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**Salience, path dependency and the coalition between the European
Commission and the Danish Council Presidency:
Why the EU opened a visa liberalisation process with Turkey***

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Abstract: In June 2012 the European Commission received the backing of the member states to launch a visa liberalisation process with Turkey in exchange for a readmission agreement that obliges Ankara to take back illegal immigrants who passed through Turkey as a transit country. This is a remarkable development in view of the earlier rejection by several member states of the perspective of a visa free travel for Turkish citizens. My process tracing analysis suggests that the key to explaining this development is the argumentative strength of the European Commission, stemming from the necessity of cooperation with Turkey on migration and the norms of procedures set in previous readmission negotiations, as well as the coalition between the Commission and the Danish Council Presidency. Thus, this article contributes to a better understanding of the dynamics of Turkey's EU accession process, the role of the Commission in the EU's visa policy, and the influence of Council Presidencies.

Keywords: Agency theory; governance; path dependence; political opportunity structure; supranationalism; immigration policy; Schengen; enlargement; agenda-setting; Council of Ministers; European Council; European Commission.

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Table of Contents

Introduction	2
1. Explaining policy change: Saliency, coherence and windows of opportunities.....	4
2. Pressing problems: The saliency of external border control	6
3. Path dependency: The coherent application of procedural standards	7
4. Deadlock during the Hungarian and Polish Presidency	8
5. Opening window of opportunity during the Danish Presidency	11
Conclusion.....	14
References	16

Introduction

On 21 June 2012, the European Commission received the political mandate to start a visa liberalisation process with Turkey in exchange for Turkey's readiness to implement a readmission agreement that obliges Ankara to take back illegal immigrants who have used Turkey as a transit country on their way to the EU (Council 2012a). This development was unexpected in the light of the Council's rejection of this linkage in February 2011, despite the lobbying efforts of the European Commission. Although the Council had invited the Commission to start a dialogue with the aim of facilitating the visa procedure for certain groups of people, general visa exemption was not the target. In particular, Germany, Austria, France and the Republic of Cyprus were against a visa waiver perspective for Turkey (German Press Association 2011). The German Interior Minister Hans-Peter Friedrich was opposed to the visa free travel perspective of Turkish citizens as late as March 2012 (Stern 2012).

The aim of this article is to analyse the factors which have contributed to the position change of the Council between February 2011 and June 2012, using the multiple stream model, developed by Kingdon (1995) and applied by Zahariadis (2008) to the EU context, as an analytical framework. This approach argues that the interaction of three relatively independent streams - problems, policies and politics – may open a window of opportunity for policy change. Thereby, the problem stream deals with issues that are priorities for policy-makers and citizens, the policy stream consists of ideas or policy solutions to the identified problems, and the politics stream refers to the interest and power constellations in the Council. According to this model, EU policies are the result of coupling by policy entrepreneurs of these streams (Zahariadis 2008: 517).

This multiple stream perspective has been used in the structuring of my process tracing analysis, which is based on my recent research on Turkey's new readiness for a readmission agreement in January 2011 (Bürgin 2012), an analysis of crucial policy documents and public statements of the involved actors, as well as semi-structured interviews with 20 officials from the Commission (8), the reluctant member states (Germany,5; France, 1; Austria, 1), the Dan-

ish Council Presidency (3) and Turkey (2). My finding is that the common policy entrepreneurship of European Commission and the Danish Council Presidency explains the outcome of the Council Conclusions in June 2012. Compared to the less favourable context conditions for the three streams in 2011, the intersection of favourable conditions in 2012 offered a window of opportunity for policy change which was successfully exploited by the Commission and the Danish Council Presidency. Relating to the problem stream, the need to cooperate with Turkey in the management of illegal migration flows regained its priority on the EU agenda in 2012 due to alarming Frontex reports after it had faded in importance in 2011 during the migration movements of the Arab spring. Relating to the policy stream, the coherent application of EU norms of procedure established during the readmission negotiations with the Balkan countries, namely the linkage between readmission agreement and visa liberalization, strengthened the position of the Commission who lobbied for the same linkage in the readmission negotiations with Turkey. In particular, preparations for the opening of a visa liberalization process with Kosovo in 2012 raised the question of the incoherent treatment of Turkey. Finally, regarding the politics stream, strong support for the Commission's position was provided by the Danish Council presidency, which was perceived by the other member states as an honest broker between diverging interests, and thus contributed to the breakthrough of the negotiations in June 2012.

Thus, this case study contributes to a relatively neglected aspect in the theoretical inspired studies so far on institutional relationships within the EU by adding a focus on the coalition between the Commission and the Council Presidency. Whereas most work on the relationship between Council and Commission highlights either the power of the Commission in relation to the member states (Pollack 1997, Schmidt 2000, Thomson and Hosli 2006; for the supranational policy entrepreneurship of the Commission in the area of Freedom, Security and Justice see Kaunert 2009, Kaunert 2010, Kaunert and Della Giovanni 2010, Ucarer 2001), or the role of the Council Presidency within Council (Tallberg 2003, Adler *et al.* 2012, Kaczyński 2011a and 2011b, Tallberg 2003), e.g. such as the role of presidencies of smaller countries (Bengtsson *et al.* 2004, Elgström 2003, Humphreys 1997, Thorhallson and Wivel 2006), this study shows how the synergies between the Commission and the Council Presidency are able to overcome the opposition of some member states.

The article proceeds in five stages: First, I refer to the multiple stream model and the scientific debates about the role of Council Presidencies. Second, I show how the salience of a better migration management at the Greek-Turkish border has strengthened the position of both the Commission and also Turkey. Third, I analyze how the norms and procedures introduced in the readmission negotiations with the Balkan countries increased the agenda-setting power of those who demanded a coherent application in the case of Turkey. Fourth, I explain the unfavourable interest and context constellation during the Hungarian and Polish Council Presidency in 2011. Finally, I show how the argumentative strength of the Commission, combined with the engagement of the Danish Council Presidency and favourable context conditions led to a breakthrough in the negotiations.

1. Explaining policy change: Saliency, coherence and windows of opportunities

In order to conceptualise the ability of the European Commission to influence the outcome of the Council decisions, it is useful to apply the multiple stream model. This model was originally developed in the context of US politics by Kingdon (1995) and has been applied to the EU by Zahariadis (2008). This model suggests that the influence of supranational policy entrepreneurs depends on their ability to couple the three different streams: problems, policies and politics. Policy-making starts with the identification of a problem (problem stream), which is influenced by the saliency of a problem (Zahariadis 2008: 517), followed by a search for alternative solutions (policy stream). As the Commission has the right to initiate new legislation, it has a comparative advantage to those entering in the later stages (Kaunert 2010: 177), and therefore having to react to the Commission's problem definitions and framing of solutions (Sauter 2009). Thereby, the expertise of the Commission, based on its network of diverse stakeholders, plays a pivotal role. In particular, the Commission integrates national civil servants into a multilevel community administration, which spans levels of governance and lobbies for support at the upper domestic political level for the principles and solutions established before in the EU committees (Lewis 1998, Trondal *et al.* 2005).

Whether a proposed policy solution gains acceptability also depends on its similarity with previous policy decisions. Past experiences tend to guide search for new actions, and former, well-tried policies are often chosen as answers to emerging problems. According to this path-dependent logic of historical institutionalism, established norms strengthen the position of those actors whose preferences are in line with these shared standards, because they can be justified by a 'previous mutual consent and a familiar and tried strategy' (Kohler-Koch 2000: 517). These standards can therefore be used to exercise social pressure on actors with differing positions, who are rhetorically entrapped by commitments of the past (Schimmelfennig 2003). Thus, the argumentative power of the Commission increases if it can present its position or proposal as either fitting to already established policy principles and dominant discourses (Kaunert 2007) or as being the coherent application of the *acquis* programme (Mayer 2008).

However, while the argumentative strength of the European Commission in the agenda-setting phase is a necessary precondition for its influence on the final Council decisions, it is not a sufficient one. The inter-institutional power balance between the Commission and the Council in the bargaining stage (the politics stream) is further contingent on a variety of factors which complicate general assessments about the power and autonomy of the Commission (Trondal 2007: 962). A well-studied constraining factor is the decision-making procedures in the Council. As Commission proposals are more easily accepted than modified, the Commission has conditional agenda-setting power (Tsebelis and Kreppel 1998) if a qualified majority in the Council prefers the Commission proposal to the status quo. The Commission's influence also depends on its ability to break up existing coalitions or manipulate the Council's default conditions (Schmidt 2000), which in turn depends on factors including the homogeneity of its own position (Elgström and Larsen 2010), the ability of the governments to agree on package deals and side payments (Moravcsik 1998), the firmness of a position inside a member state, the role of domestic officials in the Council working groups (Beyers and Trondal

2004) and procedural ambiguities (Borras 2009). In the face of this variety of influencing factors, the multiple stream model rejects the belief that policy processes smoothly follow a rational or normative logic, and dismisses monocausal explanations. As a consequence, the multilevel policy-making in particular in the EU is characterized by unpredictability (Larson and Trondal 2006: 28).

In the following, I argue that one constraining factor in this politics stream which deserves greater attention in the analysis of the power relation between the Commission and the Council is the possible synergy created between the Council Presidency and the European Commission in terms of common policy entrepreneurship. The Presidency can form an interest coalition with the Commission and thus open a window of opportunity for a policy solution, which the Commission is unable to open alone. Thus, in addition to the role of the European Commission in shaping the EU's visa policy, my argument also contributes to the controversial issue of the influence of the Council Presidency on the decisions of the Council (Tallberg 2003: 1). Many scholars argue that the influence of the Presidency is limited by the neutrality norm, which prevents it pursuing national interests. Tallberg challenges this view and suggests that the Council Presidency engages in agenda-shaping through the emphasizing and de-emphasizing of alternative issues. He concludes:

‘In the literature on the Council Presidency, this systematic form of influence is commonly reduced to a “flavour” that Presidencies may add to the EU agenda, in the absence of a true capacity to pursue national interests. In fact, it may be this “flavour” that most clearly embodies the effect of a particular Presidency on the EU's agenda’ (Tallberg 2003: 9).

Another debate refers to the respective influence of the presidencies of big and small member states. On the one hand, scholars refer to the limited agenda-shaping power of small states due to the limited size of their civil service (Humphreys 1997); on the other hand, scholars underline the particular influence of small country presidencies because their weakness facilitates the perception of the other member states that these are honest brokers focused on compromise, whereas the big member state are regarded as taking advantage of their stronger positions to advance national interests (Elgström 2003). Bengtsson *et al.* (2004: 314) argue that the lack of traditional power resources can be compensated by normative power. Another crucial aspect regarding the influence of the presidencies of small states is their closer cooperation with the Commission. According to Thorhallson and Wivel ‘small states look at the Commission as a key partner in their attempt to build coalitions and thus try their utmost to get the Commission on their side before facing the large states in the Council of Ministers’ (2006: 660).

Finally, a debate has emerged over the role and influence of the Council Presidency after the implementation of the Lisbon Treaty, which implies that the rotating Presidencies no longer chair the European Council meetings or the Foreign Affairs Council meetings, and that the newly established diplomatic service has taken over the role as chair of approximately 30 Council working groups (Adler *et al.* 2012: 25). It is argued that ‘this effectively means that the rotating Presidency have lost a holistic overview of the political process in the Council’

(Kaczyński 2011a: 29) and thus the rotating Presidency is confronted with a ‘risk of irrelevance’ (Kaczyński 2011b: 2).

The following process tracing analysis shows how interplay of pressing problems, normative reasoning and the commitment of the Danish Council enabled the European Commission to overcome the reluctance of some member states to start a visa liberalisation process with Turkey.

2. Pressing problems: The salience of external border control

The double challenge of international migration and open internal borders in the Schengen zone has forced the EU member states to develop a common migration policy. As intergovernmental regulation of migration failed, the governments agreed in the Treaty of Amsterdam to communitarise immigration and asylum policies. One key element in the management of migration flows is the cooperation with third countries. Thus, with the Amsterdam Treaty, the Commission received the competence to conclude readmission agreements on behalf of all Schengen EU member states. These agreements set out clear obligations and procedures for the return of those who are irregularly residing in the EU. The mandates were based upon a draft model readmission agreement, and did not allow the Commission much flexibility (Trauner and Kruse 2008: 10).

As one of the important transit routes for illegal immigrants, the Commission invited Turkey to begin negotiations on a draft text of a readmission agreement in March 2003. Turkey did not formally acknowledge the invitation until March 2004, however, due to concerns that it would become the final destination for third country nationals and stateless persons. Therefore, Turkey insisted on first concluding readmission agreements with countries of origin to reduce the costs of implementing the EU readmission agreement (Bürgin 2012: 888). However, the Commission created a link between the start of readmission talks and the start of the EU accession talks. As a consequence, Turkey agreed to negotiations on a readmission agreement in March 2004 (Coleman 2009: 181), which then began on 27 May 2005. The talks were abandoned without results in December 2006 (Commission 2007: 5). It is plausible that the halt in negotiations was heavily affected by the EU’s decision in December 2006 to freeze negotiations on eight chapters due to the impasse presented by the Cyprus problem. The prospects for the readmission agreement negotiations deteriorated with the unilateral decision of Republic of Cyprus to block the opening of additional chapters in December 2009. Included was chapter 24, dealing with justice, freedom and security, thus weakening an incentive for Turkey to sign a readmission agreement in order to fulfil one of the benchmarks for the opening of this chapter.

3. Path dependency: The coherent application of procedural standards

Without clear incentives, not only Turkey, but most other third countries with which the Commission was holding negotiations were unwilling to commit to a readmission agreement. Therefore, the Commission repeatedly asked the Council to consider incentives for obtaining the cooperation of third countries in the conclusion of readmission agreements, e.g. more generous visa policies or increased quotas for migrant workers (Commission 2011a: 9, Trauner and Kruse 2008: 11). The member states finally realized that a more attractive package would be necessary and, in July 2004, authorized the Commission to negotiate not only on readmission but also on visa facilitation agreements with the Russian Federation (Commission 2004: 12). These agreements include simplified procedures for various groups, multi-entry visa, reduced fees and an abolition of fees for selected groups, but – contrary to visa liberalisation – do not lift the visa obligation. Shortly afterwards, the link between readmission and visa facilitation also became official for Ukraine and the member states eventually agreed to further examine a possible link between readmission and visa facilitation, albeit on a case-by-case basis (Council 2004: 18). This case-by-case approach soon became the standard approach and by the time the negotiations with the Western Balkan countries started in 2006, readmission and visa facilitation were linked from the very beginning (Kruse and Trauner 2008:11). Thus, the readmission agreements in the Balkan states, Bosnia-Herzegovina, Serbia, Macedonia, Moldova, and Montenegro, in January 2008 coincided with the visa facilitation agreements. More important than the facilitations themselves was the dynamic they triggered regarding visa liberalisation. As reaffirmed in the joint declaration on the perspective of a mutual visa-free travel regime, which was annexed to the visa facilitation agreement, visa facilitation was a first step towards visa-free travel. In December 2009, the EU lifted the visa obligation for Serbs, Macedonians and Montenegrins. One year later Albania and Bosnia-Herzegovina followed.

The Commission also offered Turkey visa facilitations in exchange for a readmission agreement (Commission 2007: 5). However, in contrast to the practice in the Balkan countries, negotiations on visa facilitations should have started once Turkey signed a readmission agreement. The visa facilitations themselves were not a strong enough incentive for the Turkish government for three reasons. First, the offered visa facilitation agreement delivers no significant improvement in comparison to the facilitations enabled by the new visa code, in force since April 2010 and covering visas issued for short stays not exceeding 90 days in any 180-day period. The visa code includes inter alia clear rules for the length of procedures, reduced fees for a selected group of persons, the facilitation of multi-entry visas, simplified procedures and the right of appeal of negative decisions (Commission 2010). These improvements come close to the advantages provided by a visa facilitation agreement. The remaining advantages of a visa facilitation agreement are reduced visa fees (35 euro instead of 60), a visa fee waiver for broader categories of persons, a slightly more comprehensive simplification of document requirements and a reduction in the processing period from 15 to 10 days. Second, Turkey insisted on a procedure that was identical to what was offered to the Balkan countries, where the conclusion of a readmission agreement was the starting point for a visa liberalisation process, based on a roadmap with a clear set of conditions to be fulfilled in order to abolish the visa duty (European Stability Initiative 2012). Third, Turkey argued that the Ankara Agree-

ment, the Additional Protocol to the Ankara Agreement and the Customs Union agreement all necessitate that Turkey be given visa-free travel rights even before the Western Balkan Countries. This claim was legitimized by a decision of the European Court of Justice (ECJ) on 19 February 2009. The Soysal judgment refers to the standstill clause of Article 41 of the Additional Protocol, which forbade the introduction of any new restrictions on the freedom of establishment and the freedom to provide services between member states. The Soysal ruling expressly stated that visa requirement as such constitutes a new restriction, and if the member state in question did not require such a visa at the time of the entry into force of the Additional Protocol of 23 November 1970, then Turkish nationals travelling to that member state did not require a visa.

Because of these three factors, further incentives were necessary in order to revive the blocked readmission talks. Thus, the Commission finally offered Turkey a visa dialogue with the clear goal of visa liberalisation once the readmission agreement is signed. This commitment of the Commission paved the way for negotiations on a readmission agreement text, which was finally accepted by Turkey on 27 January 2011. Shortly before finalization, during a visit of the chief negotiators of the Commission on 13/14 January 2011 in Ankara, Commissioner Cecilia Malmström confirmed support for the Turkish position: ‘This agreement will open the way to starting a serious visa dialogue with Turkey (...). The visa deal would facilitate visa procedures for students, businesspeople, athletes and artists. It would be expanded to all citizens in further stages’ (Hürriyet Daily News 2011). In addition to the visa liberalization incentive, domestic factors also contributed to the new readiness of the Turkish government for a readmission agreement. Irregular migration to Turkey has significantly increased in recent years. Therefore, migration policy, in particular the modernisation of border management and asylum policy, has become a priority issue on the political agenda. These domestic developments contributed to considering the readmission agreement negotiations in the broader context of Turkey’s modernisation strategy. “Thus, whereas at the beginning the readmission negotiations were detached from the domestic political agenda, they now also meet domestic goals and discourses” (Bürgin 2012: 897).

4. Deadlock during the Hungarian and Polish Presidency

Although not a legal requirement (European Stability Initiative 2012), the Commission preferred a political mandate for a visa liberalisation process from the Council of Ministers. However, the offered visa liberalisation process was in contradiction to the position of some member states. France, for instance, had already criticized the Commission for pursuing visa liberalisation talks with Western Balkan countries, both for political reasons and also because the risks associated with the opening of the EU borders were neglected. The Netherlands and Denmark have frequently been mentioned as hostile to opening the Schengen visa-free travel to Albania and Bosnia-Herzegovina (Euractiv 2010). Germany was also against rapid visa liberalisation for Bosnia-Herzegovina and Albania but eventually agreed. A governmental official said that the actions of the Commission in the case of Bosnia-Herzegovina and Albania created a strong impetus for visa liberalisation, to which member states were only able to

react to by making a declaration that the visa liberalisation could be restricted again if abused (interview, 8 November 2010).

The resistance to visa-free travel for Turkish citizens is much stronger, due to the expectation that many Turkish visitors will settle permanently, ignoring the maximum stay of 90 days in a 180 days period, in addition to the existing political objections to Turkey's EU membership. Germany, for instance, was opposed to the linkage the Commission made first between readmission agreement and visa facilitation, and later between readmission and visa liberalisation. According to an Interior Ministry official, Germany prefers to see a functioning readmission agreement first, before allowing a dialogue about a visa facilitation agreement to start. The official admitted that such a practice would differ from the practice of recently concluded readmission agreements and confirmed the crucial role of the Commission: 'The Commission has communicated possible visa facilitations for Turkish citizens in exchange for the signing of the readmission agreement at a point in time as possible visa facilitations for Turkey were not even discussed among the member states' (interview, 9 November 2010).

Shortly before the approval of the readmission agreement text by the Justice and Home Affairs Council, several sources indicated that France and Germany were leading the opposition to the easing of visa restrictions for Turkey. One diplomat stated: 'We do not want any visa liberalisation or facilitation'. Another stressed the fact that EU ministers were discussing the readmission agreement 'has nothing to do with visa liberalisation' (German Press Association 2011). Indeed, as a consequence of the Soysal-judgement of the European Court of Justice in February 2009, Germany decided that stays of up to two months without a visa would be permitted for a limited number of categories, including artists, sportspeople, scientists and also those responsible for cross border transportation. However, the Court decision did not change the German position regarding the general visa requirement for Turkish citizens.

Due to the insistence of opponents of the visa liberalization process with Turkey, on 24 February 2011 the Justice and Home Affairs Council invited the Commission to start a dialogue with Turkey about visa facilitations that excluded the target of general visa exemption (Council 2011). The Turkish Foreign Minister Ahmet Davutoğlu countered by stating that Ankara would not put the agreement into effect until the EU launched talks aimed at visa liberalisation.

For the rest of 2011, the visa liberalisation process did not regain priority in the Council meetings. Neither the Hungarian nor the Polish Council Presidencies in 2011 were active supporters of the Commission in this policy file. This can first be explained by their national interests: Hungary and Poland are not significant target countries for illegal migration. Thus, the conclusion of a readmission agreement in order to return illegal immigrants to Turkey is not a salient issue in these countries. In addition, the special ties of Poland and Hungary to some of the most important opponents of a visa liberalisation process with Turkey made it unlikely that these countries would act against the interests of their closest partners. According Kaczyński, 'Warsaw-Berlin relations are so close that some third countries officials have been informally complaining that the Poles are investing too much in Germany at the expense of other States' (2011a: 44). According to a Commission official, dialogue forums such as the Weimar cooperation (Poland, France, Germany) and the Salzburg Forum (Austria, Poland,

Hungary) were used by Germany and Austria in order to underline their position regarding the visa regime towards Turkey (interview, 24 September 2012).

The room for manoeuvre was further constrained by image problems and personnel discontinuity. The Hungarian Presidency was characterized (as the previous newer member states Presidencies) ‘as a low profile one’ (Kaczyński 2011a: 44). Political leadership was particularly hampered by the ambivalent reputation of the Orbán government, which is accused of restricting press freedoms and violating EU laws with new legislation that curbs the independence of its central bank, data-protection agency and judiciary. In addition, the lacking continuity caused by the replacement of most of the civil servants responsible for running the Presidency after the spring election of 2010 further undermined EU trust in Hungary (Kaczyński 2011b: 3). Compared to Hungary, the subsequent Polish Presidency had more political ambitions, because Warsaw considered its Presidency as the entrance on the scene of Poland as one of the EU’s heavyweights (Kaczyński 2011a: 44). However, during the Polish Presidency, the influence in the Justice and Home Affairs Council was also undermined by a change of the personnel. Following the October elections, Justice Minister Krzysztof Kwiatkowski and Interior Minister Jerzy Miller were replaced in November 2011.

In addition to the lack of policy entrepreneurship that characterized the Hungarian and Polish Presidencies regarding the readmission agreement and visa dialogue with Turkey, the context conditions were unfavourable during 2011. First, due to the Arab spring, the agenda of the Justice and Home Affairs Council was dominated by the refugee movements of these countries, the allocation of budget to deal with this challenge, and the subsequent demand of some member states such as France or Denmark to reintroduce border controls in the Schengen zone. Thus, an official of the German Ministry of Interior stated that the civil servants in charge of external border management focused on these issues, whereas the cooperation with Turkey was not a priority issue during those months of the Arab spring (interview, 14 October 2011).

The second condition concerned the negative experiences with the visa liberalisation for some Balkan states, which became a major priority of the Justice and Home Affairs Meetings in 2011. The abolition of the visa duty for Serbia and Macedonia (2009) and for Bosnia-Herzegovina and Albania (2010) caused a large number of asylum applications from migrants for purely economic reasons. Most of these were subsequently returned to their country of origin. A similar level of abuse of the rights to visa-free travel was expected in the case of Turkey. This was, according to an official of the German Ministry of Interior, not the atmosphere in which the supporters of a visa liberalisation process with Turkey were in a strong position (interview, 14 October 2011).

5. Opening window of opportunity during the Danish Presidency

During the Danish Presidency, a window of opportunity opened due to Presidency related factors and external developments. Unlike Hungary and Poland, Denmark is a target of illegal migration and thus has a national interest in returning illegal immigrants entering the country via Turkey. Although this national interest was acknowledged as an influencing factor by the interviewed Danish officials, they emphasized that an increase in prestige for the Danish Council Presidency was the crucial motive in their efforts for a readmission/visa deal. Furthermore, the Danish change in government in September 2011 played into the hands of the Commission. The previous centre-right coalition took a strong line on migration, announcing the reintroduction of permanent controls on its national borders in May 2011, and was hostile to opening the Schengen visa-free travel to Albania and Bosnia-Herzegovina. In contrast, the new centre-left government follows a more liberal migration policy. In addition to the national interests and the parties in office, the perception of the Danish government by the other member states (and Turkey) as an unbiased actor in Turkey-EU relations contributed to the breakthrough of the negotiations, because Denmark was trusted by the other countries to act as a balanced broker.

Regarding the external factors, the salience of cooperation with Turkey became more obvious once the management of the refugees flows caused by the Arab spring ceased to dominate the agenda. In particular, alarming reports of the EU's border agency Frontex (2012) indicated that the deployment of Frontex officials to the Greek-Turkish border in the second half of 2011 was failing to reduce the number of illegal immigrants using Turkey as a transit country into the EU. In fact, the problems at the Greek-Turkish land border peaked with a 17 per cent increase of illegal border crossings from 47.700 in 2010 to around 53.500 in 2011. Thus, 80 per cent of all new illegal immigrants to the EU followed this route, which is therefore responsible for a significant proportion of the 15 per cent increase of the number of the asylum seekers in the EU-27 in 2011 compared to the previous year (UNHCR 2012: 2).

The salience of a readmission agreement with Turkey is further highlighted by the growing awareness that the problems at the EU's external borders jeopardize the freedom of travel, a key achievement of the European integration process. In response to the increase in illegal migration, the member states decided to re-establish the possibility of intra-European border controls when a Schengen area member country is unable to control illegal immigration across its external frontiers (finally agreed on 7 June 2012). This decision was criticised by Commissioner Cecilia Malmström, who stated: 'An external border that is not working should not be used as a pretext to close European borders' (Europolitics 2012). In addition, the porous Turkish-Greek borders have also caused increasing damage to the Dublin system. Under the Dublin regulation, the EU country of first entry is obliged to consider the claim of asylum seekers. Thus, asylum seekers who entered the EU via Greece can be returned there from other EU countries. However, rulings by the European Court of Justice have led to the suspension of returns to Greece (as well as to Italy and Hungary) because asylum seekers face a risk of being subjected to inhuman or degrading treatment in these countries. According to a Danish official, the Dublin system is at risk of collapse and can only survive if the influx of immigrants is reduced to a more manageable level (interview, 25 September 2012).

The problem of illegal migration via Turkey has the potential to further intensify with the impending Schengen accession of Bulgaria and Romania. Once realised, this could increase their attractiveness to illegal immigrants as transit countries. The porous border between Turkey and neighbouring Greece and Bulgaria would have an even greater impact on illegal migration movements due to the direct access to other EU countries, once border controls are abolished in the enlarged Schengen area. Due to a Dutch veto at the spring 2012 European Council, justified by the claim that Romania and Bulgaria have not made the required progress against corruption and organised crime, the leaders of the European Union agreed to postpone a decision on admitting Romania and Bulgaria into the Schengen area, although this step seems inevitable.

In addition to the salience of the problems at the EU's south-eastern external border, the preparation for the opening of a visa liberalisation process with Kosovo, finally realized on 14 June 2012, once again raised the question of the incoherent treatment of Turkey. In particular, the Turkish politicians and diplomats repeatedly referred to the coherent application of the linkage between readmission agreement and a clear perspective for a visa liberalisation process (Stiglmaier 2012: 102). A Turkish official said that the Turkish diplomats brought the topic onto the agenda at every possible opportunity, regardless of its suitability (interview, 17 July 2012). In addition, Turkey has demonstrated its willingness to cooperate on migration by initialling a memorandum of understanding with Frontex on 15 March 2012.

The Turkish position was further strengthened by the positive agenda which was jointly launched by Commissioner for Enlargement and European Neighbourhood Policy, Štefan Füle, and the Turkish Minister for European Affairs and Chief EU negotiator, Egemen Bağış, in Ankara on 17 May 2012. The intension was to bring fresh dynamics into the EU-Turkey relations after a period of stagnation. Füle framed this process as a new way of communication and interaction based on the common goals and equality between the two sides (Commission 2012). As both the Commission and the diplomats supporting Turkey wanted to avoid the impression of window dressing, the pressure to deliver visible results increased, in particular because of the approaching Presidency of the Republic of Cyprus in the second half of 2012. During this time period, the official EU-Turkey relations were expected to come to a standstill because the Republic of Cyprus is not recognised by Turkey.

The strategy of the Danish Presidency, in order to win the support of reluctant member states and elaborated in close interaction with the Commission, was to include a broader dialogue and cooperation framework between the EU and Turkey into the Council Conclusions about the visa liberalisation process. The purpose of this was to address the full range of Justice and Home Affairs policy fields, rather than remain limited to the scope of the roadmaps which have been applied by the Commission in the Balkan countries as a precondition for lifting the visa duty. The intension of the Danish Council Presidency was to promote greater EU-Turkey cooperation in inter alia the combat against terrorism, money laundering and drug trafficking, efforts which are in the interest of both parties.

In early spring 2012, the initiative of the Danish Presidency received cautious support from German officials of the Interior Ministry, who had realized in the aftermath of the February 2011 decision that the previous position of Germany, namely a functioning readmission

agreement as a precondition for bringing visa liberalisation onto the agenda, was unrealistic. Therefore, the German officials started to rethink the two conflicting policy goals: the return of illegal immigrants and the benefits of cooperation with Turkey in Justice and Home Affairs on the one hand, and the security concerns regarding asylum seekers from Turkey, and Turkish travellers who overstay the allowed 90 days period of visa free travel, on the other. The fact that the foreign ministry (Liberals), which had a more positive approach regarding the possibility of a visa liberalisation process, was finally also supported by the chancellery (CDU) further increased the pressure on the hesitant Interior Minister Friedrich (CSU), who, however, also faced the problem of the opposition from his own party members against visa-free travel for Turkish citizens.

According to a German official, the broader dialogue approach provided an opportunity for greater German flexibility on the visa issue (interview, 19 September 2012). A Danish official added that the challenge was to find a balanced wording that included enough safeguards and requirements for the sceptical states, but was still acceptable for the Turkish side (interview, 25 September 2012). A draft text for the Council Conclusions was first discussed in the strategic committee on immigration and asylum, a working group related to COREPER. However, according to the Danish interview partner, even the high-ranking German civil servants participating in this meeting were uncertain whether the draft text would be acceptable to the minister. The Justice and Home Affairs Council meeting on 26 April 2012 (Council 2012b), in which Minister Friedrich raised no objection to the draft Council Conclusions, was the turning point. This was an important signal for the Danish Presidency that Germany was in principle willing to accept the Danish draft text.

In spring 2012, the draft of the Danish Presidency also received positive signals from the French civil servants, who stressed, however, that there would be no official position before presidential and parliamentary election in May and June. The reason for this delay was Sarkozy's election campaign's uncompromising stance on border control and immigration. The non-position of France was an indicator for Denmark that France was probably aiming to postpone the file until after the Danish Presidency. According to a European Commission official (interview, 19 September 2012), the French reluctance in February 2011 was partly explained by solidarity with Germany. Therefore, the position change of Germany and the electoral success of Francois Hollande, who articulated the general political will to repair relationships with Turkey, facilitated French support for the Danish Council Conclusions. French scepticism was further softened by the introduction of a new visa suspension mechanism, which was promoted by France as a reaction to the misuse of the visa-free regime for purposes other than the intended short-term travel to the EU. Announced by the Commission on 24 May 2011, the safeguard clause allows the temporary suspension of a visa waiver of third-country nationals in clearly defined emergency situations, for example, in case of a sudden high influx of irregular migrants or a sudden increase of unwarranted asylum requests from a third country (Commission 2011b).

The crumbling opposition of France and Germany also had an impact on the remaining reluctant member states, the Benelux countries and Austria. A Danish official stressed that a particular pattern of EU policy-making emerged in the last weeks of the Danish Presidency: As soon as a more powerful member state shifts its position, smaller states in a coalition with this

country follow. In the case of Austria, accompanying these Council related dynamics, a re-composition of the government also played into the hands of the Commission and the Danish Council Presidency. The Austrian Interior Minister, Maria Fekter, became Finance Minister on 21 April 2011 and was replaced by Johanna Mikl-Leitner. The same Danish official and also a Commission official stated that Fekter was as hard-line opponent of the visa liberalisation process, while her successor was a more flexible negotiation partner (interviews, 14 and 19 September 2012).

A final obstacle was removed when the Republic of Cyprus, which was prepared to accept isolation when its Turkey related interests were at stake, decided not to block the opening of the visa liberalisation process. According to a Danish official (interview, 25 September 2012), the Republic of Cyprus was unwilling to be held responsible for a failure of the negotiations on the eve of its own Presidency. Another factor in this decision was its agenda for the Council Conclusions was agreed upon; in particular, Turkey was required to cooperate with all member states in the broader dialogue. In the Council Conclusion, adopted on 21 June, the member states invited the European Commission to take steps towards visa liberalisation as a gradual and long-term perspective, and stressed that progress depends on the effective and consistent implementation of the requirements by Turkey. These particularly focussed on the full implementation of the readmission agreement vis-à-vis all member states, an effective cooperation on Justice and Home Affairs issues with all member states, the improved management of mixed migration flows at its borders, and an alignment with the EU's visa and asylum policy (Council 2012a, point 8).

Conclusion

This contribution illustrates how the intersection of favourable conditions in problem-, policy- and politics stream opened a window of opportunity for policy change. Thereby, the salience of illegal migration into the EU and the normative logic of offering Turkey the same procedures as in the Balkan precedent have strengthened the argumentative position of the Commission, which, despite the opposition of some member states, was able to open the way for the visa liberalisation process with Turkey to begin in return for a readmission agreement. With reference to the credibility of the EU, the Commission argued that in the light of the abolition of the visa obligation for the Balkan countries, and visa liberalisation talks with Russia and Ukraine, it was no longer defensible to deny the same process to Turkey. Thus, this analysis lends support to those scholars who stress the importance of norm construction and normative entrapment in the institutional relationship within the EU (Schimmelfennig 2003).

Even if the argumentative strength of the Commission was an important precondition for change in the Council, it was not a sufficient one, and it would not have been achieved without such favorable context conditions. The most important of these was the synergy between the Danish Council Presidency and the Commission. Together they were able to increase the pressure on reluctant or hesitant member states. Thereby, the Danish government benefitted from its reputation of being considered as a rather neutral mediator between the different positions as it is neither a strong supporter of Turkey's EU membership, nor a strong

opponent. The engagement of the Danish officials, who were in intensive exchange with the involved ministries of the reluctant member states, strengthened the position of those actors in the reluctant member states who held a more flexible view regarding the visa liberalisation perspective for Turkish citizens, but had not previously been able to convince their colleagues in the inner-ministerial and the inter-ministerial dialogues. This study thus highlights how the Council Presidency can change the opportunity structure and the power relations at the domestic level, and illustrates the political role of the Council Presidency. Contrary to contributions which claim that the Council Presidency is in danger of becoming irrelevant due to the changes introduced by the Lisbon treaty (Kaczyński 2011b), this contribution indicates the continuing significance of the Council Presidency. In particular, it highlights the possible synergy effect of a common policy entrepreneurship between the Council Presidency and the Commission, an aspect which deserves greater attention in the theory-inspired research of inter-institutional power relations in the EU, in which 'conventional wisdom views policy choice in the European Union mainly as a struggle between member governments and European institutions' (Zahariadis 2008: 514).

Regarding the political relevance of this case study, the start of a visa liberalisation process may have a positive impact on the flagging accession talks. Contrary to assessments that the Commission has become less committed to Turkey's EU accession (Icener *et al.* 2008), this contribution indicates that the Commission remains a strong ally. The close cooperation between the two sides during the negotiations of a readmission text and the Commission's support of a visa liberalisation perspective may help to recreate the trust lost due to the slow progress of the accession talks. The broader dialogue and cooperation framework on migration issues has a similar potential to improve the relationship between Turkey and the EU member states. The management of migration flows is in the interest of both the EU and Turkey, increasingly seen as a destination by immigrants rather than a transit country. This is shown by the 74 per cent increase in asylum seekers between 2010 and 2011 (UNHCR 2012: 2). Beyond the formal accession talks, in which Turkey plays a more subservient role, this new dialogue has greater potential for an exchange based on equality. If this leads to more mutual trust, it could positively affect the accession talks.

However, there are still many requirements to be fulfilled by Turkey in the visa liberalisation process, as defined in a roadmap which has yet to be officially published. For instance, the harmonization with the EU's asylum policy comprises the demand to lift the geographical limitations of the Geneva Convention, according to which Turkey only recognises refugees from European countries. A new Law on Foreigners and International Protection aims to improve the living conditions and rights of asylum seekers in Turkey, but retains the geographical limitation of the Geneva Convention. So far, Turkey's official position was to link the lifting of this restriction with its accession to the EU. Another problem is the harmonization of the visa regime. Turkey has benefitted economically from lifting its visa obligation for many countries in its neighbourhood and in Africa, whose citizens still require a visa for travelling to the EU. An alignment with the EU's visa regime requires the (re)introduction of a visa obligation for these countries, which is likely to have a negative effect on economic ties with these countries.

Finally, in addition to the challenges of the roadmap, there is a disagreement about the timing. Turkey favours the simultaneous implementation of the readmission agreement and the abolition of the visa requirement, whereas the EU sees the successful implementation of the readmission agreement as a condition for visa liberalization. Therefore, the assessment of Egemen Bağış, that visa exemption for Turkish citizens will take effect in about three to four years (Hürriyet Daily News 2012), is rather optimistic.

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