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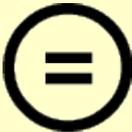
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Master's Thesis

**Comparing Preferences on the *EU-Turkey*
Migration Deal between Germany and
Hungary**

EU-터키 간 이주자 문제 합의에 관한 독일과 헝가리의 선호 비교

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Abstract

Comparing Preferences on the *EU-Turkey Migration*

***Deal* between Germany and Hungary**

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The thesis at hand elaborates the research question “Which factors explain the variation in responses of member states regarding the *EU-Turkey deal*?”. The hypotheses are set up according to theories covering preferences on a Turkish EU accession, realism and the “national identity” approach. After reviewing existing approaches, the hypotheses include new factors which were not covered in previous research. These factors include preferences on a Turkish EU membership, a Europe wide increase of terror threats, the degree of engagement in the US-led anti-ISIS coalition, the implementation of *jus sanguinis* and the Christian/Catholic cultural heritage of a country. This analysis is preceded by an elaboration of the legal nature of the *EU-Turkey deal*. Several articles covering this issue prior and after the judgement of the European Court of Justice are considered to expand their argumentation and develop a new interpretation which covers all aspects and an own assessment.

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Keywords: EU-Turkey deal, refugee crisis, migration, European Union, international agreement, international relations theories

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Abbreviations

AfD	Alternative für Deutschland
CJEU	Court of Justice of the European Union
Coreper	Committee of Permanent Representatives
DGMM	Directorate General for Migration Management, Turkey
EC	European Commission
ECJ	European Court of Justice
EGC	General Court of the European Union
EP	European Parliament
ERTA	European Road Transport Agreement
EU	European Union
Europol	European Police Office
ICJ	International Court of Justice
ISIS	Islamic State of Syria and Iraq
KDNP	Kereszténydemokrata Néppárt, Christian Democratic People's Party, Hungary
OECD	Organisation for Economic Cooperation and Development
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
VCLT	Vienna Convention on the Law of the Treaties
V4	Visegrád Group

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I. Introduction

While the circumstances and the background of the establishment of the *EU-Turkey deal* are described in the following chapter, the introduction serves to explain the research question and novelties of this research. The research question is based on the title of this thesis and asks: “Which factors explain the variation in responses of member states regarding the *EU-Turkey deal*?”.

Elaborating the aforementioned research question gives deeper insight to the refugee challenge on a EU member states level. Furthermore, since it also incorporates issues of EU-Turkey relations, it can be understood how these two broad issues are intermingled and lead to the current temporary *EU-Turkey deal*. From this example, general assumptions and conclusions regarding temporary deals agreed in situations of high urgency, such as the *EU-Turkey deal*, can be made. With knowing the interests of the member states regarding the *EU-Turkey deal*, further possible EU policies could be considered or implemented to tackle refugee issues. Due to the application of a wide range of different theories, it is possible to cover explanations such as preferences on a Turkish EU accession, cultural/historical issues and security. This will lead to a broad picture of reasons of the establishment of the *EU-Turkey deal*. Lastly, due to the pure lack of research, the thesis provides a first theoretical approach on this issue. Another novelty of this research is that it analyses a highly debated agreement and explains it from several different focusses. As a result, new aspects in explaining the *EU-Turkey deal* are identified. This is the first paper doing that and also includes the question of

legal nature of the deal. In doing so, it provides a solid foundation for further research on the *EU-Turkey deal* and decision-making proceedings in the EU as a whole.

This research question is interesting because the ongoing refugee crisis poses a major challenge to the EU. It is among others one of the main highly debated issues in past (i.e. Netherlands, France, Germany) national elections all over Europe. The negotiation of the *EU-Turkey deal* was seen as a landmark decision because until then Germany and Sweden generally welcomed refugees. The *EU-Turkey deal* stopped further influx of refugees and de facto closed the Balkan route. In elaborating the interests of member states, it can be comprehended what the aim of these member states is in terms of refugee issues. Moreover, it is enmeshed with issues of EU-Turkey relations and a possible accession of Turkey to the EU. Furthermore, due to the timeliness of this issue, specific research is rather scarce.

Before preparing an overview of the chapters of the thesis, I like to clarify the terms “refugee” and “refugee crisis”. The latter term “refugee crisis” is considered as misleading and wrong by some scholars. It is argued that is not a crisis of refugees but rather a crisis in the origin states of the refugees and furthermore a crisis in the receiving countries respectively in the EU as a whole. Since the term is still widely used in academics and journalism, I used it as a matter of convenience while being aware of its deficiencies. The term “refugee” in this research describes people fleeing their home country due to war or persecution. More specifically, the *EU-Turkey deal* covers mostly refugees from Syria. Thus, it mostly considers Syrian refugees fleeing from the civil war in Syria. Economic refugees, labour migrants or people searching for a better life through

immigration respectively education abroad are not meant or included in this thesis. If I write about migrants, it is to understand synonymously as refugees, if not stated otherwise explicitly.

The thesis contains of five chapters. After a short introduction, in the second chapter, the prelude of the *EU-Turkey deal* as well as the ways of its establishment are described. Furthermore, the legal nature of the deal is assessed including literature on the deal before and after a judgement by the ECJ leading to a new assessment of the deal combining aspects previously stated by several scholars.

The third chapter provides the theoretical foundation for the analysis of the preferences of Germany and Hungary regarding the *EU-Turkey deal*. Three theoretical approaches are covered: preferences on a Turkish EU accession, realism and the “national identity” approach. Based on these theories, seven hypotheses are developed and analysed with regard to their explanatory power towards the German and Hungarian preferences.

The fourth chapter consists of the analysis and the test of the hypotheses. After testing all seven hypotheses, its validity is explained as well as possible limitations. The fifth and last chapter summarises and concludes the thesis.

II. The *EU-Turkey deal*

1. Prelude to the *EU-Turkey deal*

The root of the so-called refugee crisis, some rather call it a political crisis, lies in the Arab spring beginning in 2010. However, it was not prioritised on the European agenda until 2014. In this year, Jean-Claude Juncker became the President of the European Commission, Donald Tusk the President of the European Council, and ironically, Greece and Italy held the rotating Presidency of the Council of the European Union. Both countries are most affected by the refugee influx. With rising numbers of refugees reaching the European territory, the issue was not neglected anymore, however, the institutional response followed much later. The leading figure to implement measures tackling the refugee influx was the German chancellor Angela Merkel. She asked for a common EU response rather than national actions (Toygür and Benvenuti 2016, 1f.).

The first European response to the crisis was *A European Agenda on Migration* formulated by the EC in May 2015 (European Commission 2015a). Prior to the agenda, the Dublin Regulation, meaning that asylum seekers must file an application for asylum in the country they first entered, burdened the coastal countries such as Greece and Italy, in coping with the refugee influx. The drafted agenda aimed to relieve the situation in these countries and suggested that to share the burden of the refugee influx, asylum seekers should be relocated among the EU member states. To do that, a quota based on GDP, population, unemployment etc. should be introduced. Merkel supported this agenda since the beginning but faced opposition from the Visegrád Group (hereafter V4).

Due to that, the agenda could not be accepted unanimously and therefore was not fully implemented.

Simultaneously, the increasing influx from Syrian refugees lead Merkel to announce that refugees are welcomed in Germany. Her decision to accept refugees who were initially stranded in Budapest and then travelled to Western Europe, abrogated the Dublin regulation. However, the European Court of Justice (hereafter ECJ) judged that, even though exceptional circumstances may lead to a short term abrogation of the Dublin regulation, which was the case here, it is still in force (Frankfurter Allgemeine Zeitung 2017). The opening of the German border lead to a further increase in the numbers of refugees.

The conflict between Merkel and V4 surged when Viktor Orbán, prime minister of Hungary and the informal leader of V4, asked for securing the external boarder of the EU by building walls and fences. This ran directly against Merkel's view who wanted to avoid a "fortress of Europe". During the Justice and Home Affairs Council in September 2015, the dispute became evident. The proposal of a resettlement system was forced through by qualitative majority voting. Accordingly, the Council decided to resettle 160.000 Syrians from Greece, Italy, and Hungary to other Member States in the next two years. Thus, in theory, Merkel won. However, since the Eastern countries strongly opposed the plan, the tensions between the countries were intensified (Toygür and Benvenuti 2016, 2). Slovakia even went to the CJEU taking actions against the quota systems. Furthermore, Merkel reversed her decision of open borders and closed them in fall 2015. Austria, Sweden and France followed her decision. This exacerbated the

situation and questioned the Schengen system of free movement in general. The plan was also not well implemented by the Member States: at the end of January 2016, less than 500 refugees were resettled from Greece and Italy according to the relocation system.

Because the EU could not find consent on a common answer to tackling the crisis, Merkel suggested to cooperate with countries of origin and transit (ibid. 2016, 3). Since in 2014 and 2015, the Balkan route was the main route for refugees, Turkey was a potential partner. In a meeting of the European Council on 15 October 2015, the “EU-Turkey joint action plan” was put in place. The plan incorporated incentives for Turkey to stop illegal migration to the EU, financial and political in nature. More precisely, a payment of three billion euros to support Syrian refugees in Turkey and visa-free travel for Turkish citizens were agreed upon (European Commission 2015b). Additionally, at the Valetta Summit on migration in November 2015, Heads of 72 states and 27 international organisations met to foster cooperation between countries of origin, transit, and destination. The summit was concluded by adopting a political declaration and a joint action plan. The action plan was designed to tackle the root causes of migration, enlarge possibilities for legal migration, bolster the rights of migrants and asylum seekers, attacking illegal migration such as human trafficking and smuggling, and lastly, strengthen cooperation regarding return, reintegration and readmission (European Council 2015). Thus, the EU took the path of tackling the crisis by supporting transit and origin countries rather than implementing an internal EU governance covering the unsolved questions, such as relocation.

In March 2016, another international summit with the EU Member States and Turkey took place (Toygür and Benvenuti 2016, 3). However, instead of closing the Balkan route as initially planned, the Dutch Prime Minister Mark Rutte, Turkey and Germany came up with a new deal, the so called “EU-Turkey deal”. This deal is covered in the next chapter.

2. The establishment of the *EU-Turkey deal*

Initially, a plan, entitled “The Merkel Plan” was proposed by the European Stability Initiative (hereafter ESI) and published in October 2015. This plan was put in place by the so called “coalition of the willing”, a group of Member States including, among others (all members mentioned below), Germany and the Netherlands. It was included in the negotiations for a common European response to the refugee crisis. The draft included the main idea of the ESI’s plan that Syrians who already registered at the Turkish Directorate General for Migration Management (hereafter DGMM), would be safely relocated to an EU Member State. This is to avoid further Syrians travelling to Turkey. Furthermore, Turkey must take back all other new refugees reaching Greece from a given date, to discourage people taking the dangerous route through the Aegean Sea (Knaus 2015). The plan by ESI was ignored during the first meetings with Turkey, but in the context of the EU-Turkey summit (March 2016), a meeting with the leaders of Germany, Sweden, Finland, Austria, the Netherlands, Luxembourg, Belgium and Greece was held to discuss the resettlement scheme for refugees from Turkey. Viktor

Orbán heavily criticised the deal as a secret pact between Germany and Turkey (Toygür and Benvenuti 2016, 4).

The definite plan was approved and published as a press release by the European Council on 18 March 2016 (European Council 2016). It is titled “EU-Turkey statement”, but since it is commonly referred to as deal or statement, these words are used interchangeable and if I write about the “EU-Turkey deal” or “deal”, the “EU-Turkey statement” of 18 March 2016 is meant.

The *EU-Turkey deal* consists of several features that not only tackle the refugee issue but also visa liberalisation for Turkish nationals and reenergising the accession process of Turkey to the EU. Best-known are the processes regarding refugees: first, refugees who illegally entered the EU will be send back from the Greek Islands to Turkey and second, for each refugee sent back to Turkey from Greece, the EU accepts one Syrian refugee from Turkey (“one in, one out”). According to the European Council, these measures are implemented to fight illegal migration and to prevent the death of refugees on the Mediterranean Sea, as well as to show that the EU acts responsibly regarding the Geneva Convention and the fundamental right to asylum. However, only the first four points of the *EU-Turkey statement* are directly linked to the migration issue. The sixth point is dealing with a payment of six Billion Euro in total, under the Facility for Refugees in Turkey programme. Points five, seven and eight are about benefits for Turkey regarding visa liberalisation, upgrading the Customs Union with Turkey and the

EU accession. The last point contains an imprecise statement to improve the situation in Syria in general (ibid. 2016).

Regarding my research question, it is important to emphasise that the deal contains different issues: refugees and EU-Turkey relations. Therefore, member states' interests might not only be limited to a short-term solution in the refugee crisis but also regarding long-term relations with Turkey. However, it should be elaborated whether all points of the deal are implemented.

3. Academic review of the *EU-Turkey deal*

After the release of the statement, several authors such as den Heijer and Spijkerboer as well as Carrera et. al. elaborated its legal nature. First, the analysis by den Heijer and Spijkerboer will be reconstructed, which was done before the judgement of the CJEU regarding an action brought to court by three asylum seekers against the *EU-Turkey deal*. Second, the analysis by Carrera et. al., which considers the judgement follows. In the next chapter, these analyses and arguments are compared and applied cumulatively to the *EU-Turkey deal*.

According to den Heijer and Spijkerboer, the European Parliament (hereafter EP) questioned the deals' legitimacy because procedures for negotiating and concluding treaties determined in Art. 218 TFEU were not applied. Even though in the area of Justice and Home Affairs, more precisely the area of asylum and immigration, the ordinary legislative procedure must be employed when concluding international agreements with

third countries. However, this did not happen in the case of the *EU-Turkey deal* negotiation. Therefore, the EP wanted to know if Turkey is aware of the fact of its non-bindingness, assuming that the *EU-Turkey deal* is not a treaty (den Heijer and Spijkerboer 2016).

In addition to Art. 218 TFEU, taking the Vienna Convention on the Law of the Treaties (hereafter VCLT) into consideration, Peers (2016) and Babická (2016) are advancing the view that the *EU-Turkey statement* is not a treaty but simply a statement and as such not legally binding and therefore not legally challengeable. Babická adds that it is rather a “politically binding joint declaration” (Babická 2016). Furthermore, den Heijer and Spijkerboer question the deal’s legal nature as a treaty, since terms such as “shall” and “should”, which are normally used in international law, are not found in the statement. Rather, the blurred term “will” is used. However, the term “agreed” is used in the statement and linking this to Art. 216 TFEU, this article includes the term “agreement” as well. Therefore, this article must be applicable. Consequently, the authors are asking, if two parties agree on something, did they not reach an “agreement” (den Heijer and Spijkerboer 2016)? Contemplating these arguments, could the Commission or Council just circumvent the constitutional safeguards of Art. 218 TFEU by using terms such as “will” and “statement”?

The authors mention two judgements of the International Court of Justice (hereafter ICJ), which reasoned on a similar basis. First, in the dispute of Aegean Sea Continental Shelf between Greece and Turkey of 1978, the question whether a joint communiqué by the Prime Ministers of Greece and Turkey, in which they agreed that

the territorial dispute should be submitted to court, is a treaty or not. The ICJ ruled that the form is not decisive and that even though the terms “decision” and “obligation” is meant to bind themselves, it can be concluded from the given context that they did not yet committed themselves unconditionally (International Court of Justice 1978, 40). Second, in the case of Maritime Delimitation and Territorial Questions between Qatar and Bahrain it was questioned if the exchange of letters between the King of Saudi Arabia, the Amir of Qatar, and the Amir of Bahrain, and a document called “Minutes” signed in December 1990 established an international agreement. The ICJ ruled that the “Minutes” are not simply a summary of the meetings but contain commitments to which they agreed and are therefore constituting a treaty. Similar to the previous case, the ICJ argued that the form does not make the treaty but the question if parties want to bind themselves (International Court of Justice 1994, 121).

Following, den Heijer and Spijkerboer try to apply this reasoning to the *EU-Turkey deal*. Even though the EU is not a signatory of the VCLT, this convention also applies to the EU, since the provisions of the convention are counting as customary international law. Therefore, in accordance with the aforementioned judgements, the authors argue that due to the nature of its text and context, the *EU-Turkey deal* can be considered a treaty. It contains commitments for Turkey and the EU, is based on previous agreements and the Greek parliament passed a law which allows Greece to return migrants to Turkey. According to the authors reasoning, this shows that both parties, the EU and Turkey, had the intention to bind themselves and ergo the deal constitutes a treaty. Referring back to Art. 216 TFEU, the argument that the deal is only repeating

already existing legal obligations (readmission agreements) does not hold, because it does contain new elements, such as the “one in, one out” exchange scheme (den Heijer and Spijkerboer 2016). Lastly, the authors are questioning if the deal is not legally binding, since internal EU rules were not followed. They argue that this is probably not the case since Turkey assumed that the EU has full power to bind itself referring to Art. 46 VCLT (ibid. 2016). A similar view was upheld by the ICJ in the dispute between Qatar and Bahrain:

“Nor is there anything in the material before the Court which would justify deducing from any disregard by Qatar of its constitutional rules relating to the conclusion of treaties that it did not intend to conclude, and did not consider that it had concluded, an instrument of that kind; nor could any such intention, even if shown to exist, prevail over the actual terms of the instrument in question.” (International Court of Justice 1994, 122).

Notwithstanding its name and the lack of applying ordinary legislation procedure, den Heijer and Spijkerboer conclude the first part of their article by saying that the *EU-Turkey deal* is a treaty due to the fact that the parties bound themselves.

In the second part, the question of the relevance of the deals’ binding nature is elaborated. This is important because the deal is already adopted, which means that it must upheld by the parties and it cannot be challenged by the Court of Justice of the European Union (hereafter CJEU) anymore. However, an EU institution or a member state could bring an action of annulment to the European Council. Furthermore, according to the authors, as in agreement with the VCLT all treaties are equal, it cannot be argued that the deal is not valid due to possible conflicts with human rights. Only conflicts with *jus cogens* would make the deal void. Nonetheless, individuals could

appeal the implementation of the *EU-Turkey deal*, if it is in disaccord with fundamental rights. This actual happened with a judgement of the General Court of the European Union (hereafter EGC) in February 2017 and will be examined in the next section of this chapter.

To conclude with den Heijer and Spijkerboer's article, it is important to keep in mind that the doubts of the EP on the legality of the *EU-Turkey deal* seem comprehensible, however, Art. 218 (6) TFEU leaves some leeway for the EP and Council in urgent situations. According to the authors, the fact that the EP was rather ignored in this issue could be seen as the development of growing inter-governmental decision-making in the EU but does not make it less legally binding (den Heijer and Spijkerboer 2016).

Additionally, Gatti (2016) follows den Heijer and Spijkerboer's argumentation, adding that the procedure of implementing the *EU-Turkey deal* violates actual EU laws and rules. He argues that, according to Art. 10 (2) TEU, the democratic accountability of the European Council is rather fictitious because no record of the debate on the 18 March deal is available for the public. Even national parliaments, which the European Council is accountable to, cannot assess the procedures. If there was a public debate about a possible *EU-Turkey deal*, the outcome probably would have less negative implications for asylum seekers. Furthermore, these problems could have been bypassed by involving the EP as well (Gatti 2016a).

Gatti also acknowledges the Opinion 1/75 by the EGC, which ruled that agreements must be concluded according to the proceedings noted in the treaties.

However, it also ruled that agreements have “binding force, whatever its formal designation” (Court of Justice of the European Union 1975). This supports the argument mentioned in the previous part by den Heijer and Spijkerboer that the formality or wording is of secondary importance.

In Gatti’s view, the European Council purposely bypassed the legal framework to transform the political compromises such as the *Agenda on Migration* and the *EU-Turkey joint action plan* into a binding setting. According to Gatti, this was done to avoid the complicated proceedings specified in the treaties as well as consulting the national parliaments which would have made it even more difficult to find a common European response (Gatti 2016a). Lastly, Gatti claims that the EP must take actions against the *EU-Turkey deal*. He even states that it is the “moral duty” of the EP to secure the democratic framework in general, especially because the EP was bypassed by the Heads of The Member States (Gatti 2016b). However, as we will see in the next part, Gatti’s argumentation for bypassing the in the democratic framework inculcated EU institutions, has, according to the judgement by the EGC, nothing to do with the *EU-Turkey deal*. This, nonetheless, does not discharge the national governments respectively the Heads of the Member States, to *mala fide* circumscribe the democratic rules of the EU. The EP also did not challenge the *EU-Turkey deal* before court, but three asylum seekers did. Thus, Gatti’s claims were not put into practice.

Before considering the arguments of the article published after the EGC's judgement on the legal nature of the deal by Carrera et.al., the ruling of the EGC in February 2017 will be introduced since Carrera et. al. are referring to this judgement.

According to the press release by the EGC, the court (EGC) ruled in a case where two Pakistani citizens and one Afghan citizen pursue legal proceedings against the *EU-Turkey statement*. These asylum seekers travelled from Turkey to Greece and submitted applications for asylum in Greece. Since they fear persecution in their home countries if the applications are rejected, they took actions against the deal. In their view, the *EU-Turkey deal* is an international agreement made by the European Council and Turkey. Furthermore, they state that the agreement proceedings contravene with TFEU.

The EGC declared that it lacks jurisdiction to decide whether the deal is infringing with TFEU. In the reasoning of the court it is specified that, the press release of the EU on 18 March 2016 was misleading. Even though "EU" and "Members of the European Council" are mentioned in this press release, according to the EGC and evidences provided by the European Council, the deal was not accomplished by any EU institution but rather by the Heads of the Member States. The reasoning continues by stating that different events took place on 17 and 18 March 2016 in Brussels. On 17 March 2016, a meeting of the European Council (hereafter EC) and therefore with the Heads of the Member States took place. However, on the following day, an international summit with the Heads of the Member States, as representatives of their countries rather than the EC, was held.

The EGC concludes that on this second instance, the deal was made between the Heads of State of the Member States and Turkey. Accordingly, since no EU institution concluded an agreement with Turkey, the EGC lacks jurisdiction to handle the actions brought by the three asylum seekers. The court has no jurisdiction

“to rule on the lawfulness of an international agreement concluded by the Member States.” (General Court of the European Union 2017).

The article by Carrera et. al. was published after the EGC ruling, and therefore offers a different perspective on the legal nature of the *EU-Turkey deal*. The starting point of Carrera et. al. is in principle taking the *EU-Turkey deal* as a press release, titled “EU-Turkey statement” and elaborations of the authorship of this statement. Furthermore, the authors taking a closer look at the EU institutions’ positions during the court proceedings. Lastly, implications of the ruling regarding the Lisbon treaty were evaluated by the authors. They claim that by bypassing the EP as well as the CJEU, the Heads of State acted purposely deceitful. Moreover, in distancing themselves from their responsibilities, the EU institutions fall back to intergovernmentalism in EU decision-making (Carrera, den Hertog, and Stefan 2017, 2).

As described in the previous part, in the case of the three asylum seekers, these stated that they were forced to file an asylum application in Greece by Greek authorities. Rather, they wanted to apply for asylum in another European country. However, since they feared being send back to Turkey due to the *EU-Turkey deal*, and potentially being discharged to their country of origin, they followed the Greek orders. In addition to the abovementioned reasons, they claim that the *EU-Turkey deal* is in violation with the

principle of non-refoulement as well as the prohibition of collective expulsion. Before assessing the authorship of the statement, Carrera et. al. emphasise that the EGC has the power to judge in cases concerning the European Council since the establishment of the Lisbon Treaty (ibid. 2017, 3f.).

Regarding the authorship, it is important to keep in mind that the *EU-Turkey deal* was published on the European Council/Council of the EU website and that it was applauded as the main response by the EU to the refugee crisis. However, before the EGC all three EU institutions, the European Commission, the European Council and the Council of the European Union claimed that they are not a party of this agreement.

The European Council stated that they did not enter into an agreement, but that the statement was rather a result of a dialogue between the Member States and Turkey without the intention to bind themselves. To strengthen its positions, the European Council provided the EGC with several meeting and protocol documents. Furthermore, the European Council argued that the term “EU” in the press release has a rather journalistic connotation and misinterpreting “Member States of the European Council” does not mean that the European Council had the intention to bind itself (ibid. 2017, 4f.).

It is rather

“merely a political commitment of the Heads of State or Government of the Member States of the European Union vis-à-vis their Turkish counterparts” (Court of Justice of the European Union 2017, par. 59).

Lastly, the fact that the Head of the European Council, Donald Tusk, participated in the meetings was because the Members States asked him to represent them in the negotiations with Turkey.

The Council of the European Union asserted that, even though the Permanent Representatives Committee (hereafter Coreper) assisted in preparing the international summit, it is not responsible for the outcome of the summit. The Council further stated, that it shares the opinion of the European Council that no international agreement was met (Carrera, den Hertog, and Stefan 2017, 6).

Finally, the European Commission (hereafter EC) argued that it is clear, considering the vocabulary, that the *EU-Turkey deal* is only a “*political agreement*” since the word “*will*” is used (Court of Justice of the European Union 2017, par. 28).

The EGC agreed that different summits took place in March 2016, while the press release is open to misinterpretation, due to its ambiguous wording. However, since the EGC ruled that it is not a issue between the EU and Turkey but the Member States and the latter, it has no jurisdiction (Carrera, den Hertog, and Stefan 2017, 6f.).

Subsequently, the authors go on to discuss a reversing of the Lisbon Treaty in the area of Justice and Home Affairs, more precisely of asylum and immigration. This means that the circumscribing of official decision-making procedures can endanger the democratic rule of law framework, including the EP’s scrutiny and judicial review of the CJEU. Furthermore, the avoiding of responsibility by the EU institutions results in a redevelopment of intergovernmental decision-making processes. The non-responsibility of the EU institutions also leads to the fact that the CJEU cannot be involved and the EU refugee rights as well as that the EU Charter of Fundamental Rights can be ignored easily. However, the authors mention the ERTA-doctrine, which affirms that member states cannot enter obligations outside the EU if the EU covers this area to a great extent. This

contradicts the EGC ruling in the case of the three asylum seekers. The authors therefore suggest to see the *EU-Turkey deal* as a rather mixed agreement, including EU and Member States competencies (ibid. 2017, 7f.). Considering the judgement in the case *Lugano Convention* of 2006, the EGC ruled that a Member State's external action should in no way undermine the legal framework of the EU (Court of Justice of the European Union 2006, par. 126, 127 and 133). This also contradicts the current case of the *EU-Turkey deal*, because considering the EGC's judgement of February 2017, the Member States concluded an international agreement with Turkey, circumscribing the EU competencies and procedures respectively, and acted in an area which lies strictly in the EU competencies.

According to Carrera et. al. especially the EC should have been more active as the guarantor of the EU Treaties and it is quite surprising that the EC did not hinder the Member States from infringing on the EU's external competencies. In many other cases, the EC did so. Instead, the EC did right the opposite, supporting the Member States when arguing before the EGC that it has nothing to do with the *EU-Turkey deal* and that it is fully the Member States' responsibility (Carrera, den Hertog, and Stefan 2017, 9).

The legal service of the EP is also raising concerns on the legality of the *EU-Turkey deal*. According to a parliament lawyer¹, the deal was only a press release, was not signed, and was not published in the Official Journal of the EU. Therefore, it did not

¹ The term "parliament lawyer" refers to a lawyer of the legal service of the EP. His statements are quoted in Nielsen (2016). No name or other sources are mentioned. No original source was found. It seems that his statements were only made in an informal meeting, interview etc. Therefore, no exact source is available.

seem as if the parties of the deal wanted to bind themselves. Additionally, the EP must sign off international agreements. However, according to the lawyer, the deal itself was in accordance with EU law, although the EP must approve issues concerning visa-waiving and budget (Nielsen 2016).

Concluding Carrera et. al.'s article, they argue that the EU circumscribed the EU democracy and judicial review on purpose. Another example in which extra-Treaty decision-making took place was a 'new deal' for Brexit drafted by the European Council President. Fearing the challenges the *EU-Turkey deal* may face in front of the CJEU, the EU institutions, respectively the Member States, decided to establish an intergovernmental crisis-led decision-making procedure. Accordingly, this tendency will bolster mistrust in the EU and neglect the fundamental rights of asylum seekers in the EU (Carrera, den Hertog, and Stefan 2017, 10).

To sum up their argumentation, the EGC ruled that the EU institutions are not a party of the deal, even though EU institutions claimed that the deal is the major response by the EU to the refugee crisis. This is troubling because the *EU-Turkey deal* can only be understood when taking the EU-Turkey relations into consideration. Hitherto, the EU institutions stated successfully: "It wasn't me!". However, it is important to consider that the Orders of the EGC were recently appealed before the Court of Justice (Cases C-208/17 P, C-209/17 P and 210/17 P). Thus, there is still a possibility that the Court of Justice will take a different stance (ibid. 2017, 10). As of 21 September 2017, there are no further information available regarding the appeal.

Carrera et. al.'s four concluding points are, first, that the EU should stick to transparent governance and should not try to escape its responsibility in such agreements. Second, a press-release based policy-making undermines the EU's legitimacy and should be avoided. Third, the question whether Turkey is considered being a safe third country is highly debatable, especially after the attempted coup in Turkey and therefore, the EU should carefully deliberate about whether Turkey is safe for asylum seekers. Fourth, with concluding this statement with Turkey the EU puts itself in a highly vulnerable and dependent situation (ibid. 2017, 11f.), especially considering recent developments in EU-Turkey relations, more precise the Dutch-Turkish or German-Turkish relations. In a situation in which Turkish officials do not inform German diplomats that German citizens have been imprisoned in Turkey, which is a basic duty regarding international law, we cannot be sure whether Turkey sticks to the *EU-Turkey deal* or not. Even though the EU is facing a severe crisis, it should not deviate from its legal democratic framework and follow fundamental human rights and especially rights of asylum seekers (ibid. 2017, 13).

4. Conclusions and own assessment of the legality of the *EU-Turkey deal*

A comparison between the two articles and their conclusions gives us a better understanding of what the *EU-Turkey deal* is. However, there is no definite answer. Even though the legal basis changed after the judgement of the EGC, the first article shows that in previous cases (*Greece v. Turkey* and *Qatar v. Bahrain*) the wording or

terminology does not make a treaty but rather its context and the parties' will to bind themselves. In the case of the *EU-Turkey deal*, the fact that the Greek parliament passed a law to return illegal migrants to Turkey can be taken as an indication that the deal was intended to bind themselves. Considering the judgement of the EGC, its intention can be perceived as maybe not to bind the EU but at least to bind the 28 Member States. Additionally, the increased funding of three billion Euro for Turkey can be recognised as Member States obliging themselves to the deal. Turkey hinders migrants from crossing the Aegean Sea to Greece and why should Turkey do that, if not expecting further funding as stated in the deal?

Furthermore, even though the processional rules of the EU were not followed in establishing the deal, it is still not void because Turkey assumed that the Heads of the Member States had the power to bind themselves. This can be deducted from the VCLT, which is customary international law. According to den Heijer and Spijkerboer and Gatti, the *EU-Turkey deal* has the characteristics of a treaty and considering previous judgements of the ICJ, I state, that the deal is a treaty. Nonetheless, it is not absolutely clear, whether it is a treaty between the EU and Turkey or the 28 Member States and the latter. The appeal is still pending.

Including the second article in the analysis, the judgement whether the EU is a party of the deal or not, seems to contradict the Lisbon Treaty. The authors of the first article, Carrera et. al., argue that the *EU-Turkey deal* is a return to an intergovernmental policy making, which endangers the EU's transparency and legitimacy. The EU institutions may hold the opinion that they did not want to bind themselves, which was

bolstered by the EGC judgement, but with doing so, they only show that they failed to come up with a truly European response to the refugee crisis. This can be seen in the previous chapter about the prelude. The measures taken by the EU institutions before the deal had mostly no effect due to the opposition of V4 and their non-binding nature. As argued by Gatti, with concluding the *EU-Turkey deal*, the EU Member States could finally implement binding measures to tackle the refugee crisis.

In regard to the actual authorship of the *EU-Turkey deal*, Gerald Knaus, chairman of the European Stability Initiative (hereafter ESI) is considered to be the author of the actual plan (Lau 2016). However, it was adjusted to fit into the EU framework, as the name implies, initially it was only designed for Germany. The argument that the *EU-Turkey deal* is only a repetition of previous political arrangements can be disproved since it contains new elements not covered in any previous agreement.

Lastly, regarding the judgement by the EGC in February 2017, it seems impressive that the EU might not be a party of the deal. Not only because the summit between the EU Member States and Turkey took place in Brussels, but because the EU institutions, namely Tusk and Juncker, celebrated the deal as a major answer to the refugee crisis. Taking previous agreements, agendas, and action plans into consideration, the *EU-Turkey deal* seems to be embedded and linked to these previous plans. Thus, it is difficult or rather impossible to think that the EU institutions have nothing to do with it. Furthermore, the wording of the title of the *EU-Turkey deal* switched from “agreement” to “statement”. This could lead to the deduction that the EU modified the title on purpose, as Gatti argued, to mask the binding character of the deal.

Concluding, there is no final answer whether the *EU-Turkey deal* is a treaty and how it was actually developed, but based on the aforementioned reasons, I argue that the deal has several characteristics of a treaty, which can be supported by cases of the ICJ and CJEU, and is therefore a binding international agreement for the EU Member States.

III. Theoretical framework

The third chapter constitutes the foundation of this thesis. In the beginning, the dependent variable and the units of analysis respectively their preferences are described. Following, the theoretical basis for the later analysis is laid. Theories on a Turkish EU accession, realism and lastly “national identities” are included. The summary of the variables is put in front to have an overview of those. The detailed explanations of them are delivered when the relevant aspects are covered.

Independent variable	Characteristics of the independent variable
Turkish migration	Number of Turkish migrants
National security	Engagement in the anti-ISIS coalition
	<i>Jus sanguinis</i> , level of hierarchy of legal system
	Share of antimigrant parties
Settler society	Inflow of foreign nationals
Ethnic composition	Ethnic groups
Religious denomination	Religion and public holidays
Dependent variable	Characteristics of the dependent variable
Preference on the <i>EU-Turkey deal</i>	Supporting to opposing the <i>EU-Turkey deal</i>

Table 1: Independent and dependent variables and their possible characteristics

Source: Compiled by the author

1. The dependent variable – preferences about the deal

Before describing the specific interests of the Member States, I will split the deal into three aspects which will be then analysed. The first aspect is the relationship between Turkey and the EU. The fifth, seventh and eighth bullet point of the deal are covering

this issue. Accordingly, summarising the first aspect, it covers the preference on an improvement of EU-Turkish relations or more precisely, a Turkish accession to the EU.

The other two aspects are covering refugee issues. The second one covers the “actions points” (a formal term used in the *EU-Turkey statement*) number one and three, which are about the return of irregular migrants crossing from Turkey to Greece and the prevention of the development of new sea or land routes for irregular migration from Turkey. Therefore, the second aspect to be considered is the preference about stopping and returning irregular migrants.

Lastly, the third aspect is the relocation scheme covered in bullet point number two of the *EU-Turkey statement*. This states:

“For every Syrian being returned to Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU (...).” (European Council 2016)

This is also called the “one in, one out” exchange scheme. A total number of 72.000 Syrians should be relocated to the EU under this agreement. Subsequently, the last aspect is the preference on the relocation scheme. Countries could be either supporting the relocation scheme or rejecting it due to, among other reasons, the Muslim religious denomination of Syrians.

These three aspects must be considered regarding the dependent variable, which is the preference of member states on the *EU-Turkey Migration deal*.

2. Unit of Analysis – The Member States

The unit of analysis are the Member States of the European Union. Since the *EU-Turkey deal* was adopted by all EU Member States, two countries, one which relatively strongly supports the *EU-Turkey deal* and another one, which relatively strongly opposes the *EU-Turkey deal* will be compared. As the former one I chose Germany, and as the latter, Hungary.

As I described above, Germany respectively Merkel, can be considered as one of the major supporters of the *EU-Turkey deal*. In a press conference on 18 March 2016, Merkel defended the deal as a common response by all 28 EU Member States, tackling human trafficking and smuggling, and as a help for refugees to enable them to have a legal path to enter the EU. Merkel also states that the deal is fighting the causes of flight in the countries of origin (Bundesregierung 2016).

Even though the deal was passed unanimously by the 28 Member States, Victor Orbán, the current Prime Minister of Hungary, declared its opposition by suggesting an alternative *10-point action plan*. According to the press release, Orbán sees the *EU-Turkey deal* and especially the resettlement scheme as an interference in national sovereignty. He argues that it lies in national jurisdiction to solve demographic and economic problems rather than the EU dictating that these problems must be solved through immigration. His plan, called *Schengen 2.0*, focusses on external border protection and includes: “*No compulsory and automatic distribution mechanism should be introduced.*”. This makes it clear that he opposes the resettlement scheme incorporated in the *EU-Turkey deal*. Orbán’s *Schengen 2.0* further includes that illegal

migrants should be returned to the country of their origin. This is also implemented in the *EU-Turkey deal* and shows that Hungary agrees with the *EU-Turkey deal* partially (Cabinet Office of the Prime Minister of Hungary 2016). Orbán even went as far as saying that Germany struck a secret pact with Turkey (Toygür and Benvenuti 2016, 4).

Orbán's statements convey the impression that Hungary did not support or was not involved in negotiating the *EU-Turkey deal*. However, the official statement by the EU from 18 March 2016 states, that:

“(...) *the EU and Turkey today decided to end the irregular migration from Turkey to the EU.*” (European Council 2016).

Therefore, and considering that the *EU-Turkey deal* was not concluded in accordance with EU procedures (see Chapter 2), for the purpose of this research, I assume that Hungary also supported the deal, while having some objections against it. Since it was negotiated behind closed doors and detached from EU procedures, it is not possible to access official documents about the negotiation and voting.

Thus, the outstanding role of Angela Merkel and the link to the “Merkel-Plan” by ESI, leads to the decision to take Germany as the major supporting country of the *EU-Turkey deal*. On the opposite, Hungary is considered to relatively strongly oppose the *EU-Turkey deal*, because of Orbán's statements as well as his idea of *Schengen 2.0*. Therefore, the two countries provide a perfect background to conduct research on a strongly supportive and weakly supportive member state.

3. Preferences on Turkey's EU accession

Before setting up theories in accordance with the existing literature and applying them to the refugee and migration parts of the *EU-Turkey deal*, I will start analysing its points related to the relations of the EU and Turkey. More precisely, the EU-Turkey relations are covered in the fifth, seventh, and eighth bullet point of the deal, and contain the fulfilment of a visa liberalisation roadmap, upgrading the relations to a Customs Union, and a reenergising of the accession process by opening Chapter 33, financial and budgetary provisions.

I argue that these action points are of secondary importance because the visa liberalisation roadmap is not implemented, even though it was dated to be finalised until June 2016. As of May 2016, seven requirements out of the 72 requirements' catalogue were not fulfilled. Especially requirement number 65 seems very unlikely to be fulfilled in near future:

“Revise - in line with the ECHR and with the European Court of Human Rights (ECtHR) case law, the EU acquis and EU Member States practices - the legal framework as regards organised crime and terrorism, as well as its interpretation by the courts and by the security forces and the law enforcement agencies, so as to ensure the right to liberty and security, the right to a fair trial and freedom of expression, of assembly and association in practice” (European Commission 2016a).

This seems unlikely because after the referendum in April 2017, political power in Turkey is concentrated on the President and the Turkish system is tending to become an undemocratic and autocratic one. This argument can be bolstered by remembering that German journalists, Meşale Tolu and Deniz Yücel, among others, are imprisoned in Turkey accused of supporting terrorism in Turkey, while the court did not present an

indictment to them. Furthermore, the opening of Chapter 33 took place on 30 June 2016, but is rather a small step to Turkey's EU accession, considering that only 18 out of 33 Chapters are opened so far with only one provisionally closed. Eight out of them are suspended and 15 Chapters are still to be opened. This leads to my conclusion, in accordance with Benvenuti (2017), that the action points regarding an upgrade of the EU-Turkey relations is rather a bargaining chip than a true improvement and a step-forward to a Turkish accession to the EU. Following, I will set up the theory according to McLaren and hypothesises covering this issue.

McLaren (2007) is analysing the mass opinion of 15 EU Member States about their preferences for a possible accession by Turkey. He argues that countries with a larger Turkish migrant community are rather opposing the Turkish EU candidacy.

“Instead of creating a climate of empathy for the country of origin of these migrants, high levels of Turkish migration have created a climate of perceived threat to in-group resources and culture that manifests itself partly as opposition to Turkey's candidacy for EU membership.” (McLaren 2007, 254).

McLaren tries to explain this opposition by rational economic self-interest, perceived threats to in-groups, and lastly, contextual account. According to the first proposition, economic self-interest, people fear migrants due to a possible threat of their position. People with a low income and low-skilled jobs fear migrants the most, because their jobs can be easily moved and replaced. However, this does not fully explain the opposition to Turkey's accession, because this argument counts for any country accessing the EU (ibid. 2007, 255f.). Second, because people are not clear about the consequences for themselves, they may have some opinion on how the accession would

affects others. One of these key in-groups could be the nationality. Therefore, the in-group is fearing the Turkish people as an out-group, and therefore rejecting accession to protect their in-group. McLaren adds that this fear exists not only in terms of resources but also culturally. Turkey is a mostly Muslim country and is therefore perceived as significantly different from most other EU accession candidates (ibid. 2007, 257f.). However, since these two approaches do not fully explain why there is such a large opposition and also large differences in preferences regarding Turkey's accession between the EU Member States, McLaren argues that there must be a contextual explanation. The first explanation relates to the two previously mentioned propositions, and states that attitudes regarding EU accession are linked to possible trade benefits. Since no large trade benefits are expected from Turkey, the opposition to its accession is rather strong. Second, greater geographical proximity to a prospective candidacy country, leads to a greater acceptance of accession for this country. Linking the contextual explanation to a possible threat in terms of resources and culture, McLaren argues that, previous Turkish migration can explain the hostility to a large extent. Turkey is a major origin country of migrants to Europe since the Second World War. Accordingly, previous analyses have shown that, instead of having feelings of empathy with the origin country of migrants, it is usually associated with hostility. This means that countries with a larger Turkish migrant community are more likely to deny a Turkish EU accession (ibid. 2007, 259).

According to McLaren's framework, the first hypothesis can be deduced:

H₁: Countries with a higher number of Turkish migrants are rather opposing the *EU-Turkey deal*.

This is important and relevant to the research question, because it implies that a country supporting a Turkish EU accession should also strongly support the *EU-Turkey deal*. However, as we will see after testing H₁, Germany is rather opposing a Turkish accession. Therefore, I argue that the action points regarding the EU-Turkey relations are a bargaining chip rather than an indicator for improvement in EU-Turkey relations or a booster for Turkey to join the EU in the near future. This argument is supported by the fact that Turkey is still upholding the *EU-Turkey deal*, even though visa liberalisation was not implemented. Additionally, it can be assumed that this issue was not a major part of importance for Turkey either.

Concluding, since Germany, respectively Merkel, is one of the main actors in negotiating and supporting the *EU-Turkey deal*, the fact that Germany rather opposes a Turkish EU accession runs opposite to the expected outcome of this research. However, this shows that the Turkish candidacy was not of major importance when concluding the deal.

4. Realism

Realism is one of the oldest approaches in international relations theory. It is based on four assumptions: First, states are the main actors in the arena of international politics. Second, states are considered to act in a unitary manner to the outside integrated world, the other international actors. Third, states act rationally. Fourth, national security is the most important national objective (Meyers 2000, 1263). Traditionally, it is mostly applied to explain inter-state conflicts, but since the *EU-Turkey deal* is negotiated by the Member States, pursuing their national interests, and security is a major issue in the debate regarding the refugee crisis as well as the fact that Member States are facing an increasing numbers of terrorist attacks, realism is a promising approach to explain preferences on the *EU-Turkey deal*, and more precisely on the points of the *EU-Turkey deal* covering refugee issues (*EU-Turkey deal* bullet points 1-4, 6, and 9). However, I do not want to assume causality between the influx of refugees and increasing terrorism.

The first realist theory applied to my research question is developed by Myron Weiner in his book “The Global Migration Crisis – Challenge to States and to Human Rights”. His aim is to explore international migration in a political context. He considers conflicts triggered by these movements within and between states as well as political choices encountering governments to tackle migration. More precisely, he analyses how governments’ decisions influence entry and exit rules of other countries. Weiner’s claim is to fill the gap of previous research regarding international migration. According to him, economists only covered individual decision making rather than migration rules of governments constrain individual decision making. Additionally, research on refugees

is primarily focused on human rights and protection rather than concerns of the host population or their governments. Researchers of international relations only take flows of refugees as consequences of conflicts rather than a cause of conflicts. Likewise, research on nationalism and ethnic conflict is focused on dealing with refugees as victims rather than considering them as an actor in causing conflicts. Lastly, according to Weiner, political philosophers' research is detached from political realities as they only considering global justice (Weiner 1995, xf.). Since Weiner's aim is to provide such a view for the first time, it is expected to be fruitful in analysing my research question, because it provides important aspects regarding migration and refugees previously not covered by realists.

The analysis by Weiner is based on the global migration crisis in the 1990s and to do so he separates five dimensions: 1. Control over entry, 2. Absorption of migrants and refugees, 3. International relations, 4. International norms and institutions, and 5. Moral considerations (Weiner 1995, 8). In the following part the five dimensions are described briefly.

The first dimension, control over entry, contains the argument that due to the international flow of goods by air, overland, and seaborne, an all-encompassing border control is almost impossible. One major fear of the Western societies is that high population growth rates in the Third World generates a high illegal migration. However, this cannot be proven on an empirical basis.

Considering the low birth rates of European states, the European population grows mostly due to immigration. Therefore, since migrants tend to be in the high-

fertility age group, children of migrants are highly visible in schools. Weiner predicted that European states have a legitimate reason to expect refugee flows from North Africa and the Middle East. As we know, this actually took place since the Arab spring in 2011. Further, most European states are willing to accept a limited number of refugees, if these refugees fear persecution etc. Thus, this willingness decreases when a large number of refugees is expected, challenging housing, employment, and the entitlement system. In addition, states are rather reluctant to have generous systems when many asylum seekers are would-be migrants using the refugee status to earn an immigrant status, which they could not get based on usual immigration laws. Weiner further mentions that states want to have the power to decide who, how many, for what purpose and for how long asylum seekers enter their country (ibid. 1995, 12).

The second dimension, absorption, covers the issue how the influx of migrants influences the ethnic composition of receiving countries and which approach should be taken to integrate migrants. In multi-ethnic societies the incoming migrants could change the balance of political power and in homogenous countries it must be asked whether aiming total assimilation or retaining a distinctive identity. In the case of Europe, Weiner states that it is to be decided if citizenship defines the national identity or if cultural diversity is adaptable with citizenship, so it is basically a question of ethnic nationalism or civic nationalism. This leads to further questions in the education system where almost every Western country is uncertain whether to apply an assimilationist or multicultural approach. However, it is important to keep in mind that this is not only a question in industrial countries because most refugees do not move from to the Third World to an

industrialised country but to another Third World country. Many governments are generous in receiving refugees as long as they share a common language, religion, or tribal identity. But if the refugees belong to an alien group, they may threaten the political and social stability, and therefore the power of the majority could be eroded. The public opinion also impedes governments to implement a system of absorbing foreigners. Some people may welcome immigration, so jobs which locals do not want to do, can be done by immigrants. On the opposite, people may fear that immigrants take the jobs from locals. The governments need to find a balanced approach in accordance with the public opinion (ibid. 1995, 13f.).

The third dimension covers refugee issues as a possible conflict in international relations especially between sending and receiving countries. It is in a governments' interest that other governments do not violate human rights, maltreat minorities, or are unable to hinder a civil conflict leading to an exodus. Receiving governments may implement sanctions, conditionality on development assistance, or the use of military force to cause an end of the refugee flow. This burden of refugees is often a matter of conflict, just as in the *EU-Turkey deal*, and neighbouring countries may demand burden-sharing while others assume that the country of first entry is solely responsible. For instance, when civil war broke out in Pakistan and people fled to India, India went to war against Pakistan arguing that the refugee influx is threatening the security of the northeast Indian region (ibid. 1995, 15f.). In the current case of the EU refugee crisis, Germany is supporting the US led military operation in Syria countering the Islamic

State of Syria and Iraq (hereafter ISIS) by providing Air Force units. Accordingly, the advent of refugees has a crucial influence on international relations.

The fourth dimension is dealing with the crisis of international regimes and international institutions. The international asylum regime is incorporated in the 1951 United Nations Convention on Refugees. According to the Convention, a refugee is a person fearing persecution for reasons of race, religion, nationality, membership in a particular social group, or political opinion. This definition is very restricted and some scholars argue that it should be broadened to include violations of human rights, but since only a very limited number of countries fully respect human rights, it is feared that a broader definition leads to a large increase of the number of refugees. Furthermore, as mentioned above, supposed migrants use the asylum system to gain entry to their country of choice. Therefore, the suggested asylum procedures by the United Nations High Commissioner for Refugees are not followed by governments due to an increasing number of would-be refugees. Instead governments keep asylum claimants at the border or prohibit them to board an airplane without valid visas (the EU, for instance) (ibid. 1995, 16f.).

Lastly, the fifth dimension considers moral issues. A moral dilemma arises when more people want to leave their country than other countries are willing to accept. The questions following is who should be accepted and if so, based on the needs of the receiving state or of the asylum seeker. These questions lead to a public debate between people valuing global human rights and people prioritising the interest of nationals (ibid.

1995, 18). This debate is highly political and in regard to the EU refugee crisis, this topic dominated national elections in several EU Member States.

The core of Weiner's work and what makes his analysis relevant for present research, in the sense that only a few realist scholars covered refugee issues to that extent, is the application of a security related view. While Weiner emphasises that security is an elusive concept, he states that it is basically a government's protection of its territory and population against perils to the stability of the political system, social wellbeing, and societal values. In contrast to other schools of thought, Weiner's security and stability framework emphasises the importance of a government's decision making regarding refugees respectively the inflow of people (ibid. 1995, 131). Since my research is analysing the preferences of Germany and Hungary, Weiner's framework is expected to be helpful in explaining these.

Contrasting the political economy framework, which mostly explains migration flows by emphasising global inequalities, economic relationships, and changes on the labour market, Weiner takes an expanded view. Weiner considers the risks of a large influx of refugees to the ethnic composition of the host country, and while economists may fear a brain drain worsening the situation in the country of origin, Weiner's framework regards such flows as an enhancement of the hosting country, if they are accepted (ibid. 1995, 133). This may sound abstract so far, but as I broaden the concept, it gets clear.

Before covering the idea of seeing migration as a threat, it is important to keep in mind that Weiner assumes that states want to have control over entry and exit of people

to their country. This is a basic element of realism as national security is their major objective.

The question whether migration is considered as a threat is a question of perception. Who is threatened and is it a real and reasonable threat or just paranoid anxieties? Prior to categorizing threats, Weiner rebuts three common explanations for possible responses by host countries. First, according to the economic absorptive capacity approach, countries with a low unemployment rate, high demand for labour, and financial capacities to cover the burden of refugees and thus welcome them. Contrary, countries lacking these requirements are rather reluctant to accept refugees. Weiner argues that accordingly, Japan would welcome migrants while Israel does not. However, in reality the opposite is the case. Second, according the argument of the volume of immigration, countries with higher numbers of refugees would feel more threatened. Accordingly, Germany would be pleased to welcome a few Sri Lankan Tamils in the mid-1980s and rather reject 2000 East-Germans per day in 1989. Again, the opposite was the case. Weiner emphasises that economic considerations are important when doing research on refugees but that they are unable to explain differences between host countries and when a certain group is perceived as threat or acceptable. Lastly, Weiner states that ethnic affinity is a more plausible determinant of whom to accept and by which country. Ethnic affinity means a common language, religion, and race. This ethnic affinity is further a social construct which can change over time.

Therefore, Weiner introduces five broad categories of cases where migrants are recognised as threatening. After this part, in accordance with these categories, I will

develop hypotheses based on the existing literature. The first category describes the influx of refugees as a threat when the refugees are opposed to the regime of their home country and as a result may interfere in the relations between the host and home country. The second category takes refugees as a political threat or security risk to the host country. In the third and fourth category, refugees are considered as a cultural threat, respectively threatening the host country in terms of social or economic issues. The fifth and last category describes migration as a threat if the receiving country is using the refugees as a medium of threat to the country of origin (ibid. 1995, 135ff.). Only categories relevant for my research are described in detail. The first and fifth category is not relevant since such phenomenon cannot be observed in the EU refugee crisis.

The second category, refugees as risks to the host country, contains several possible threats to the security of the refugee receiving country. According to Weiner, refugees initiated terrorist attacks, engaged in drugs and arms smuggling, engaged in anti-government policy campaigns, or committed crimes against nationals of the host country respectively against other refugees. This approach will be the foundation of the first hypothesis regarding realism (ibid. 1995, 139).

The third category, immigrants as a threat to cultural identity, depends on the definition of the host country's own cultural identity. This means that a society decides on which basis people are admitted or rejected. If these norms are violated, it can threaten national security. More precisely, countries which incorporated citizenship laws based on family relationship and indigenusness, are, according to Weiner, rather reluctant to welcome ethnic alien migrants. On the contrary, if the societal membership is based on

a political membership, e.g. the Constitution such as in the USA, societal systems are more supportive and open for immigration respectively an inflow of refugees (ibid. 1995, 140f.). Lastly, in this category Weiner also suggests the possible move of governments towards antimigrant stances because public xenophobic sentiments could lead to a rise in antimigrant parties. Therefore, to prevent such parties to rise, established parties would adopt such policies since the rise of other parties may challenge the current regime (ibid. 1995, 142).

The fourth category introduced by Weiner, immigrants as a social or economic burden, deals with the question if refugees impose high costs on the social system and who has to pay for them. He argues that refugees make use of housing etc. provided by the host country. Leaving the actual costs unconsidered, Weiner states that allowing a small number of refugees to enter may lead to a greater influx which cannot be endured by the receiving country in social, cultural, or economic terms. This may lead to countries being more restrictive considering the future costs (ibid. 1995, 144). Since no trustworthy data is available on how much a refugee costs and how many people actually followed leaving their home country since, e.g. Germany opened the borders, this category cannot be transformed into a hypothesis. This consideration is still noteworthy because financial issues are always highly debated and politicised and may have played a role in shaping the preferences of Germany and Hungary.

Referring to the second category, if refugees commit terrorist attacks, it can be assumed that a country who experienced terrorist attacks would strongly support the *EU-Turkey*

deal, because the deal ends irregular migration as well as the establishments of new routes to the EU from Turkey. However, since the deal also incorporates a relocation scheme of Syrians to the EU Member States, a country which opposes receiving refugees at all or fears a threat by Syrian refugees could still have obligations against the deal. Considering data from the “European Union Terrorism Situation and Trend Report 2016” by Europol which contains data from 2015 and is the year before the *EU-Turkey deal* was negotiated, it gets clear that Weiner’s assumption does not hold in the case of the *EU-Turkey deal*. It is important to keep in mind that Europol do not break down its data into the country of origin of the terrorists respectively the suspects. Therefore, terrorists and suspects which are non-refugees are still considered to influence the public opinion respectively the government’s stance on the *EU-Turkey deal*. Additionally, in terms of the characteristics of terrorism, data regarding jihadist terrorism is used. Right, left or separatist terrorism is not of relevance to test this hypothesis.

According to the Europol report of 2016, 150 persons were killed in jihadist terrorist attacks in the EU. The number of attacks increased from four in 2014 to 17 in 2015, and the number of arrested suspects also increased from 395 in 2014 to 687 in 2015. One attack took place in Germany in September 2015, when a German resident, classified as a potentially dangerous Islamist extremist, attacked a police officer with a knife. No attack took place in Hungary. Regarding the number of arrested suspects for religiously motivated/ jihadist terrorism in Germany and Hungary, 21 persons were arrested in Germany while in Hungary none was arrested. Analysing the report, I also found that EU Member States which are participating in the military invention against

ISIS are seen as a major target by jihadist groups. To this effect, it is important to consider that Germany is providing military in terms of fighter jets while Hungary is only providing financial military aid. Furthermore, the report shows a trend of an increasing number of suspects arrested for religiously motivated/ jihadist terrorism from 122 in 2011, 159 in 2012, 216 in 2013, 395 in 2014, and as mentioned above, to 687 in 2015 (Europol 2016, 22ff.).

We can see that the numbers for Germany are relatively low compared to other EU Member States such as France, Spain, Belgium or even Austria. The attack executed in Germany also did not cause fatal casualties. In the case of Hungary, no attack was executed while no suspects were arrested. Of course, there could be other reasons why the Hungarian police did not arrest anyone suspected for terrorism, but for the purpose of this research I assume that there was no one arrested since there was no reasonable basis to do so. These low numbers show that the framework by Weiner cannot explain why Germany and Hungary supported the *EU-Turkey deal*.

Thus, as described above, the growing number of suspects in all EU Member States and the involvement of Member States in the US-led mission against ISIS, may lead to the assumption that in terms of security, factors such as the European wide increasing terror threat and the military engagement against ISIS have probably a higher validity in explaining the preferences of Hungary and Germany. Accurately, while the European wide threat of terrorism applies to both Germany and Hungary due to the Schengen agreement, the engagement against ISIS differs. Assuming Germany's greater engagement against ISIS compared to Hungary, it could be hypothesised that Germany

supports the *EU-Turkey deal* stronger since it expects a greater threat from terrorism as Hungary which only provides financial military aid.

These interpretations lead to my first hypothesis based on realist thought:

H₂: Countries which are stronger engaged in the US-led anti-ISIS coalition are stronger supporting the *EU-Turkey deal*.

Following this hypothesis, I assume that a higher engagement in the coalition describes the preferences of Germany and Hungary regarding the *EU-Turkey deal*, because if a country expects a higher domestic terror threat due to engaging in military terms abroad, it also needs to protect itself against the terror threat. That could be done with stopping irregular migration as well as sending back irregular migrants through a controlled relocation scheme. The hypothesis is tested in the next chapter based on data regarding the military engagement and the European Police Office.

Regarding the third category of Weiner's framework, two hypotheses will be developed. This category takes migration as a threat to cultural identity. First, nationality laws are considered since Weiner states that countries with nationality laws based on indigenusness or ethnic descent are rather reluctant to receive refugees from countries alien to the receiving country's identity. Conversely, states which established citizenship laws based on a political identity such as the USA are more open to receive refugees from any origin. In legal terms it is the question whether *jus soli* (right of the soil) or *jus*

sanguinis (right of blood) is applied in the nationality law. *Jus soli*, also called the birthright citizenship, implies that a person receives the citizenship of the state where it was born regardless of the citizenship of its parents. Contrastingly, *jus sanguinis* is granted on the basis of the citizenship of at least one, resulting in the fact that the child has the same citizenship as at least one of its parents.

In principle both countries' nationality laws are based on *jus sanguinis*, yet there are several differences considering the laws in detail. Therefore, Weiner's framework seems not very promising in explaining the preferences of Germany and Hungary regarding the *EU-Turkey deal*.

Thus, even though both nationality laws seem formally similar, Hungary focusses more on advancing Hungarian nationality in its Constitution and warning that foreigners who want to acquire Hungarian nationality could pose a threat to its national security. Since "national security" is not defined in this law, the interpretation of this clause is rather non-transparent.

Therefore, I argue that Weiner's idea cannot be applied even though Germany and Hungary are both supporting the *EU-Turkey deal*. Granting citizenship based on *jus sanguinis* alone cannot fully explain the preferences by Germany and Hungary. I argue that it is rather important how countries interpret, formulate and put the principle of *jus sanguinis* into a legal framework.

Accordingly, the third hypothesis is:

H₃: Countries integrating the principle of *jus sanguinis* on a lower level of the hierarchy of the legal system rather support the *EU-Turkey deal*.

This is assumed because the *EU-Turkey deal* closes the route for irregular migration and prevent the establishment of new routes to the EU. Therefore, if a country's nationality law is based on *jus sanguinis*, it welcomes the closing of borders and a restricted inflow of migrants. This also includes the "one in, one out" exchange scheme for Syrian refugees because this number is limited, and compared to the number of refugees arriving in the EU before the establishment of the deal, the relocation scheme incorporates a much lower number. If a country ranks the principle of *jus sanguinis* on a higher level of the hierarchy of the legal system, I argue that it is more reluctant to receive refugees under the relocation scheme and therefore opposes this part of the deal.

Lastly, Weiner also states that governments may implement restrictive policies against refugees fearing right and populist parties to challenge the current regime. However, in the case of Hungary this aspect cannot be applied because a populist right-wing party is already in power since 2010 (Levy 2014). Since this framework does not match the situation in Germany and Hungary, I reject Weiner's approach by arguing that it is rather predicting how strong a right-wing populist or antimigrant party is in general. This leads to the third realist hypothesis:

H4: The stronger right-wing populist or antimigrant parties are in a specific country, the stronger it opposes the EU-Turkey deal.

5. The “National Identity” Approach

Another approach explaining preferences of countries regarding the openness respectively taciturnity for refugees is the “national identity” approach. According to Meyers, it considers the unique history of each country as well as debates over national identity and social conflicts. Therefore, it can be categorised as historical or political sociology but also incorporates aspects of social constructivism. The latter school of thought focuses on ideas and identity and how they developed over time (Meyers 2000, 1251).

The “national identity” approach describes differences in preferences on accepting refugees based on a country’s perception of national identity. These different perceptions can be explained by a different historical context of countries. First, there is a difference between countries which are considered as settler societies which experienced a large influx of migrants over time and ethnic states which were rather reluctant to a large inflow of migrants. Second, there is a difference between countries with a homogenous and heterogenous people (ibid. 2000, 1254). Regarding these two differences, various approaches by different scholars are considered to develop hypotheses explaining preferences on the *EU-Turkey deal*. Concerning the first difference between settler and non-settler societies, the work by Meissner and Freeman is comprised. Additionally, describing the differences between homogenous and heterogenous countries, Zolberg’s article is included.

Meissner covers international migration flows in her article titled “Managing Migrations”. She emphasises that migration to the developed world is rather small since the largest share of migration takes place on a domestic level and to other low-developed states. However, she states that migrations to developed countries and especially Europe constitutes a serious issue and should influence policies in the EU. Following, Meissner introduces five categories of migrants while only illegal migrants, asylum-seekers and refugees are of relevance for this research. These pose a major challenge to Europe because such inflows are mostly unregulated and an evidence of lost control in specific areas of the world as well as impacting the economy, the culture, and the society altogether (Meissner 1992, 66ff.).

Furthermore, Meissner specifies that a membership in a society of European countries is usually linked to a shared ethnicity and nationality. According to Meissner, even though people from northern Africa or Turkey may work, live, and even get German citizenship in Germany, they cannot share this specific kind of membership in European countries which is based on ethnic origin. Contradictory, in countries where membership is formulated by means of civic participation and the commitment to a shared set of democratic values, the membership is open to anyone who identifies itself with these values. Considering these differences, immigration to European countries is seen as a threat to national unity and the common good and Meissner states that large, unregulated flows of refugees may cause states taking restrictive stances to confine these (ibid. 1992, 70f.). Lastly, Meissner predicts that refugee crises could undermine fragile

new democracies in Eastern Europe, which can be observed in the case of Hungary (ibid. 1992, 74).

Before concluding with the first hypothesis deducted from the “national identity” approach, the term “settler society” will be described since Meissner’s article lacks a clear definition. “Settler society” is a historical term that emerged as a result of the great European expansion into other regions of the globe from the late fifteenth century onward. These, more specifically “white settler societies” were established by British, French, Portuguese, Spanish, German, and Dutch conquistadors in the Americas, Africa, and Australia as well as Oceania (Moran 2008). Expanding the term “settler society” for the application in this research, it is assumed that “settler societies” such as the USA are still formed by immigration in recent times (leaving the Trump administration unconsidered) from all regions of the world. Therefore, the very limited term originally used for Europeans moving to the “new world” is broadened including the characteristics of such settler states today. Consequently, a non-settler society is a country which is not founded by emigration of Europeans but developed over time without much immigration to its territory. Such states are characterised by a similar ethnic origin rather than an ethnic diversity such as in the USA where Asians, Arabs, Latin Americans, Africans etc. compose the people based on shared values.

According to Meissner’s argumentation, applying her approach to the *EU-Turkey deal*, European non-settler societies would support the deal since it stopped irregular migration and sends back irregular migrants to Turkey. Moreover, the relocation scheme could also be supported since it regulates migration inflows into

European states or on the other side be rejected since the inflow of migrants is undesired. However, since European countries are not settler societies in this sense, I suggest considering the number of incoming foreign nationals to Germany and Hungary. This number shows if countries are used to deal with an inflow of foreign nationals and therefore are capable to receive refugees in the future.

The first hypothesis based on the “national identity” approach is set accordingly:

H₅: Countries which experienced a larger inflow of foreign nationals in the past are stronger supporting the *EU-Turkey deal*.

Following this hypothesis, a country which experienced a larger inflow of foreign nationals in the past is stronger supporting the deal because even though such a country is used to receive refugees, it is necessary to regulate the inflow. Until the deal was negotiated such a regulation mechanism was obsolete. Therefore, and due to the high numbers of refugees arriving in Europe in 2015, these countries support the deal. Contrarily, countries which are not used to receive refugees or foreign nationals are less strong supporting it because it may lack the capabilities to deal with incoming people and in the case of Hungary, rejects the relocation scheme. This will be tested in the next chapter.

Above all, Freeman supports Meissner’s argument by stating that for European states it was neither normal nor necessary in regard to nation-building to allow a large-scale

immigration. For settler societies, however, it was necessary and a crucial aspect to supplement natural increase of the population. Further, Freeman explains that states with no experiences or a history in integrating migrants, especially of non-European people, faced serious dilemmas regarding citizenship and nationality. The immigration policies of European states are mostly shaped by the mistakes and social consequences of the guest worker era. One of the lessons learned from this era is, according to Freeman, that migrants of non-European origin pose a special challenge which European states are not willing to take again. This resulted in a rather negative connotation of immigration in European states compared to settler societies where immigration is met with a positive response by the public and governments (Freeman 1995, 889ff.).

The second difference, between countries with a homogenous and heterogenous people, as described at the beginning of the chapter covering the “national identity” approach, is explained by Zolberg. This difference is created by societies with a homogeneous ethnicity, more precise a common ancestry, common language, society, common religion, and common culture; and societies with a more heterogeneous ethnicity.

Zolberg states that:

“Given an equal challenge, the degree of tolerance of cultural diversity may vary as a function of the character of the receiving society. A highly homogenous culture, such as may be found in an ethnically undiversified nation with a dominant religion, and which as a consequence of its insularity has experienced little immigration in the recent past, may have a lower threshold of tolerance than a more heterogeneous one, whose identity may have come to be founded on political rather than ethnic criteria.” (Zolberg 1981, 16).

Deducting hypotheses based on Zolberg's approach leads to the assumption that countries with a similar ethnic origin and religious denomination are rather supporting the *EU-Turkey deal* because they support the aspect of stopping irregular migration and returning irregular migrants to Turkey. They may also support limiting the number of refugees relocated according to the relocation scheme. This argument results in the following hypotheses:

H₆: Countries with a more diversified people in terms of their ethnic origins stronger support the *EU-Turkey deal*.

H₇: Countries with a predominantly Christian/Catholic cultural heritage are rather opposing the *EU-Turkey deal*.

IV. Testing the hypotheses

1. Testing H_1 – Preferences on Turkey’s EU accession

Before testing H_1 , the variables will be described. According to McLaren’s theory, the independent variable is the Turkish migrant community in either Germany or Hungary. More precisely, the inflow of Turkish people, people born in Turkey respectively holding Turkish citizenship, to these two countries are considered. These numbers were provided by the OECD and can be easily compared due to a common methodology. Statistics regarding the population with a Turkish migration background in Germany or Hungary were not available with a comparable methodology. Therefore, the numbers of inflows are chosen. These statistics have the ability to prove that Germany is hosting a relatively large number of Turkish nationals while Hungary does not. However, the OECD is providing data for Germany from 1988 and for Hungary from 1995.

The dependent variable is denominated as the preference on the *EU-Turkey deal*. This is deducted from the fact that the three action points of the *EU-Turkey deal* are covering the reenergising of EU accession as well as visa liberalisation. Therefore, if a country has a rather large Turkish community, this country rather opposes Turkey’s accession and thus also opposes the *EU-Turkey deal*, which aims to intensify EU-Turkey relations.

Year	Germany	Hungary
1988	78.400	-

1989	85.700	-
1990	83.600	-
1991	81.900	-
1992	80.568	-
1993	67.789	-
1994	63.946	-
1995	74.517	126
1996	74.144	136
1997	56.992	122
1998	49.178	97
1999	48.129	93
2000	50.026	92
2001	54.695	82
2002	58.128	117
2003	49.774	119
2004	42.644	151
2005	36.019	120
2006	29.589	318
2007	26.694	260
2008	26.653	720
2009	27.212	520
2010	27.564	520
2011	28.610	576
2012	26.150	569
2013	23.230	499
2014	22.058	567
2015	23.698	565

Table 2: Inflows of Turkish people (country of birth/ nationality) to Germany and Hungary, 1988-2015

Source: International Migration Database, OECD 2017, own composition

Table 2 shows the independent variable *Turkish migration*. The inflow of Turkish people to Germany is the highest in the 1980s and early 90s. In the late 1990s and early 2000s, the number ranged at around 50.000 people per year and decreased

almost steadily until 2015. The inflow of Turkish people to Hungary is relatively low and reaches 720 people per year in 2008. Since Hungary joined the EU in 2004, the number of Turkish inflow is increasing, but still on a very low level.

Considering these statistics on Turkish migration to Germany and Hungary, I would expect that the opposition of Turkish accession to the EU is relatively higher in Germany than in Hungary. Taking the dependent variable into consideration, which is based on the Special Eurobarometer of 2006, people were asked:

“Once Turkey complies with all the conditions set by the European Union, would you be... to the accession of Turkey to the European Union?”.

	Turkey	
	In favour	Opposed
EU25	39%	48%
EU15	38%	49%
Germany	27%	69%
Hungary	44%	46%

Table 3: Preferences by Germany and Hungary on Turkey’s EU accession
Source: Special Eurobarometer 255, European Commission 2006, 71

As expected from analysing the independent variable *Turkish migration* and according to McLaren, the opposition to Turkish EU-Membership in Germany is relatively strong. Only 27% of Germans asked in the Eurobarometer are in favour of a Turkish EU accession. In Hungary, 44% of people asked are in favour, and therefore more than the EU average, of an EU accession. The opposition lying at 46% and thus, below the EU average opposing the accession of Turkey.

Considering these results, this means that Germany should rather oppose the *EU-Turkey deal* because it opposes a Turkish EU membership and Hungary rather supports it. However, as I described in the previous part, Germany is an advocator of the *EU-Turkey deal* while Orbán came up with his own plan, *the 10-point action plan/ Schengen 2.0*. Then how can this discrepancy be explained? As I mentioned earlier, these parts of the *EU-Turkey deal* are not of major importance, since even if the EU are promising reenergising the accession process, it is still a long way to go. Therefore, I argue that Germany used these points to allure Turkey or as a bargaining chip to solve the refugee crisis.

This can be further bolstered by statements of the German Federal Foreign Minister, Sigmar Gabriel, given in an interview with the German newspaper *Magdeburger Volksstimme*. He says that Turkey does not even want to join the EU (*Magdeburger Volksstimme* 2017). So why did Turkey conclude an agreement with the EU including points regarding an EU accession? This question goes beyond the scope of this research, presents one limitation and must be concluded in a different research setting. However, I hypothesise that Turkey was eager to receive further funding for tackling the refugee crisis and, considering the failed coup d'état and the referendum, it may have wanted to strengthen the anti-EU sentiments in Turkey by showing that the EU is holding back Turkey when it comes to an EU accession. These anti-EU sentiments may boost Erdogan's domestic standing and greater support for its domestic politics. Nonetheless, this is only my line of thoughts considering recent developments and cannot be proven with this research.

2. Testing H₂-H₄ – Realism

To test the first realist hypothesis, H₂: Countries which are stronger engaged in the US-led anti-ISIS coalition are stronger supporting the *EU-Turkey deal*, the engagement of Germany and Hungary in the coalition is analysed as the independent variable. To do so, official data provided by the Global Coalition against Daesh's homepage and the Hungarian government is considered.

Since 2014, Germany delivered equipment, including vehicles, arms, ammunition and military equipment (e.g. combat helmets, body armour, field kitchens, radio sets, mine probes, night vision aids, and tents) amounting to 90 million Euros. Additionally, from early 2015 until late 2016, Germany provided training support for the security forces of the government of the Kurdistan Region in Iraq and the Iraqi forces in northern Iraq. During that time, more than 11,000 Peshmerga were trained. About 350 Peshmerga fighters and Iraqi government soldiers were trained in Germany on the "Milan" antitank weapon and on tactical and command and control processes, administration of medical aid, maintenance, handling of chemical, biological, radiological and nuclear defence equipment, explosive ordnance disposal and international humanitarian law. Besides this training support, Germany also provided military personnel in terms of air support for reconnaissance and refuelling aircrafts. Furthermore, the frigate "Augsburg" escorted the French aircraft carrier "Charles de Gaulle" in 2016. Lastly, German soldiers participated in NATO-AWACS flights that provides air surveillance and situational awareness over Iraq and Syria. Overall, up to 1.200 German soldiers could be deployed in this coalition (The Global Coalition Against Daesh 2017).

In contrast, up to 150 Hungarian soldiers participated in this mission. Regardless of the military support, 250 tons of ammunition was sent to the Kurdish Peshmerga forces and thousands of mines, millions of cartridges, and armour-piercing shells to Iraq (The Hungarian Government 2016).

“Hungary takes part with a military force in the international efforts aimed at resolving the armed conflict, because it has committed itself to reducing the terrorist threat in Europe. We are convinced that we need to get to the root of the problems before we can solve them. This conflict-ridden region encompasses some source countries of the migration crisis that seriously affects Hungary as well.” (The Hungarian Government 2016)

Interestingly, even though politicians and governments argue that such a military engagement is to reduce the threat of terrorism, I argue that the opposite is the case. Military interventions are rather increasing the threat of terrorist attacks in participating countries. Accordingly, since Germany is heavily engaged in the anti-ISIS coalition, is prone to a larger terror threat and therefore supports the *EU-Turkey deal* relatively strong. This is the case because with stopping irregular migration, sending back irregular migrants and establishing a relocation scheme, the influx of refugees is strongly regulated. Through this regulation, it can be controlled what kind of people are entering the EU respectively Germany. In the case of Hungary, since it is not as heavily engaged in the coalition as Germany, only a few soldiers and medical staff, Hungary does not expect a rising terror threat compared to Germany. Therefore, Hungary supports the *EU-Turkey deal* less strong. Additionally, for Hungary a relocation scheme seems not necessary because a less strong military engagement against ISIS means a less stark domestic terror threat. I think that this is the case because if a country decides to take

military actions against a threat from ISIS abroad, it can be expected that your enemy, the ISIS in this case, responds in some kind of way. The major response of ISIS is terror attacks. Furthermore, it could be criticised that the terror threat in Europe increases due to the fact that ISIS also calls on lone fighters in Europe to commit attacks, which are not related to any migration inflow. However, this increasing call for lone fighters is larger for countries which are stronger engaged against ISIS. Therefore, the probability that ISIS sends fighters through the refugee inflow also increased. One limitation of this research is that the lone fighters in Europe, which are not connected to ISIS or the refugees have to be neglected.

The second realist hypothesis, H₃: Countries integrating the principle of *jus sanguinis* on a lower level of the hierarchy of the legal system rather support the *EU-Turkey deal*, will be tested by consulting the nationality laws of Germany and Hungary. Subsequently, the independent variable is the level of hierarchy of the legal system in which *jus sanguinis* is implemented. In principle both countries' nationality laws are based on *jus sanguinis*, yet there are several differences considering the laws in detail.

According to the German Nationality Law, German nationality is traditionally acquired by birth. Furthermore, German nationality can also be acquired by foreigners if someone has his main residence in Germany for at least eight years, supports the German free democratic basic order, has no criminal record, and, among other, for this research irrelevant minor requirements, is able to speak German (Deutscher Bundestag 1913).

In the case of Hungary, the acquirement of Hungarian citizenship by birth is codified in the Hungarian Constitution “The Fundamental Law of Hungary” which is in force since 2012. Article G, paragraph 1 of the Constitution states that:

“The child of a Hungarian citizen shall be a Hungarian citizen by birth. A cardinal Act may specify other cases of the origin or acquisition of Hungarian citizenship.” (Hungarian National Assembly 2012).

Therefore, Hungary puts the meaning of nationality on a higher level of importance incorporating it in the Constitution, compared to Germany where Nationality is covered in a different act. However, Hungary also has an act regarding naturalisation. In the Act LC of 1993 on Hungarian Citizenship it is stated that foreigners can acquire Hungarian nationality if they lived in Hungary for eight years continuously. Furthermore, this act emphasises the importance that

“his/her naturalization is not considered to be a threat to public policy or to the national security of Hungary.” (Hungarian National Assembly 1993).

Thus, even though both nationality laws seem formally similar, Hungary focusses more on advancing Hungarian nationality in its Constitution and warning that foreigners who want to acquire Hungarian nationality could pose a threat to its national security. Since “national security” is not defined in this law, the interpretation of this clause is rather non-transparent.

Therefore, I argue that H₃ can be confirmed because Germany incorporated the principle in statutory law while Hungary in its Constitution. Germany supports the deal stronger since the ranking of the principle is lower than in the case of Hungary. In general, Weiner assumes that countries implementing birthright principles based on

consanguinity are rather opposing an influx of immigrants and refugees. This is the case because such countries require an ethnic origin which most incoming foreigners does not have and if people immigrate respectively apply for asylum in such a country, it always delineates a threat to the cultural identity. Furthermore, such countries are likely to have political groups standing up against an influx of people of different origin (Weiner 1995, 140). Since Weiner's approach cannot explain the current case, I advance his idea to state that the level of the hierarchy of the legal system is also important. This is demonstrated by the case of Germany and Hungary. Since Germany implemented *jus sanguinis* in a lower level, it supports the deal stronger because it is open to a relocation scheme, which regulates the inflow of refugees. Sending back irregular migrants and stopping further irregular inflows is supported by both, Germany and Hungary. That can be explained by the fact of implementing the principle of consanguinity. However, Hungary included the principle in its Constitution and further added the requirement of not threatening national security into its naturalisation act. Therefore, I argue that for Hungary the cultural identity represented by *jus sanguinis* is of higher importance and the relocation scheme gets rejected to protect the cultural identity of the Hungarian people. Before concluding with the realist school of thought, one more hypothesis is analysed.

The last realist based hypothesis, H₄: The stronger right-wing populist or antimigrant parties are in a specific country, the stronger it opposes the *EU-Turkey deal*, covers the issue of rising antimigrant parties. Subsequently, the independent variable is the share

of antimigrant or right populist parties in elections before the establishment of the *EU-Turkey deal*.

In Hungary, the right-wing populist party Fidesz forms a coalition with the Christian Democratic People's Party (hereafter KDNP) since 2010. Since the elections in 2010, the coalition gained popularity reaching a share of 66,83% in the 2014 parliamentary elections (Kovács 2014). This share also confirms my hypothesis that the stronger right-wing parties, the stronger the opposition to the *EU-Turkey deal*. Due to that, Hungary does support sending back and stopping irregular migration but at the same time it is rejecting the relocation scheme. It does so because an antimigrant party/coalition is in power and as mentioned previously, Hungary came up with its own *Schengen 2.0* and is strongly against sharing the burden of refugees among other EU countries. Hungary does not want to accept any refugees. This can be further bolstered by Hungary sealing off its borders by building a fence. Accordingly, the hypothesis can be confirmed because Hungary's opposition to the deal is relatively strong.

In the case of Germany, however, growing antimigrant parties could have influenced the stance of the German government regarding the *EU-Turkey deal*. Considering elections taken place right before the establishment of the deal, in the local elections of Hesse, the right-populist party *Alternative für Deutschland* (hereafter AfD) gained 11,9% without running for office in the prior elections of 2011 (Hessisches Statistisches Landesamt 2016). Additionally, in the state elections (*Landtagswahl*) of Baden-Württemberg in 2016, the AfD gained 15,1% without running for office in the prior elections of 2011 (Statistisches Landesamt Baden-Württemberg 2016). This shows

that the popularity of antimigrant issues may have pushed the German government to take actions against the influx of irregular migrants and to stop a further influx by concluding the deal with Turkey, which closes the routes of illegal migration to the EU. Further, it explains why Germany supported the relocation scheme since a majority of Germans still wanted to help refugees but felt that some regulations should be imposed. This happened with the establishment of the *EU-Turkey deal*. Therefore, the opposition to the deal in Germany is very low and the hypothesis can be confirmed. However, attacks against refugee homes took place in Germany. Therefore, the antimigrant sentiments persist not only on a party level but also in other parts of the society. The fact that Germany strongly supports the deal does not get weakened through that, but it is important to keep in mind that the relocation scheme covered only 72.000 people. One explanation for that could be in addition to rising antimigrant parties, as mentioned above, the opposition groups in Germany against refugees.

3. Testing H₅-H₇ – The “National Identity” Approach

To test the next hypothesis, H₅: Countries which experienced a larger inflow of foreign nationals in the past are stronger supporting the *EU-Turkey deal*, data of the International Migration Database offered by the OECD is consulted. Ensuring the comparability with a settler society, the data of the USA is included. Data is provided by the OECD for Germany from 1984 and for Hungary from 1988, while for the United States it is available for the entire period of time. The independent variable is the inflow of foreign nationals to Hungary and Germany.

Analysing the provided data, it is striking that Hungary’s numbers regarding the inflow of foreign nationals is relatively constant and alternates from around 12.000 in 1994 at the lowermost point and up to approximately 35.000 at its peak in 2008. Even if the population size of the countries is considered, the inflow of foreign nationals into Hungary is the lowest among these three countries.

While Germany’s inflow of foreign nationals lies mostly below the data of the United States, it is too high to conclude that Germany is not a settler state in the sense that is not shaped by and dependent on immigration like traditional settler states nowadays (e.g. USA). It even outnumbered the data by the USA after reunification (1992/93 and 1995) as well as in most recent years (2013-2015).

Year	Germany	Hungary	United States
1975	-	-	385.378
1976	-	-	499.093
1977	-	-	458.755
1978	-	-	589.810
1979	-	-	394.244
1980	-	-	524.295
1981	-	-	595.014
1982	-	-	533.624
1983	-	-	550.052
1984	331.100	-	541.811
1985	398.200	-	568.149
1986	478.300	-	600.027
1987	473.341	-	599.889
1988	648.550	23.501	641.346
1989	770.771	33.713	1.090.172
1990	842.364	37.242	1.535.872
1991	920.491	22.974	1.826.595
1992	1.207.602	15.113	973.445
1993	986.872	16.397	903.916
1994	773.970	12.752	803.993
1995	792.701	14.008	720.177
1996	707.954	13.734	915.560
1997	615.298	13.283	797.847
1998	605.500	16.052	653.206
1999	673.873	20.151	644.787
2000	648.846	20.184	841.002
2001	685.259	20.308	1.058.902
2002	658.341	17.972	1.059.356
2003	601.759	19.365	703.542
2004	602.182	22.164	957.883
2005	579.301	25.582	1.122.257
2006	558.467	23.569	1.266.129
2007	574.752	22.607	1.052.415
2008	573.815	35.547	1.107.126
2009	606.314	25.582	1.130.818
2010	683.529	23.884	1.042.625
2011	841.695	22.514	1.062.040

2012	965.908	20.340	1.031.631
2013	1.108.068	21.250	990.553
2014	1.342.529	26.004	1.016.518
2015	2.016.241	25.787	1.051.031

Table 4: Inflows of foreign nationals to Germany, Hungary, and the United States of America, 1975-2015

Source: International Migration Database, OECD 2017, own composition

Applying Hungary's data to the *EU-Turkey deal*, it is clear that it received a relatively small number of foreign nationals. Therefore, it supports the deal since it ended irregular migration to the EU as well as sending back irregular migrants. Additionally, it can explain Hungary's role as the major opponent of the deal because Hungary also denies the relocation scheme incorporated in the deal. Following the hypothesis, Hungary would not support it since it does not want to receive any refugees. Countries which are less experienced in welcoming refugees or immigrants might be less open to do so because they lack the experience to integrate them successfully. Accordingly, such a country would reject the relocation scheme. This fully explains the preferences of Hungary regarding the *EU-Turkey deal*.

Applying the data to the case of Germany, it can be assumed that Germany does support the deal since it always received more or less foreign nationals. Therefore, it would support the deal since managing migration and also establishing a relocation scheme lies in its interest. Germany always received refugees and with supporting the deal, this can take place in an ordered way. According to this hypothesis, sending back refugees respectively not accepting refugees would be opposite to Germany's interest as

a state which has a long record of receiving migrants. To sum up, this hypothesis does explain the preferences of Hungary and Germany very well. One caveat might be that the relocation scheme consists of only 72.000 Syrians. Accordingly, Germany could support a larger scheme since in the past it received much more refugees. However, since the year 2015 was extraordinary regarding the inflow of foreign nationals, I argue that Germany did not support a larger scheme. As the existing literature suggests, Germany is not a settler society in the sense that it incorporates people from various ethnicities. Germany rather received migration from similar ethnicity and the ethnic origin of migrants will be covered and analysed with the next hypothesis.

Following, the next hypothesis, H₆: Countries with a more diversified people in terms of their ethnic origins, stronger support the *EU-Turkey deal*, will be covered. The independent variable is the ethnic composition of Germany and Hungary. This includes several ethnic groups in both countries. Data included to analyse the ethnic composition of Germany and Hungary is retrieved from the Hungarian census of 2001 and 2011 as well as from the German *Mikrozensus* of 2016.

The data for Hungary is as follows:

Ethnic group	Census 2001		Census 2011	
Hungarians	9.416.045	92,33%	8.504.492	85,58%
Roma	189.984	1,86%	315.583	3,18%
Germans	62.105	0,61%	185.696	1,87%
Romanians	7.995	0,08%	35.641	0,36%
Slovaks	17.693	0,17%	35.208	0,35%

Croats	15.597	0,15%	26.774	0,27%
Serbs	3.816	0,04%	10.038	0,10%
Slovenes	3.025	0,03%	282	0,00%
Others	57.059	0,56%	73.399	0,74%
Not stated	570.537	5,59%	1.398.731	14,08%
Total	10.198.315		9.937.628	

Table 5: Ethnic composition of Hungary, 2001 and 2011

Source: Hungarian Census 2001, Hungarian Central Statistical Office 2001 and Hungarian Census 2011, Hungarian Central Statistical Office 2011

The data regarding the ethnic composition of Hungary implies a decrease in people of Hungarian origin when comparing the Census results of 2001 and 2011. However, this development will be neglected since the focus lies on the ethnic composition rather than changes of the composition. The majority of people questioned for the Hungarian census stated that they are of Hungarian descent (2011: 85,58%). The other ethnic groups are Roma (3,18%) and Germans (1,87%) while the other ethnic groups are of no importance since they are also of European origin and very little. Interestingly, 14,08% of Hungarians questioned for the Census 2011 stated that they do not state their ethnic origin. This group doubled compared to the Census of 2001. Since no explanation is provided by the Hungarian Central Statistical Office, this group stays uncovered because there can be many different reasons why people do not want to state their ethnic origin. People may see themselves as basically European and therefore did not fit into any other group. So even other ethnic groups such as Roma, German, Slovak etc. are of European descent and no other ethnicity such as Asians or Arabs constituting a noteworthy group

in terms of their size, ethnic group in Hungary. Consequently, Hungary is considered as an ethnically significantly homogenous country.

Linking back to the hypothesis, the hypothesis can be confirmed since Hungary is a homogenous state and it also supported the *EU-Turkey deal*. Furthermore, it can be assumed that it did so because Hungary's intention was to stop a further influx of irregular migrants and sending back irregular migrants to Turkey. Also, it explains that Hungary rejects the relocation scheme because of its ethnic homogeneity. Such countries are rather reluctant to accept people of alien ethnic origin.

In the case of Germany, Germany consists of following ethnic groups (2016):

Population composition	Population	
European	73.620.000	89,32%
European Union	70.437.000	85,46%
German	67.027.000	81,32%
Polish	1.868.000	2,27%
Italian	861.000	1,04%
Romanian	788.000	0,96%
Greek	443.000	0,54%
Other EU MS	2.638.000	3,20%
European Other	3.174.000	3,85%
Russian	1.223.000	1,48%
Others	1.652.000	2,00%
Middle Eastern/Northern African	5.448.000	6,61%
Turkish	2.797.000	3,39%
Arabs	1.518.000	1,84%
Others	164.000	0,20%
Sub-Saharan African	396.000	0,48%
East Asian and South/Southeast Asian	1.119.000	1,36%
Vietnamese	167.000	0,20%
Chinese	157.000	0,19%

Others	795.000	0,96%
Americas	421.000	0,51%
Americans	154.000	0,19%
Australia/Oceania	40.000	0,05%
Other/unspecified/mixed	748.000	0,91%
Total population	82.425.000	100,00%

Table 6: Ethnic composition of Germany, 2016

Source: *Mikrozensus 2016, Statistisches Bundesamt* (Federal Statistical Office of Germany) 2017

Compared to Hungary, Germany is ethnically more diversified while most ethnic groups have a European descent. Most people questioned in the *Mikrozensus* stated that they are from Europe (89,32%). The second largest group consists of countries in the Middle East and Northern Africa (6,61%). More precisely, 3,39% stated that they are of Turkish origin and 1,84% Arabs. The number of people of East Asian or South/South East Asian origin is also very little and stands at 1,36%. Its largest group is formed by Vietnamese. This can be explained by the relations of former German Democratic Republic and Vietnam which were socialist sister countries. People stating that they are of American or Australian/Oceanian origin is even smaller and can be neglected since North America and Australia was mainly formed by European emigrants and therefore, they share similar cultural background.

Concluding, compared to Hungary, Germany consists of a significantly larger group of people of Arab descent while it still forms only a little minority. The large majority in Germany are from European origin and therefore I conclude that Germany is also a very homogenous country in terms of ethnicity. Following this conclusion,

Germany would support the *EU-Turkey deal* since it regulates migration to the EU and stops irregular migrants. Lastly, it also explains why Germany stronger supported the *EU-Turkey deal* because due to a larger ethnic diverse community, it is used to integrate them and might be capable to do so in the current crisis. Since ethnicity is not only constituted by the origin but also culture, religion, and language, the religious denomination in Hungary and Germany is considered. Most migrants in the recent crisis are Muslims and religion is a major concern of people fearing migration respectively refugees.

Lastly, the religious denomination and how it is reflected in traditions such as holidays of Germany and Hungary is considered. This independent variable is conveyed in H₇: Countries with a predominantly Christian/Catholic cultural heritage are rather opposing the *EU-Turkey deal*.

	1930	1949	2001	2011
Catholic	67,15	70,49	54,51	38,96
Of which: Roman Catholic	64,84	67,80	51,87	37,15
Greek Catholic	2,32	2,70	2,64	1,80
Orthodox Christian	0,46	0,39	0,14	0,14
Calvinist	20,88	21,89	15,91	11,61
Lutheran	6,15	5,24	2,99	2,16
Jewish	5,12	1,45	0,13	0,11
Belong to other church, denomination	0,22	0,40	0,95	1,68
Not belong to any church, denomination	0,02	0,13	14,55	18,18

Did not wish to answer, no answer	0,00	0,00	10,83	27,16
	100	100	100	100

Table 7: Population by religion, Hungary, 1930, 1949, 2001 and 2011
Source: Hungarian Census 2011, Hungarian Central Statistical Office 2011

The statistics on religious denomination in Hungary show that in 2011 less than 40% considered themselves as Catholic and 11,61% as Calvinist. 18,18% do not consider themselves to belong to any church while 27,16% did not want to answer this question. Analysing the most recent data of 2011, leads to the conclusion that almost 50% of the Hungarian people do not belong to any religion respectively did not want to answer this question. Further, the religion of Islam does not appear in the table. I assume that this is the case since only a very little number of Muslims are living in Hungary. It is also very unlikely that Muslims may have denied answering this question because as I analysed above, the ethnic composition consists of mostly European groups which are not traditional or typical Muslim countries. Furthermore, considering the data from 1930 onwards, I assume that even though people today do not consider themselves as relating to a religious denomination, most Hungarians are socialised in a Catholic or Calvinist way since in 1949 more than 70% considered themselves as Catholic, respectively 21,89% as Calvinist. This means that religious traditions of these two groups may be present in the life of most Hungarians and may also shape family traditions (e.g. Christmas) today. As a result, Hungary can be seen as a very homogenous country in terms of its religious denomination.

Applying this finding to H₇, it can be confirmed that Hungary as a very homogenous country in terms of its religious determination supports the *EU-Turkey deal* to stop the influx of mostly Muslim refugees. Additionally, it would also support the return of irregular migrants to Turkey. Lastly, since Hungary is very homogenous without any Muslims appearing in its statistics, this also explains why Hungary relatively strongly opposes the deal while still supporting it. The deal also incorporates a relocation scheme which is unwanted by Hungary. One reason for that could be the fact that Muslim refugees would be rather alien in Hungary regarding their religious denomination and Hungarians fear the influx of people of religious denomination which is foreign to them. My argument can be further bolstered by considering public holidays in Hungary. Public holidays such as Easter, Whit Monday, All Saint's Day and Christmas are socialised Christian/Catholic traditions.

	2015	2016
Roman catholic	28,9	28,5
Evangelical church	27,1	26,5
Muslims	4,4	4,9
Other religious confessions	3,6	3,9
No religious confession	36	36,2
	100	100

Table 8 Population by religion, Germany, 2015 and 2016
Source: Forschungsgruppe Weltanschauungen Deutschland 2017

Consecutively, what the religious denomination of Hungary has in common with that of Germany is the fact that a large share does not see themselves as having a religious denomination. However, in 2016, more than 50% belonged to either the roman catholic (28,5%) or evangelical church (26,5%). Another difference is that Muslims amount to 4,9% while they were not represented as a single religious denomination in the Hungarian statistics. Furthermore, especially the evangelical church lost a significant share of religious denomination in Germany. In 1910, its share amounted to 61,1% and in 1933, 62,7%. The share of the catholic church also decreased but less stark. In 1910, 36,7% of the people were of roman catholic religion while in 1933 the share amounted to 32,5% (Petzina, Abelshauser, and Fa 1978). Accordingly, this exemplifies a general trend of a decreasing religious denomination in Hungary as well as in Germany. Furthermore, similar to the case of Hungary, I state that religious traditions based on the roman catholic and evangelical church are manifested in German traditions, since in the early 20th century until the middle of it, more than 90% belonged to one of the two religions. Public holidays in Germany are also mostly of Christian/Catholic origin and Germany has more religious public holidays than Hungary. The larger Muslim share in Germany did not influence public holidays since this is a rather new phenomenon. However, Muslim holidays such as Ramadan has an influence on German society because there are in fact problems with pupils, students or workers who feast during the Muslim holidays. These problems are mostly because Muslims do not eat or drink during the day which could have an negative effect on the performance. Despite this recent issue,

Germany is also considered to be a homogenous country regarding the religious denomination.

	Population	Evangelical		Catholic		Others	
1910	64.926	39.991	61,59%	23.821	36,69%	1.113	1,71%
1925	62.411	40.015	64,12%	20.193	32,35%	2.203	3,53%
1933	65.218	40.865	62,66%	21.172	32,46%	3.181	4,88%
1939	69.314	42.103	60,74%	23.024	33,22%	4.188	6,04%

Table 9: Population by religion, Weimar Republic (1918/19-1933), 1910, 1925, 1933 and 1939

Source: Petzina, Abelshausen, and Fa 1978

Applying these characteristics to H₇, the hypothesis can be confirmed in so far as that a religiously homogenous country, Germany, does in fact support the deal. There is a larger Muslim group in Germany compared to Hungary. That means that there might be a noteworthy group of people socialised in a Muslim context included in the group of people who stated that they do not belong to any religious confession since they do not live in accordance with this faith. This leads to the conclusion that Germany also accepts the relocation scheme. Thus, this explains the difference in preferences of Germany and Hungary regarding the *EU-Turkey deal*. Furthermore, even though Germany has even more public holidays which are based on Christian/Catholic ideas, the share of Muslims is higher than in Hungary and that leads to differences in the preferences regarding the *EU-Turkey deal*. However, it could be criticised that the independent variable used here is difficult to measure and therefore does not explain the correlation very well. This

deficiency has to be accepted since there is a lack of measurements of such issues. Regardless, I believe that the variable is deducted and explained as good as possible and provides a valid explanation.

V. Conclusion

To sum up this thesis, on the one hand side, it is important to state that the *EU-Turkey deal* incorporates several characteristics of an international agreement respectively a treaty. Nonetheless, it is conspicuous that an agreement covering such an urgent and important issue was not negotiated in accordance with the EU procedural rules. This highly undermines transparency and the legitimacy of EU decision-making. Withal, it also contests the acceptance of the EU institutions by the public in the EU Member States.

On the other hand side, the research question: “Which factors explain the variation in responses of the member states regarding the *EU-Turkey deal*?”, can be answered as following. The existing literatures’ suggested variables only explain the preferences insufficiently and therefore new adjusted variables and hypotheses were developed.

First, the preferences regarding a Turkish EU accession fail to explain preferences about the *EU-Turkey deal* because the deal contains plans to improve EU-Turkey relations respectively continue the accession process. However, since Germany is strongly supporting the deal and Hungary rather relatively strongly opposes it, the outcome is contradictory. Therefore, I argued that the issue of EU-Turkey relations is of minor importance or just used as a bargaining chip to put pressure on Turkey.

Secondly, a factor which is developed by my research and explaining the preferences by Germany and Hungary to stop irregular migration is a European wide increase of terrorist attacks. Another aspect is the degree of engagement in the anti-ISIS coalition led by the USA. A stronger engagement in this coalition would lead to a

stronger support of the *EU-Turkey deal* because such a country fears a threat by terrorists more and therefore requires regulations on the receiving and relocating of migrants.

Another factor based on realist thought is the one of nationality laws. Accordingly, the form and interpretation of how the nationality law, more precisely *jus sanguinis*, is implemented in domestic laws shapes the preferences about the deal. Hungary includes this law in its Constitution and emphasises the possible threat of national security through migration. Germany has separate laws covering this issue and therefore do not include it in the Constitution. Subsequently, the form of implementation shapes the preferences on the *EU-Turkey deal*.

The last factor based on realism is the share of antimigrant and populist parties. It does explain the preferences of Germany and Hungary. In Hungary a populist party is already in power and Germany experiences rising antimigrant parties which leads to the conclusion that Hungary is opposing the deal stronger than Germany.

Lastly, the first factor of the “national identity” approach gives a helpful result in explaining the preferences. Hungary was never exposed to a large number of foreign nationals coming to its territory. Analysing the outcome of the first hypothesis (H₅), this fact may explain Hungary’s general opposition to accepting refugees at all but since a small number came on a yearly basis, a small number of refugees based on the relocation scheme would also be bearable. In the case of Germany, the sheer numbers of foreign nationals reaching German territory is much higher.

Following, another aspect is included to get a deeper insight based on the “national identity” approach, which was done with the next factor.

The next factor takes the ethnic composition of Hungary and Germany into consideration. While Hungary is a very homogenous country, Germany's ethnic composition is more diversified but still considered a homogenous country. This would mean that both states support the aspect of irregular migrants in the deal. Regarding the relocation scheme, Hungary also opposes it due to its homogeneity. Germany, however, due to its greater diversity would support it.

The last factor explaining preferences took the Christian/Catholic cultural heritage into account. Due to its homogeneity, Hungary seems to prefer shielding itself from any other religious groups. Since the relocation scheme is for Syrian refugees, which are mostly of Muslim belief, it can be argued that this is a reason for Hungary's preferences. Finally, in Germany the share of Muslims is higher than in Hungary. Therefore, I assume that there is a greater openness for the Islam. Consequently, I argue that the hypothesis can be confirmed for Germany because irregular migration is to be stopped, irregular migrants to send back and a relocation scheme necessary to share the burden among all European states.

Drawing general assumptions and conclusions on temporal deals agreed in situations of high urgency leads to three findings. First, concessions such as the deepening of EU-Turkey relations, even though it might not be wanted by a member state, are made. Second, since the EU procedural framework is very time-consuming, in urgent situations like the refugee crisis, decisions are made in circumventing the framework. This leads to several problems such as the accountability of concluded agreements (EU: "It wasn't me!"). Lastly, larger states in terms of political and economic

power in the EU, such as Germany, may take the lead in controlling the outcome to their favour. By doing so, the interests of smaller or less influential states may get ignored. These aspects have to be considered when negotiating agreements in high urgency.

This research is unique in its kind since it firstly analyses the preferences of two countries regarding the *EU-Turkey deal*. It offers several insights in understanding why these two countries have different preferences and how these were formed. However, since this research rather applies qualitative methods, quantitative methods could be applied in further research and check if these patterns apply in other EU Member States as well.

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