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# Outsourcing refugee protection to Turkey and other third countries

1st Annual Conference

Refugee Law Initiative, University of London

29 June – 1 July 2016

‘THE FUTURE OF REFUGEE LAW?’

1. The aims and mechanism of the 2015/2016 EU-Turkey agreement.
2. The EU-Turkey agreement in the light of broader EU efforts to outsource migration control.
3. The externalisation of EU migration policy: the human rights concerns.

# **1. The aims and mechanism of the 2015/2016 EU-Turkey agreement.**

- The EU-Turkey Joint Action Plan adopted on 15 October 2015;
- The Joint Action Plan of 15 October activated on 29 November 2015;
- Based on the Joint Action Plan, the EU-Turkey agreement reached on 18 March 2016.

## 2. The EU-Turkey agreement in the light of broader EU efforts to outsource migration control.

“While every country is different and the EU-Turkey Statement reflects particular circumstances, its elements can inspire cooperation with other key third countries...”

2004 The Hague Programme

2008 European Pact on Immigration and Asylum

2009 Stockholm Programme

2015 European Agenda on Migration

2016 A new Partnership Framework with third countries

### **3. The externalisation of EU migration policy: the human rights concerns.**

- Sending migrants back to transit countries
- More stringent migration policies in transit countries

### **3. The externalisation of EU migration policy: the human rights concerns.**

a) increased detention in the transit countries (Turkey, Ukraine, Albania);

b) criminalization of irregular exit (including Cameroon, Senegal, Morocco, Algeria, Tunisia, and Pakistan);

c) visa requirements for nationals of third countries (Turkey towards Syrians and Iraqis);

d) bilateral readmission agreements (Turkey with 14 countries).

<b>The principle of non-refoulement (safe third countries)</b>	RC, article 33(1); CAT, article 3(1); ICCPR, article 7; ECHR, article 3; CFREU, article 19(2)
<b>The right to leave any country including one's own (criminalization of undocumented exit)</b>	ICCPR, article 12(2); CFREU, article 18
<b>Prohibition of collective expulsion (Morocco)</b>	Protocol 4 to the ECHR, article 4; CFREU, article 19(1)
<b>The right to seek and obtain asylum from persecution</b>	CFREU, article 18
<b>The right to liberty (immigration detention in transit countries)</b>	ECHR, article 5(1); ICCPR, article 9(1); CFREU, article 6
<b>Prohibition of inhuman and degrading treatment (conditions of detention and the lack of access to basic means of subsistence)</b>	ECHR, article 3; ICCPR, article 7 & 10(1); CFREU, article 4

**CAT:** Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; **CFREU:** Charter of Fundamental Rights of the European Union; **ECHR:** European Convention on Human Rights; **ICCPR:** International Covenant on Civil and Political Rights; **RC:** Convention relating to the Status of Refugees

## Final reflexions: the accountability

- Extraterritorial scope of the member states' human rights obligations: “effective control”
  - Push backs (*Hirsi v. Italy*) and detention (*Medvedyev v. France*)
  - What other measures may engage state’s jurisdiction? (co-managing detention centres, screening at the airport or seaport in the transit countries carried out by liaison officers...)
- Can the EU be complicit in the violations of the returnees’ rights in the third countries?

**Thank you for your attention!**