is the Albanians, Albania who pay for the third country nationals who use our country to go to Europe. I think the government has not been prepared in negotiating. We urgently need legal emigration possibilities, our people want to leave legally for economic reasons. And what is with the status of Albanian emigrants in Europe? Over 60 percent of them stay illegal. We need

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[23] A-GOV-1, written statement, 9.2.2004.
[24] A-COM-1, personal interview, 19.1.2004, Tirana.
[25] A-GOV-4, personal interview, 13.1.2004, Tirana.

legal possibilities even seasonal once. This has not been considered. (…) The problem is, this government agrees on everything the EU asks but without thinking about implementation. They can sign hundreds of agreements but none of them is being implemented." (in a personal interview, 16.1.2004, Tirana)

The UNHCR's representative in Albania referred to the last aspect as "accession mood": "The authorities just are interested in doing things that they are told to do without much reflection on how actually things will be implemented in practice. And it is more a plan, a matrix on what is passed and clicking on the box."[26] The problem of implementation especially applies to the only relatively difficult issue during negotiations, the readmission of third country nationals. The Albanian government called for a transition period of five years concerning the provisions on third country nationals during which it could complete the domestic legal framework, start establishing the appropriate administrative structures, prepare the personnel that will deal with readmission and most importantly ask for agreements with countries of origin. In the end both sides agreed on a transitional period of two years after the agreement has become effective. As mentioned above, the problem remains for the Albania authorities to further readmit third country natioanls towards their country of origin. One representative of the European Commission in Albania pointed to the future problem of implementation and thereby characterized the Albanian delegation's behavior of negotiation:

> "The message that the Albanians were always been given is please don't say yes, yes, yes, yes, yes. Be clear, (…) don't think you have to sign up everything. No, be tough; be clear; it is done by your ground. Because at the end of the day it's going to be rebound on them and not on the EC because essentially if they don't implement articles (…) if they don't manage to do this then it will reflect badly on themselves. (…) I think this is actually one of the challenges faced by Albania that they feel (…) that they have to do things quickly and sign on quickly whereas even though you know we say it again and again and again please don't make all these promises if you can't plead them, it is only reflecting badly on you." (A-COM-1, personal interview, 19.1.2004, Tirana)

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[26] in a personal interview, 15.1.2004, Tirana.

Albania's overall relationship with the EU can rightly be described as dependence, economically as well as politically. Unlike in the case of Turkey and Morocco, the question of affiliation does not exist—Albania's regional context consists only of Europe. In that sense, the EU's normative bargaining power could hardly have been stronger. Thus, despite the country's peculiarities and democratic deficiencies there is no alternative to Europe and the government struggles hard to show its "Europeanness". It is a rather young polity which currently is in the process of building up its governmental institutions. In other words, no preexisting, established institutions have to be transformed. As an Albanian civil society basically is non-existent, there is nobody to be persuaded to sign a readmission agreement with the EU—the overall goal to draw closer to the EU suffices as argument.

Ukraine

Ukraine declared independence during the collapse of the Soviet Union in 1991 and thereafter had to newly establish a constitution and a multitude of laws, inter alia laws on immigration, refugees, citizenship, nationality, on the legal status of foreigners, on sanctions for the violation of temporary residence regulations, as well as anti-trafficking legislative provisions and several legislative measures against illegal migration. In addition, government institutions which existed by the time of Ukraine being a Soviet republic had to be re-structured. However, as Ukraine had virtually no history of immigration during the Soviet empire, institutional bodies related to migration issues and border control had to be created for the first time. Since independence, the country has been confronted with different kind of external migrants: individuals born in Ukraine who return to the homeland from the territory of ex-Soviet republics (repatriates); individuals illegally deported from Ukraine on ethnic grounds and their descendants; migrants from the ex-Soviet republics forced to leave the state of residence (but not

former residents of Ukraine); foreign nationals, who stay legally at the territory of Ukraine; refugees; and illegal migrants (including transit migrants). The last group is the largest and of greatest concern to the government, as Ukraine still faces major difficulties to demarcate—let alone control—its borders to other former Soviet republics like Russia, Belarus and Moldova.

Ukraine has not yet a functioning democracy. Even though the constitution can be classified as democratic, the presidential power gets out of hand. During recent years the president established a completely dependent state structure and a loyal presidential administration, which oppresses journalists, judges and oppositional politicians and is modeled on former Soviet Union tradition. The presidential administration is headed by a small group of businessmen who established an extremely powerful oligarch system. Corruption and criminal involvement are widespread, the country lacks nation-wide people's parties and free elections, and the civil society is weak. Furthermore, Ukraine is highly influenced by Russia. In fact, Ukraine depends on Russian natural resources, on the oil from Russia, gas from Russia, and even the political influence is very strong. In fact, Ukraine moves uneasily between Russian influences on the one hand, and the hope for a West European option on the other—a situation one interviewee described as following: "Under the Soviet period Ukraine was locked in, now Ukraine is locked out."[27]

The EU-Ukrainian relation is formalized by the 1998 Partnership and Cooperation Agreement (PCA) which sets, in broad terms, an agenda for legislative and regulatory approximation, albeit without fixed deadlines. In contrast to contractual relations with the EU's other neighboring countries, the PCAs in force with Russia, Ukraine and Moldova grant neither preferential treatment for trade, nor a timetable for regulatory approximation. In 1998 as well, the Ukrainian President Kuchma adopted a "Strategy for

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[27] U-RES-1, personal interview, 23.2.2004, Kiev.

European Integration" clearly emphasizing the Ukrainian aspiration towards membership in the EU:

> "National interests of Ukraine require identification of Ukraine as an influential European country, full-fledged EU member. (…) The main foreign policy priority of Ukraine in the middle-term perspective is to acquire on this basis a status of the EU associated member and should correlate with the time of acquiring of the EU full-fledged membership status by the countries-candidates which have common borders with Ukraine."[28]

The EU laid down its basic approach to relations with Ukraine in a "Common Strategy" in 1999 which in fact acknowledges Ukraine's European choice, however does not make any statement on the likelihood of future membership.[29] In the field of migration, the EU released a specific action plan on Justice and Home Affairs with Ukraine at the end of 2001.[30]

In the following years Ukrainian officials have repeatedly underlined the countries long term goal of EU membership being fulfilled by a step-by-step process involving WTO membership, a free trade agreement with the EU and the replacement of the PCA by an association agreement. The repeated claim of Ukraine to receive a positive signal towards EU membership has become highly politicized. A discussion has started on the question whether Ukraine would need such a signal to implement the necessary reforms to adopt the EU acquis or whether Ukraine first has to deliver and to prove its ability to cooperate before the EU—if at all—could give such a signal. Besides questions of democracy and economic development, important concerns relate to the country's demographic weight and its proximity with and close relationship to Russia. Overall, the EU has remained non-committal vis-à-vis Ukraine's aspirations to join, neither promising membership at any time, nor rigorously ruling it out. In November 2003, the Commissioner for External Relations, Chris Patten stated that agreements that stop short

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[28] Presidential Strategy of Ukraine's Integration to the European Union, Decree of the President of Ukraine N615/98, 11 June 1998.
[29] Cf. 1999/877/CFSP European Council Common Strategy of 11. December 1999 on Ukraine
[30] Cf. 2003/C77/01, December 2001.

of membership may not be the end of the story: "[Implementing the proposed agreement] would not detract from your vocation but should help make your case even stronger."[31]

Ukraine has already gained some experience with bilateral readmission agreements with Hungary, Moldova, Poland, the Slovak Republic and several other countries. In June 2002, the European Commission received the mandate to start negotiations on a readmission agreement with the Ukrainian government. Two months later, a draft text was officially transmitted to the authorities in Ukraine. Because of the difficult creation of Ukrainian citizenship after its independence in 1991, the country is concerned about readmitting stateless persons and is only willing to accept stateless persons who have had permanent residency in Ukraine before illegally entering the EU. In addition, the Ukrainian delegation asks for a clause in case of mistaken readmission. Even though hoping for visa-free access to the EU in the long term only, for the moment Ukraine asks for some kind of visa facilitation. The hope on future EU accession seems to positively influence the negotiations as Ukraine hopes to receive a positive signal from Brussels in case of its willingness to cooperate. Asked why Ukraine should sign a readmission agreement that includes provisions for third country nationals at all, a member of the Ukrainian negotiation delegation told me: "Ukraine hopes to become a member of the EU some day. And if you sign such an agreement you have some obligation to accept receiving illegal migrants, (…) it means that you are ready to cooperate with the EU."[32] According to him, the negotiations might be closed until spring 2005 at the earliest.

The greatest concern of the Ukrainian authorities is the readmission of third country nationals; and the reason mainly lies in Russia. As long as the Russian-Ukrainian borders are only badly demarcated and hardly controlled, illegal migrants can flock to Ukraine without any problems which would mean that Ukraine has to take them back in case that

[31] EU-Observer, 11 November 2003.
[32] U-GOV-1, personal interview, 24.4.2004, Kiev.

EU member states ask for their readmission. And as Russia simply refuses signing a readmission agreement with Ukraine, the country will rapidly turn into a major country of destination without having the financial, administrative and social capacity to deal with it: Thus Ukraine's objective is to sign such agreements simultaneously with Russia and with the EU to secure itself and for that reason the Ukrainian government seeks to delay the negotiation process to gain some more time to negotiate a bilateral agreement with Russia. One member of the Ukrainian negotiation delegation explained the Ukrainian situation as follows:

> "With Russia the negotiations are very tough and very slow. Belorussia did not respond to these messages from Ukraine about a readmission agreement. (…) This readmission agreement with the EU—and our European colleagues understand this—that it is not very convenient for Ukraine, in a kind it is even dangerous for Ukraine. (…) So the main concern is that we may become a country that will be the destination or the country that will keep all these people; the biggest negative implication. We know how to soften it and we think it is very easy. The recipe is so that at the time when we are signing the agreement with the EU we at the same time signing the agreements with Russia and Belarus and with those Asian countries, origin countries. And then we create a readmission area, a single readmission area. And this problem of transit migration will be solved." (U-GOV-1, personal interview, 24.4.2004, Kiev)

In sum, Ukraine has little to gain, at least in the short-term, perhaps apart from what it hopes to get, namely becoming a respected cooperation partner. Negotiations with the Ukrainian government turned out to be somewhat hard-bidden, however. The EU is aware of the problems the country would be facing after signing such an agreement, and as the EU Commission itself negotiates on a similar agreement with Russia, the Russian refusal is well-know, too. In terms of opposition to the readmission agreement, the Ukrainian parliament is not involved in the negotiation process, and the public is rarely informed. However, a representative of the European Commission in Kiev considers signing the agreement from the Ukrainian point of view as "courageous, simply

'apolitical'"[33]. Courageous would mean irrational as it is highly likely that the Ukrainian government will not be able to slow-down negotiations with the EU until Russia is willing to sign a bilateral agreement with Russia. This, in the end, will confront Ukraine with the extremely problematic situation of open borders in the east and guarded and strongly controlled borders in the west.

Morocco

In 1999, the total number of Moroccans living outside the country was estimated at around two million, of which 80 percent were living legally in Europe. The EU classifies Morocco as a country of origin of so-called "economic migrants". Remittances from Moroccan emigrants form a very important factor in Moroccan economy and were estimated to amount to 6.5 percent of Morocco's GDP in the period 1975-1998 (cf. International Organization for Migration 2002): 21.

During recent decades, Moroccan authorities accepted the emigration of their people for different reasons: it results in a reduction of unemployed; it brings foreign currency in form of remittances that will be invested into the country's development; and it helps qualifying people which will be useful on their return. The government—in the form of the "Ministre déléguée auprès des Affaires étrangères et la Coopération chargée des Marocains résidant à l'Etranger" which had been created in 1990—sought to preserve cultural links with the communities of expatriates in order to attract their investment at home. Recently, however, concerns about migrants and refugees arose in Morocco itself because it has increasingly turned into a transit and even destination country. Given the proximity of the European mainland, substantial numbers of third country nationals from West Africa and Sub-Saharan countries pass through Morocco on their way to the EU.

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[33] U-COM-1, personal interview, 19.2.2004, Kiev.

Even though Morocco already applied for membership in the European Community in 1987 it is a non-accession country. Its request was rejected on the grounds that Morocco is not a European country. Current EU-Moroccan relations are shaped by the 1995 Euro-Mediterranean Partnership and the 2000 Euro-Mediterranean Association Agreement. Only recently, the EU's relations with Mediterranean countries became part of the new EU's Wider Europe approach concerning relations with Russia, the Western Newly Independent States[34] and the Southern Mediterranean[35]. The principle of the Wider Europe approach is "everything but the institutions" (Prodi 2002) which means no accession, but close integration otherwise. Thus, "Wider Europe" is an incentive-driven approach formulating conditionality for "getting a slice of the cake".

With regard to readmission, Morocco already gained experience by bilateral agreements with Spain, Italy, and Germany and similar working arrangements with Belgium, although the latter is reported as being insufficient. In general, the Moroccan government has been rather reserved about concluding and putting into practice bilateral readmission agreements (cf. International Organization for Migration 2002; Barros et al. 2002: 41).

After the European Commission had received the mandate to negotiate a readmission agreement between the EU and Morocco in September 2000, it transmitted a first draft to the Moroccan government in May 2001. Initially, there was no formal response but three informal meetings were held in Rabat in the first half of 2002 (cf. Council of the European Union 2002). For a long time however, the Moroccan government refused to commence formal negotiations. The Moroccan side asked the EU to acknowledge first that illegal migration is a shared responsibility of both Morocco and the EU and called for negotiating not only on readmission but on a more comprehensive migration package

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[34] NIS, Ukraine, Moldova, and Belarus.
[35] Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestinian Authority, Syria, and Tunisia.

including e.g. regulations on family reunification, student visa, free movement of long-term residents, and education of persons with regard to the need of the EU labor market, training of border personal, facilitating visa requirements, or an EU quota system on legal labor migration.

After several informal negotiation rounds EU delegates agreed to a more comprehensive migration package. In consequence, formal negotiations started on the basis of a commonly revised draft text in February 2003. After a first round of negotiations in April 2003 in Rabat, the Moroccans expressed the will to submit a counter draft proposal. The negotiations reached a deadlock again when Morocco called for an even broader package that includes also non-migration issues. This would definitely exceed the Commission's current mandate to negotiate on readmission. Accordingly, in the above mentioned Communication on the development of the common policy on illegal immigration the Commission asked the Council to allow for an increasing interdependence between the EU's external relations, its development policies and its migration policies. In the second half of 2003 both sides exchanged several counter proposals on the draft text. Only recently, the March 11 attacks in Madrid dramatically increased the pressure on both sides to reach agreement and to strengthen EU-Moroccan political relations. As a diplomat of the Moroccan negotiation delegation explained: "Concluding negotiations is a conficence building measure, we need that more than before. (…) Politically, today, a readmission agreement with the EU is a good political measure."[36] He expected negotiations to be closed before the end of the year, maybe in September 2004.

The adaptational costs when signing a readmission agreement are probably high. First, emigration of Moroccan nationals is not unwanted. As I suggested above, during last decades the government actively promoted emigration because of huge domestic social

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[36] In a personal interview, 8.4.2004, Brussels.

problems, a high unemployment rate and the economy's dependence upon remittance flows.In addition, signing a readmission agreement might constitute a major challenge in terms of the necessary infrastructure. Morocco basically has no institutional, administrative and economic capacity to sufficiently control borders and prevent illegal migrants leaving the country towards the EU. Even if the EU signals its financial and institutional support Morocco fears to carry the main burden economically and even socially when becoming a so-called buffer zone for unwanted asylum seekers and illegal immigrants:

> "Morocco should not just be the back door for the EU. (…) We have made itnernal lobbying to have the government to acccept to talk about a readmision agreement. We were always asked 'What is Morocco gaining from entering into the process?' which was a concession of our side compared to many other countries who refuse to negotiate. (…) I need the EU to help me to voncinve my people that after a readmission agreement there is something more." (M-GOV-1, personal interview, 8.4.2004, Brussels)

It seems to be highly important for the Moroccan government to present itself to its people as serious negotiation partner at eye level with the EU, because public opinion disapproves a readmission agreement with the EU lacking any reciprocal compensation on the part of the Europeans. The government fears social and political destabilization when making too many advances to the EU without being able to present hard won profit. Here, the cultural differences between Morocco and the EU may come into play, and a limitation of the EU's normative bargaining power might surface. The perception about cultural differences currently seems to turn the tables putting the EU under pressure to give a proof of not facing a religious confrontation and instead regarding modern, non-Islamist Islam as equal partner. Thus, it has become impossible to purely negotiate on technical readmission facilities when negotiating a Community readmission agreement with Morocco—a fact that the EU has come to realize only slowly.

Turkey

In 2003 about 3.4 million Turkish citizens were living in the EU (cf. Kirisci 2003). The bulk of labor migrants—so-called "guest workers"—came in the 1960s and early 1970s, followed by substantial numbers of family members in the 1980s. During the 1990s, almost 340,000 Turkish citizens, most of them Kurds, sought asylum in the EU. Although the numbers of Turkish asylum applications decreased, Turkey still is among the most important countries of origin for asylum seekers in Europe; and emigration in the context of family reunification continues. As of recent a number of Turkish citizens have migrated illegally to Europe for different reasons, above all the financial and economic crisis of the country, and facilitated by existing social migration networks. Even though this part of the story is less well-known, Turkey also features a long history as a destination country, acknowledging three kinds of immigrants: national immigrants,[37] convention refugees[38] and non-convention refugees[39].

Turkey's EU integration process started 40 years ago when both sides signed an Association Agreement in 1963. The 1987 Turkish application for full membership was rejected by the European Commission in 1989. However, a Customs Union went into effect on January 1, 1996. After having been excluded from the list of formal candidates at the Luxembourg summit in 1997, Turkey eventually received candidate status for membership at the Helsinki summit in 1999. The reasons for this shift in the EU's position were manifold: the EU sought to halt the worsening of Turkish-EU relations

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[37] People of "Turkish descent and culture"; the special responsibility for ethnic Turks and people considered to be of "similar culture" originates in the history of the Ottoman Empire and concerns people from the Balkans (Albanians, Bosnians, Circassians, Pomaks, Romas, Tatars etc.) and the Caucasus. Between 1946 and 1995, over 800,000 persons immigrated to Turkey as part of "national" immigration (cf. Kirisci 2000).

[38] Turkey signed the 1951 Geneva Refugee Convention with a geographical limitation so that legal obligations would be applied only to people seeking asylum as a result of events in Europe and non-European refugees would be excluded. 13,552 convention refugees were accepted between 1970 and 1996 (cf. Kirisci 1996).

[39] Refugees from beyond the limited geographical area; between 1994 and 1999 about 17,000 non-European asylum seekers applied for status of which almost 7,000 (about 40%) were recognized (cf. Icduygu/Keyman 2000).

after the Luxembourg summit; in Germany elections brought the Social Democrats/Green Party coalition to power which had a more accommodating position towards Turkish EU membership; Greek policy toward Turkey had changed; and the United States pushed for rapprochement. At its summit in Nice (December 2000), the EU Council of Ministers agreed on the Accession Partnership (AP) as centerpiece of the pre-accession strategy for Turkey to which the Turkish government responded with the National Program for the Adoption of the Acquis (NPAA) in March 2001. The 2002 Copenhagen summit did not lead to a firm date to begin negotiations for Turkey's eventual admission. Instead, Turkey's candidacy will be reviewed in December 2004.

The fact that Turkey—which is the oldest membership applicant—is the only country with which accession negotiations are not yet open indicates that the EU has the hardest time in handling the Turkish application. As Teitelbaum and Martin put it, "Brussels shows an attitude that can best be described as 'yes-but'" (Teitelbaum/Martin 2003: 97). The main objections underlying the EU's hesitancy are the lack of democracy apparent in the political influence of the military and the National Security Council as well as the death penalty; perceived cultural differences presumably resulting from the different religious background of Turkey; its large population linked with the fear of mass migration from Turkey to the EU, a powerful role in EU institutions, a large burden on the EU budget stemming from the weak Turkish economy. In addition, Turkey has yet to resolve its differences with Greece over the Aegean and Cyprus.

Irrespective of these numerous obstacles on the way to full membership and the final uncertainty of the integration process, the Accession Partnership has strongly influenced Turkish policies on illegal migration. The country has thus agreed to strengthen border controls, to implement the Schengen acquis, to harmonize its legislation to the EU acquis on visa policy, to adopt the EU acquis on migration in order to prevent illegal immigration, to strengthen the fight against organized crime, to adopt a relevant acquis to

participate in Europol, and to lift the geographical limitation to the 1951 United Nations Convention.

Turkey already has some experience with readmission on bilateral level and is currently negotiating about 18 bilateral agreements, while preparing for at least eight more (cf. Commission of the European Communities 2002; International Organization for Migration 2003: 64). On November 28, 2002, the Council authorized the Commission to open negotiations for an EC readmission agreement with Turkey. On March 4, 2003, a draft text for an agreement was handed over to the Turkish Ministry of Foreign Affairs, which is currently considered by Turkish authorities. Currently, a response is still pending. Only recently the EU called for opening up negotiations on a readmission agreement with Turkey (cf. Commission of the European Communities 2003b: 17). So far, Turkey has signaled to only accept its own nationals as well as legal residents in Turkey. In addition, it offers to accept third country nationals who have legally transited through the country but were arrested for illegal entry into the EU, in case that the demand for readmission is made within 48 hours of transiting Turkey. Of course, Turkish politicians fear a situation in which Turkey is transformed into a dumping ground for illegal migrants. In their view, rigid EU visa policies and regulations contribute to the fact that people try to reach Europe illegally. Furthermore, they doubt the effectiveness of readmission agreements as many returned migrants immediately seek to reach Europe again (cf. Kirisci 2001: 89-90; Kirisci 2003: 98). However, in the course of the Accession Process, Turkey has committed to reaching the required readmission agreement by 2004.

A readmission agreement with the EU does not yield any advantages for Turkey that would be left out by accession—besides representing itself as being cooperative and reliable. A readmission agreement without foreseeable EU membership would result in major problems and substantial adaptational costs. In contrast to the Moroccan situation,

in the Turkish case the importance of remittances does not result in a similarly strong adaptation pressure. Most emigrated Turks live legally in the EU and for that reason will not be affected by readmission policies. However, the country lacks institutional and administrative infrastructure and economic capacity to prevent illegal migration from and through its country towards the EU. In reaction to the EU's lament that Turkey lacks effective action to control illegal migration movements, Turkey accused the EU to adopt policies that further fuel illegal migration. Turkish officials expressed their concern about Turkey becoming a destination country precisely in light of the EU's restrictive migration policies. They complain about the ineffectiveness of such readmission agreements, as arguably people returned to their country of origin often try their fortunes again. Turkish politicians have also pointed to the economic gap between Europe and the countries neighboring Turkey, which cannot be reduced through Turkish policy measures alone. Thus, from the Turkish point of view, the question of readmission has to be closely connected with a system of burden-sharing.

A very influential opponent against signing a readmission agreement is the Turkish military. In addition, public opinion is at least reserved. As to EU membership, the population seems to be evenly divided and discusses—mirrored by public opinion in the EU—the question of identity and cultural affiliation. Resistance against signing a readmission agreement with the EU becomes even larger when membership becomes uncertain. People's resistance towards the EU sets clear limits to the EU's normative bargaining power. Aware of this, the Turkish government seeks to link the question of readmission with a definite membership perspective. It fears the worst case scenario where close cooperation with the EU in harmonizing asylum and migration policies does not result in Turkey's admission to the Union, because in that case Turkey would be left exposed and forced to deal alone with the problems of asylum and illegal migration threatening to destabilize the country. Yet, the EU seeks to enforce its policy of

conditionality by using the accession card to put pressure on Turkey to demonstrate its willingness to cooperate. This situation resembles a tug-of-war.

5. Conclusion

Negotiating Community readmission agreements with non-member countries of origin and transit turns out to be an extremely difficult and complex undertaking, even taking EU negotiators by surprise. My analysis of four countries' negotiations with the EU has revealed a multi-faceted picture of external effects of EU policies. When considering the entire group of eleven third countries the EU seeks such agreements with, the situation probably gets even more complicated.

Beyond national peculiarities, what common mechanisms in these negotiation processes can we identify as a result of this preliminary analysis? My discussion has made it clear that readmitting own citizens as well as third country nationals and stateless persons constitutes an enormous administrative, institutional, social and financial challenge for all non-member states. To a varying degree, these countries all feel threatened by the prospect of becoming the EU's buffer zone as a result of the Union's closed border policies. Against this backdrop, they are all in need of trying to reach some burden-sharing agreement. All countries are similarly confronted with an incentive-driven EU approach that seeks to play the card of conditionality. However, my analysis has illustrated that degree and efficacy of this approach differ widely across countries.

Theories of international socialization identify institutional appropriateness and the extent of a true prospect for membership as critical determinants of third countries' willingness to adopt policy measures demanded by a supranational body such as the EU. Yet, when mapping the current status of negotiation on the institutional affiliation with the EU and on the feasibility of membership, no definite systematic relation between these two dimensions emerges at first glance. That is, a more viable membership

perspective does not systematically result in more far-reaching willingness to cooperate on matters of illegal migration. Turkey, which is the only accession country in the group, persistently refuses to open negotiations, while Albania, with a long-term membership perspective in fact cooperates willingly. Ukraine, which struggles intensely for an explicit membership perspective from the EU is generally more open towards signing the agreement than the candidate country, Turkey. At the same time, Ukraine is much more hesitating to sign a EC readmission agreement than Albania is which might be explained by the country's effort to receive some kind of signal for membership perspective first. And Morocco, which, unlike Turkey, had been extremely skeptical of the negotiationsat the outset has in the meantime begun official negotiations, despite the fact that membership does not play any role in its relationship with the EU. This leads me to conclude that if at all, the probability of membership has to be considered in conjunction with other explanatory factors.

The countries at hand differ with respect to the institutionalized emphasis on migration issues shaped by the historical role of migration. In particular, there exist vastly dissimilar traditions of emigration and immigration patterns, and different experiences with readmission policies. I suggest that in part, these countries' differences in history, and in the institutionalized capacity to administratively deal with migration policy concerns, shape government attitude and approach towards readmission. Understanding the historically accumulated sensitivity and ability to address migration may thus offer a clue to getting a grasp of a country's current stance in the negotiation process over readmission agreements. The same might hold true for the role of domestic opposition. It appears as if the attitude of public opinion towards the EU in general, and a readmission agreement with the EU in particular, might influence the government's negotiation position in a critical and constitutive manner. Domestic oppositional forces as well as cultural differences seem to limit the EU's normative bargaining power, such

that national actors become less likely to root up for a readmission agreement with the EU.

Admittedly, the empirical approach I employed here, namely to track a process from its very beginning, entails methodological difficulties. The positions of non-EU member states in the negotiations with the EU will almost certainly change over time, as will the positions of the EU. At the same time, attending to this process opens up the possibility to analyze interactions during negotiations, explaining these very changes in negotiation positions over time, learning about unanticipated or counterproductive effects and delaying factors during negotiations and, ultimately, identifying the conditions for success or failure. Thus, further comparative research is warranted including a wider range of countries and exploring development over time to better understand the varying success and roadblocks in the Community's negotiation over readmission agreements with non-EU member states. Beyond the concrete policy domain, this approach may help us fill some important "blind spots" in current research on the European Union. In particular, it could further our insights into the external effects of EU policies, and help us to arrive at a more encompassing understanding of the emergent EU's role as an international actor.

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