EU External Migration Policies

A Preliminary Mapping of the Instruments, the Actors and their Priorities

Sergio Carrera
Centre for European Policy Studies

Raluca Radescu
Centre for European Policy Studies

Natasja Reslow
Maastricht University

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List of Abbreviations

ACP	African, Caribbean and Pacific
AU	African Union
CAMM	Common Approach to Migration and Mobility
CFSP	Common Foreign and Security Policy
CIS	Commonwealth of Independent States
COREPER	Committee of Permanent Representatives
DG	Directorate-General
DG DEVCO	Directorate-General International Cooperation and Development – EuropeAid
DG HOME	Directorate-General Migration and Home Affairs
EEAS	European External Action Service
ENP	European Neighbourhood Policy
EP	European Parliament
EU	European Union
GAM	Global Approach to Migration
GAMM	Global Approach to Migration and Mobility
GCIM	Global Commission on International Migration
GFMD	Global Forum on Migration and Development
High Representative	High Representative of the Union for Foreign Affairs and Security Policy
HLWG	High Level Working Group on Asylum and Migration
ICMPD	International Centre for Migration Policy Development
IOM	International Organisation for Migration
JAI RELEX	European Council Working Party in the field of Justice and Home Affairs
JHA	Justice and Home Affairs
OECD	Organisation for Economic Co-operation and Development
OSCE	Organisation for Security and Co-operation in Europe
PCA	Partnership and Cooperation Agreement
RCP	Regional Consultative Processes
SCIFA	Strategic Committee on Immigration, Frontiers and Asylum
TFEU	Treaty on the Functioning of the European Union
UNHCR	Office of the UN High Commissioner for Refugees

1. Introduction: Setting the Scene

The scale and salience of international migration has increased in the past decades. In 1965 there were an estimated 75 million international migrants worldwide (Castles and Miller, 2003, p. 4); by 2013 the UN estimated that number to have increased to 232 million (United Nations Department of Economic and Social Affairs, 2013). Migration has also become a key issue for discussion in the European Union (EU). According to Eurostat, during 2015 a total of 3.4 million people immigrated to one of the EU member states, out of which 1.7 million came from a non-EU country (Eurostat, 2015). In January 2014 Eurostat estimates that 19.6 million non-EU nationals are living in the EU. These numbers however need to be read from the perspective of their scale. Their importance becomes relativized when compared to the fact that there are about 507 million inhabitants in the EU, out of this only 6.8% are third country nationals. Moreover from an estimate of over 93.6 million entries of third country nationals recorded by border guards annually in the EU, Frontex has recently recorded only 170,000 irregular entries in the EU (Guild and Carrera, 2013, p. 5; Frontex, 2015).

The ways in which public policy frames and addresses cross-border human mobility has been subject to rich interdisciplinary academic discussions. A gap has been identified between the migration policy objectives of developed states, and the actual outcomes of those policies: whilst countries increasingly seek to control immigration through restrictive and temporary policies, these very policies often fail, with migratory flows being redirected through other irregular and/or unsafe channels (Cornelius and Tsuda, 2004). Work Package 3 of the EURA-NET project aims at putting this gap in perspective when examining the external dimensions of EU migration policies.

Migration has also increasingly become a topic of 'global governance'. Although a majority of states have objected to the introduction of a binding multilateral system to regulate migration and the rights of migrants, this phenomenon is discussed in various non-binding international fora (see Betts, 2011; Lavenex and Kunz, 2008). These include the UN High-Level Dialogue on Migration and Development, the Global Commission on International Migration (GCIM), the Global Forum on Migration and Development (GFMD) and the Berne Initiative (Lavenex, 2011, p. 7). Several international organisations exist to deal with various aspects of migration, such as the International Organisation for Migration (IOM), the International Centre for Migration Policy Development (ICMPD) and the Organisation for Security and Cooperation in Europe (OSCE) (Geiger and Pécoud, 2010). Migration is also embedded in the work of other international organisations, such as the International Labour Organisation, the Office of the UN High Commissioner for Refugees (UNHCR), the UN Population Fund, and the World Bank (Betts, 2011). This multi-actor framework raises questions of coherency, competition and cooperation among them.

Cross-border human mobility has been the subject of trans-regional governance instruments. For example, regional consultative processes (RCPs) have been created, to "facilitate the development of 'good practice' and to allow coordination of policies between states" (Betts, 2011, p. 33). Examples of RCPs include the Migration Dialogue for Southern Africa (part of the Southern African Development Community; SADC) and the Migration Dialogue for Western Africa (part of the Economic Community of West African States; ECOWAS) (Lavenex, 2011, p. 16). In Asia, these have included the Bali Process, the Colombo Process and the Abu Dhabi Dialogue. RCPs play a key role in achieving a regional position and in the transfer of ideas and policy agendas through networking and exchange of practices (Carrera and Pitkänen, 2014). RCPs ensure a less political dialogue between the

countries involved because they engage experts from relevant ministries and not government representatives, thus ensuring a more technical, cooperation-driven approach (Ibid).

States also cooperate on a bilateral level on migration management-related issues. The "most high profile bilateral partnerships have been Italy-Libya, France-Mali, France-Senegal, Denmark-Kenya, and the UK-Tanzania" (Betts, 2011, p. 37). Agreements cover various dimensions of migration. Nigeria, for instance, has signed bilateral agreements with different European countries: the agreement with Ireland concerns the readmission of illegal migrants; the agreements with Spain and the United Kingdom (UK) aim to prevent trafficking of human beings; and the agreement with Italy concerned capacity-building in the area of illegal migration, through the donation of equipment and goods by Italy to Nigeria (Adepoju et al., 2010, pp.49-50). France and Senegal have long-standing bilateral cooperation on migration (Reslow, 2013, pp. 214-215), and also meet in the framework of the Rabat Process, the ACP-EU Migration Dialogue and the Africa-EU Dialogue on Migration and Mobility.

The resulting picture of these various global, regional and bilateral forms of cooperation at the interface of migration and foreign affairs policies is that a 'patchwork' of actors, priorities and instruments emerges.

When bringing the EU into this picture an even more diversified and heterogeneous landscape appears. During the last two decades a common policy on borders, migration and asylum has been created among the now 28 EU member states. This common legal and policy framework stipulates different rules and regulations for the mobility into and inside the EU's territory of EU nationals (European citizens) as well as third country nationals.

EU external migration policies have generally aimed at drawing and persuading non-EU countries into agreements, policy instruments, information exchanges, projects or cooperation mechanisms and regional processes on various migration-related issues (expulsions, return and readmission, border controls and surveillance, asylum, etc). The EU has faced criticism due to third countries' perception that the EU external migration policies primarily focus on security-related aspects, readmission/return and the fight against irregular migration as a condition for cooperating on channels for legal migration and the rights of migrants. Concerns have been raised about the predominantly 'Eurocentric' focus when the EU goes abroad on migration control policies, the lack of equal partnerships and proper attention to other important issues such as the fact that the EU is also a source of emigration towards third countries (Commission, 2013d; Cassarino, 2012a; Carrera and Hernandez i Sagrera, 2009 and 2011; Carrera, 2011; Carrera, den Hertog and Parkin, 2013; Carrera, den Hertog and Parkin, 2012; Carrera and den Hertog, 2014; Lucarelli, 2014: 11).

For the purposes of the EURA-NET project, it is particularly important to examine the degree and kind of cooperation in migration-related domains which exist between the EU and Asia other world regions, and compare them with those in place with Asian countries. The external dimensions of EU migration policies have become increasingly important during the past two decades of European integration. EU external migration policies emerge when home affairs policies on migration management become somehow part of the Union's foreign affairs or international relations. It brings together and provides a preliminary assessment of the patchwork of legal and policy instruments and institutional actors composing and conveying EU external migration policies and fields. It is argued that an analysis mixing combining instruments and actors is the best way at times of gaining a better understanding of the current the setting of priorities and the kind/nature of EU's international cooperation covering various aspects and approaches on migration.

The report distinguishes 'external' migration policies from those which are mainly 'internal' in nature and scope. These are decided within the EU (through the interactions of

Commission, Council and European Parliament), even though they have profound impacts on non-EU countries' nationals and the kind of external policies which are conveyed and developed abroad. One such example is the so-called EU Schengen visa list (Carrera, Eisele and Guild, 2014), which states which countries' citizens need to have a visa to enter the EU. This has undeniable consequences inside and outside the EU's borders and the ways in which migration policies are shaped in foreign affairs, but the list itself is determined within EU fora. On the other hand, a visa facilitation agreement constitutes an example of EU *external* migration policy, because it is an international agreement negotiated and signed by both the EU and a non-EU state concerned.

This report is concerned with those aspects of EU external migration policy which are directed at and decided in cooperation with non-EU countries. The external dimension of sectoral EU internal policies such as migration, border controls and asylum corresponds with what the literature has denominated as 'EU external governance': the transfer of the scope and reach of EU laws and policies beyond EU borders to third states (Lavanex, 2011; see also Lavanex and Schimmelfennig, 2009).

The ways in which the EU has gone abroad on migration policies has not been absented from obstacles. A particularly controversial issue since the inception of European cooperation in these domains has been the development of a common labour immigration policy, both internally and in relations with third countries (Guild and Mantu, 2010). Questions related to the regulation of legal immigration for employment-related purposes into the EU have by and large remained within the scope of member states' competences. European institutions, and particularly the European Commission, have enjoyed weak legal remits to foster 'Europeanization' in this domain (Carrera, Guild and Eisele, 2014; Wiesbrock, 2010).

EU member states have been reluctant to 'Europeanise' or transfer competence to supranational institutions in foreign affairs policies and offer legal channels of labour immigration in third-country relations. This context of constrained and limited competences has led to a 'field of policy contestation' (Papagianni, 2013) and the emergence of 'experimental' venues and (soft) policy instruments of governance by EU institutions and relevant agencies, such as the so-called 'Mobility Partnerships'. These 'new modes' of making migration policy fall by and large outside the EU Treaties, and have therefore raised concerns as regards legal, democratic and judicial accountability and their impacts on human mobility and the rights of third country nationals (Carrera and Hernandez i Sagrera, 2009 and 2011; Carrera, 2011; Carrera, den Hertog and Parkin, 2013; Carrera, den Hertog and Parkin, 2012; Carrera and den Hertog, 2014). A key question to be examined is the extent to the current EU institutional setting with a new European Commission and European External Action Service (EEAS), have transformed the traditional patterns of ' external governance' of EU external migration policies (Carrera and Guild, 2015).

The entry into force of the Lisbon Treaty in 2009 not only strengthened EU competences in both policy domains, and consolidated and expanded the legal remits of action of the Commission and the European Parliament in these areas. It also formally established an EU actor responsible for the 'coherency' of EU external policies, the EEAS, and the position of the High Representative who acts also as Vice-President of the European Commission. Furthermore, 2014 has experienced an important transition in the EU institutional landscape, with a new European Commission and EEAS. This calls for a study of EU external migration policies from the perspective of the roles and relations amongst the plural and fragmented field of EU institutions and policy actors and the policy framings and normative approaches around human mobility which each of them bestow when 'doing policy'. Have these new EU actors and their intra- and inter-institutional dynamics

transformed previous facets and external governance processes driving EU external migration policies?

This report seeks to provide a preliminary mapping of the policy and legal instruments/tools, as well as the main EU institutions and actors and their priorities behind EU external migration policies. The assessment has been structured in the following sections. Section 2 starts by outlining the background and rationales of EU external migration policies. Section 3 moves on to explaining the general EU policy context within which the external dimensions of EU migration policies have developed, especially the EU Global Approach to Migration and Mobility (GAMM). Section 4 examines the toolbox of legal instruments, policy tools and processes composing the various facets of EU external migration policy and the GAMM. It provides the state of affairs in the current legal and policy instruments and maps these to show which countries are covered by which instruments, the degree of cooperation with the EU and where and how 'temporary migration' appears or is conveyed in these relations. Section 5 provides an assessment of the recently adopted 2015 European Migration Agenda and the EU institutional actors which are responsible for the setting of priorities and development of EU external migration policies, with particular focus on the European Commission and the EEAS. Finally, section 6 concludes with some preliminary considerations concerning the instruments and actors making up EU external migration policy, and advances a set of research angles which will be tackled in Work Package 3 when assessing EU-Asia relations.

Moving beyond the state of the art, this report contributes to both the current academic debate on the external facets of EU migration policies by investigating the legal and policy relevant instruments and tools which deliver the European external dimension as well as the actors and institutions, and their relations, involved in their creation, adoption and implementation.

The methodological approach which has been followed for the preliminary mapping and analysis of the instruments and actors has been shaped by the review of existing academic literature in this field (Carrera and Pitkänen, 2014) and desk research of the main developments in terms of instruments, institutional changes and policy outcomes. The analysis relies on both primary and secondary sources. Firstly, the most important instruments and processes in EU external migration policy were identified based on policy documents and legal acts. Secondly, the EU institutional actors have been assessed using data and key findings emerging from previous research as well as publicly available information concerning, in particular, the structures and organigrams of the EU institutional actors under assessment. The result of these two mapping exercises contributed to the creation of graphical and visual representations on the instruments and actors delivering EU external migration policy. In a next step, these preliminary findings on the policy/legal tools and actors have been validated through a number of semi-structured (face-to-face) interviews with a selection of EU policy makers (including the European Commission, the Council of the EU and the EEAS), and experts in the field in Brussels.

The geographical scope of this mapping exercise included all of the legal and policy developments in the field of EU external migration, covering overall more than the EU-Asia relations. We explored instruments and policy developments addressing countries outside the main focus of the EURA-NET project in order to learn the way in which EU's external dimension is shaping up, which actors contribute to it and in which capacities, as well as to locate and gain a comparative picture of the degree of cooperation between the EU and Asian regions in comparison to other parts of the world. The review of the major academic resources and the legal and policy documents in the area under investigation identified over 26 instruments active in delivering the EU's external dimension.

To this end, the main legal and policy instruments comprising the GAMM have been classified and analysed in a typology of instruments and tools, referring to 6 main categories which are further elaborated in section 4 of the report: legal instruments, policy tools, political dialogues and instruments, policy processes, accompanying policy tools, projects and programmes.

In terms of EU institutional actors, the main supranational bodies competent in delivering the EU's external dimension are the European Commission, the EEAS, the European Council and the European Parliament. Particular attention was paid to the new developments introduced in the Commission and the EEAS as these have been the main actors behind the so-called 2015 European Migration Agenda, which aims at laying down the policy priorities to guide EU external migration policies for the years to come.

2. Background: Origins and Rationales of EU External Migration Policies

This section traces and synthesizes the foundations of EU external migration policies. It outlines the background and rationales behind the emergence of the externalisation processes and practices of EU migration policies. This sets the scene for section 3, which will explain in detail the general EU policy frameworks and the various legal instruments and policy tools delineating the multiple facets of EU external migration policies. The academic debates concerning the origins, genealogy and main developments of the externalisation of EU migration policies have been wide and large.

For the purposes of this report we underline three main processes which have played a more determinant role in the origins and formation of EU external migration policies: first, the EU's focus on external border controls and surveillance and irregular immigration (Section 2.1); second, the failures of the EU external governance approach on migration control and the need to give incentives to non-EU countries by offering limited (securitized) legal channels of immigration for employment-related purposes (Section 2.2).; and third, the discussions at European and global level on the nexus between migration and development (Section 2.3).

2.1 The Insecurity and Venue Shopping Logics

In his genealogy of the external dimension of JHA policies, Balzacq (2009) underlines two decisive starting developments: The Edinburgh European Council (1992) and the setting up of the so-called High Level Working Group on Asylum and Migration (HLWG) in the Council in 1998. He argues that the Declaration on Principles Governing External Aspects of Migration Policy attached to the Edinburgh Conclusions constitutes one of the first formal articulations on the European Community's attempts to 'go abroad' on JHA-related policies, in particular to deal with 'migratory pressures' and to analyse their causes.

The Declaration called for better coordination of action between member states and the Community in areas of foreign policy, economic and development cooperation and immigration and asylum policy, and referred to the Treaty on the European Union (Maastricht Treaty) and its so-called 'Third Pillar' (Title VI: Justice and Home Affairs) as the basis for that to be developed. The Declaration emphasised that member states would work for "bilateral and multilateral agreements with countries of origin and transit to ensure that illegal immigrants can be returned to their home countries, thus extending cooperation in this field to other States on the basis of good neighbourly relations" (Council, 1992, p.48).

The setting up of the HLWG in the Council also marked an important development towards the externalisation and kind of policies to be prioritized. Since its establishment in December 1998, the group has been mainly composed by representatives of member states' Ministries of Interior and Justice. The Group was entrusted to deal with the external dimensions of migration policies and, irrespective of subsequent changes in its composition, it has since then implemented an 'external governance' approach to EU migration and border controls policies in these domains tainted with a predominant home affairs and control-oriented (Carrera, den Hertog and Parkin, 2012). This relates to the fact that the HLWG has been predominantly composed by national officials from with a background in ministries of interior, and with a corresponding focus on security and control (ibid). The priority given to irregular immigration policies was also a constitutive component of the EU's migration

agenda since 1999, the time when the Treaty of Amsterdam transferred this domain to shared-legal competence. Since then, the integration of migration polices in the EU's relations with third countries and the establishment of partnerships with countries of origin and/or transit of irregular immigrants were re-established as key political objectives (Council, 1999).

The Spanish Presidency and the Seville European Council Conclusions of 21-22 June 2002 paid special attention to the development of these political priorities. The Conclusions gave special focus on 'combating' irregular immigration and building it into the Union's external relations through the conclusion of readmission agreements and border control cooperation. The Conclusions alluded for the need to include in any future agreement between the EU and third countries the obligation to participate in the 'joint management of migration flows' and the conclusion of a readmission agreement. There was also the idea of conditioning development aid/cooperation on the signing of readmission agreements, yet it did not find its way into the final Seville Council Conclusions wording. This idea was heavily criticized and dismissed by the development community for being security oriented and unethical. As we will see in Section 5 below, controversially, conditioning development aid on readmission and return (the so-called 'more for more' or conditionality approach) has been adopted thirteen years later in the Council Conclusions on Return as a response to the current 'asylum crisis'.

This security-driven approach was further reinvigorated in the aftermath of the 2005 events in the Spanish enclaves of Ceuta and Melilla. These events drew the attention of policy-makers to the scale of irregular migration to the EU, and the increasingly desperate measures migrants were prepared to take to try to reach the EU. Hundreds of migrants who had been camped outside the enclaves tried to scale the fences, and some were trampled to death or reportedly shot by border guards (Reslow, 2013). Sadly, such events have become commonplace over the past decade.

The development of the external dimensions of EU migration policies cannot be understood without looking at what the literature has called 'venue shopping'. What goes abroad cannot be reduced to 'policies' but also fields of actors. This has been one of the main rationales behind migration/border control-driven policy making at various EU levels. Guiraudon (2000) has argued that the internationalisation or 'vertical' policy making on migration control led to a process of policy elaboration which served various interests by shifting policy elaboration away from national democratic and judicial controls. In her view,

> migration control experts took advantage of new organizational setting not previously available to them. The 'wining and dining culture' of the 1970s Trevi Group alerted law and order ministries to the potential of European-wide scope of policy making. Once a model had been set for security 'clubs' that discussed drugs or terrorism, it was easy to add new types of working groups responsible for other cross-border issues or to widen the subject matter of a pre-existing one….migration control officials meeting their counterparts in the early 1980s established links between migration, asylum and crime-related issues, and emphasized technical issues that required their expertise (p.260).

Venue shopping, in Guiraudon's view, has achieved the following results: avoiding judicial constraints, eliminating adversaries and enlisting much-needed co-operating parties or finding new allies. Following this interesting thesis the development of the 'external dimension' could be perhaps also understood as finding new venues and fields of cooperation and new allies in sending and transit countries, and justifying the externalization agenda as a securitized form of mobility. A question which remains to be further explored is the extent to which the EU external migration policies have developed new opportunities for 'venue shopping' processes, for national and EU actors abroad, and thereby escaping proper venues of democratic and judicial accountability. This has been proved to be the case in what

concerns EU border surveillance practices in the Mediterranean (Carrera and den Hertog, 2014).

2.2 Integrating Migration Policies in EU External Relations: Mobility as Incentive for Readmission

A second trend which has so far characterized EU external migration policy has been the policy failures or ineffectiveness in the predominant EU agenda focused on promoting cooperation with non-EU countries through an 'external governance' approach consisting of the transfer to third countries of *EU control or security oriented migration policy*. Such a policy is focused on border controls, surveillance and cooperation, and specifically the conclusion of readmission agreements enabling the swift return or expulsion of irregularly entering and/or staying third country nationals in the EU, which may include their own nationals as well as any other persons who transited through their territory (Cassarino, 2010).

EU external migration policies have generally aimed at drawing and persuading (finding new incentives) for non-EU countries to enter into agreements, policy instruments, information exchanges, projects or cooperation mechanisms and regional processes on various migration-related issues. As advanced above, a key component of these externalisation governance processes has been conditioning cooperation on legal channels for migration for employment-related purposes into the EU on what Cassarino (2012) has called 'securitized temporariness' – to become partially responsible for controlling migration to the EU through the signing of readmission agreements, return and border control/surveillance policies and operational cooperation. The 'conditionality approach' implemented in various EU external migration venues has been subject to criticism and concerns, not least due to its disproportionate focus on 'control' and policing over the facilitation of legal channels of mobility and the rights of third country nationals (Carrera and Hernandez I Sagrera, 2009).

In reaction to the above-mentioned events at Ceuta and Melilla, the European Council met informally in October 2005 and underscored that EU responses to irregular migration must be based on cooperation with countries of origin of migrants (Bosch and Haddad, 2007). Preventing irregular migration is one of the pillars of the Global Approach to Migration and Mobility (GAMM) (Commission, 2011d). As we will study in section 5 below, the recently released European Agenda on Migration has also emphasised the need to "work together with partner countries to put in place concrete measures to prevent hazardous journeys" (Commission, 2015d, p.5).

Despite the stated need for cooperation with non-EU countries, EU policy documents have acknowledged that such cooperation cannot be taken for granted. Countries of origin of migrants (invariably developing countries) do not necessarily have an interest in preventing irregular migration or readmitting migrants, as this means a loss of remittances, increased pressure on already over-saturated labour markets and potential challenges with reintegration of migrants (Ellermann, 2008).

Such cooperation is also unpopular with the local populations (Wunderlich, 2010). The Commission has stated in relation to EU readmission agreements that "as these agreements have few benefits for the third country concerned, they normally want to receive something in exchange" (Commission, 2011e, p.6). Moreover, while EU member states have repeatedly called the Commission to show progress in the conclusion of EU readmission agreements, research has showed two main caveats: first, there is no independent monitoring of their effective and human-right compliant implementation; and second, bilateral (member states) patterns of cooperation on readmission still prevail, which poses questions from the perspective of the principle of sincere and loyal cooperation (Cassarino, 2010). Readmission

agreements have sometimes been linked with visa facilitation agreements, but the link is not automatic (Council, 2005). This has been said to be related to EU member states' hesitations to create the potential for new irregular migration in the form of visa 'overstayers' (Roig and Huddleston, 2007).

The scholarly debate has signalled how the − 'policy move' - from an approach exclusively focused on readmission and expulsion to one also incorporating various (yet limited) venues of legal channels of labour immigration has been due to the failure of the former. The difficulties experienced by the Commission in promoting the conclusion of readmission agreements with some African countries, and the fact that financial incentives did not exclusively work, required EU member states to consider the opening up of the kind of incentives, including regular channels for immigration for reasons of employment (Carrera and Hernandez I Sagrera, 2009). The 2013 Communication from the Commission on the work of Task Force Mediterranean constitutes a case in point at times of showing what the challenges of EU external migration governance have been until present. When referring to EU relations with South-Mediterranean countries, the Communication expressly states that:

> Given the nature of migratory movements, transit countries along the Southern Mediterranean coasts will need to be given incentives to engage in cooperation concerning migrants who are not citizens of their countries. Therefore, a wider perspective needs to be applied and positive messaging on migration by the EU put forward. Relations with partner countries will also have to take into account the specific sensitivities and expectations of partner countries on the migration dossier, *and their perception that the EU wishes to focus primarily on security-related aspects, readmission/return and the fight against irregular migration.* (Commission, 2013e, p.5, emphasis added).

The external governance of EU migration policies has been identified as a clear incentive when the idea of developing 'partnerships' with third countries comprising legal channels and circular migration schemes for labour mobility appeared in the Franco-German initiative for a New European Policy in October 2006. The actual priority behind it was to address the so-called 'migration pressures' from these countries and in particular the phenomenon of irregular immigration. The initiative also called for better supporting the work of the European Commission in the conclusion of readmission agreements through quotas and permits for temporary workers. It expressly stated that

> We do not want uncontrolled immigration into our labour markets and our social security systems. In order to promote circular migration, quotas should be set for the migration of labour into certain occupations...in order for the concept of circular migration to succeed, it is important that migrants return to their countries of origin after their stay in an EU member state. ...Finally, we also have to make sure that the countries of origin unconditionally comply with their obligation to readmit those migrants who do not want to return voluntarily (Carrera and Hernandez I Sagrera, 2009, p.11).[1]

This approach was then followed up by the Commission in various political documents and the conclusion of several policy instruments. The Global Approach to Migration and Mobility (GAMM) now emphasises the need to make use of the whole spectrum of EU policy tools in external migration, including legal instruments, political instruments, operational support and capacity-building, and project support (Commission, 2011d). The full set of legal instruments

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[1] The initiative reaffirmed the need for stronger cooperation with the countries of origin and referred to the possibility for member states to coordinate "bilateral partnerships...on the basis of a uniform European treaty" with a certain country of origin. It argued that "the sum of all such partnerships would result in a European partnership with a large number of countries of origin". Refer to Carrera and Hernandez I Sagrera (2009, p.12).

and policy tools comprising the GAMM will be discussed more in detail in section 4 below. One of the key featuring components of the external facets of EU migration policy has been 'differentiation'. Some countries and not others are offered specific incentives and the possibility of legal channels for labour immigration. Other countries are not part of the GAMM. A key question which will be examined in Work Package 3 is what are the precise criteria and grounds by the EU to justify the success in the use and implementation of different legal/policy instruments and various degrees/kinds of cooperation on legal migration with third countries.

2.3 The Migration-Development Nexus: 'Whose' Development?

EU external migration policy reflects and embodies the discussion at European and global level on migration and development (see e.g. Skeldon, 2008; de Haas, 2010). Two different perspectives are found in EU policy documents. Firstly it is assumed that development policy "plays an important role in tackling global issues like poverty, insecurity, inequality and unemployment which are among the main root causes of irregular and forced migration" (Commission, 2015d, p.8). In other words, higher levels of development are assumed to lead to lower levels of (irregular) migration. Secondly, however, well-managed legal migration is also assumed to contribute to higher levels of development (Commission, 2013d).

EU migration and development policies have therefore become inter-connected: migration and development is one of the pillars of the Global Approach to Migration and Mobility (Commission, 2011d), just as migration is one of the priorities of the EU's development cooperation (Commission, 2011f). That notwithstanding, the concept of development which the EU has conveyed abroad is contested. As illustrated in Section 2.1 above, the EU approach on development has been often linked to building capacity in third countries when it comes to managing and controlling migration and borders. Some authors have therefore argued that the EU may have actually created 'incapacity building' for those countries to comply with or respect the rights of migrants and asylum seekers (Carrera, den Hertog and Parkin, 2012; Fargues and Fandrich, 2012; Cassarino, 2012b), as well as undemocratic dominations of societies at large (Cassarino, 2014). This raises the questions as to whether 'whose development' is the EU pursuing when cooperating with third countries, is it still one driven by EU or rather third countries interests and needs?

3. The Global Approach to Migration and Mobility

The policy framework within which the EU external migration policy has been developed during the last ten years is the EU Global Approach to Migration (GAM), which was later on renewed under the Global Approach to Migration and Mobility (GAMM). What are the scope, thematic/geographical priorities and main tools displayed in the GAMM?

The GAMM was adopted by the European Commission in November 2011 (Commission, 2011d) as a political response to the so-called 'Arab Spring' and the migration-related events in the Mediterranean which followed. The Communication constituted a response to the call given by EU member states' in the Council for the previous 2005 'Global Approach to Migration' (GAM) to be evaluated and the Commission to "set a path towards a more consistent, systematic and strategic policy framework for the EU's relations with all relevant non-EU countries" (Commission, 2011d).

The renewed GAMM was since its inception a process mainly driven by DG Migration and Home Affairs (DG HOME) of the Commission, in what has been considered the 'Home Affairs Diplomacy' approach in the literature: The European External Action Service (EEAS) was somehow side-lined, and competing policy understandings such as that of 'development' in DG Development Cooperation in the Commission was often put at the service of external governance (home affairs) prerogatives (Carrera, den Hertog and Parkin, 2013). While the GAMM aimed at ensuring a stronger emphasis on legal migration, development promotion and migrant rights than its predecessor, a control-oriented approach has prevailed in *the kind* of policy priorities and outputs characterizing the EU external migration policy.

The Commission Communication calls the GAMM the "overarching framework of EU external migration policy" (Commission, 2011d), and qualifies it as complementary to other EU foreign policy and development cooperation. It called EU member states to make more efforts towards "ensuring more coherency and integration" in their strategies and programmes covering migration and mobility, foreign policy and development objectives. 'Coherency' was therefore put at the heart of the GAMM's ambitions. The Communication also highlighted the importance in the setting up of the EEAS, which the Commission considered "should facilitate the use of the variety of policies and instruments at the EU's disposal in a coherent manner".

As regards its thematic priorities, the Commission expanded the material scope of the 2005 GAM towards a 'mobility' dimension which was justified as follows:

> Mobility of third country nationals across the external EU borders is of strategic importance in this regard. It applies to a wide range of people, e.g. short-term visitors, tourists, students, researchers, business people or visiting family members. It is thus a much broader concept than migration. Mobility and visa policy are interlinked … Visa policy is an influential instrument for a forward-looking policy on mobility … Therefore, it is now necessary to take full account of the links between the common EU visa policy for short stays, Member States' national policies concerning long stays and the Global Approach to Migration. This is a key reason to expand the scope of this policy framework to include mobility, making it the Global Approach to Migration and Mobility (GAMM) (Commission, 2011d, p.3).

By doing so the Commission aimed at bringing national visa policies and EU visa dialogues with third countries within the scope of the GAMM. Visa policies have been at the centre of national foreign affairs Ministries' agendas and fields, and perhaps this was an attempt by the Commission to ensure further synergies between bilateral and supranational venues and fields of cooperation when going abroad. More importantly, bringing the

dimensions of mobility into the GAMM is of central symbolic importance. By doing so 'migration' is dissociated from the concept of 'mobility'. Migration is hence related to border controls, expulsions and readmission, while mobility is according to the Communication a much broader concept aimed at facilitating visas for certain categories of third country nationals, which may be indeed of strategic importance for the Union such as tourists, business communities or scientists. The GAMM intended to differentiate between these two concepts: mobility for short stay entry and residence and migration for long stay entry. One can therefore argue that the concept of migration becomes in this way the central point where mobility can be presented as good and migration as risky. A key question to be considered when examining the EU institutional actors is therefore 'who wants migration' and 'who wants mobility' (See section 5 below). Other new areas covered by the GAMM included international protection and the external dimension of asylum, as well as the human rights of migrants. In a welcomed development from its predecessor, the GAMM expressly identified human rights as a cross-cutting dimension of relevance for all policy priorities, and stated that

> Special attention should be paid to protecting and empowering vulnerable migrants, such as unaccompanied minors, asylum-seekers, stateless persons and victims of trafficking. This is also often a priority for migrant source countries. Respect for the Charter of Fundamental Rights of the EU is a key component of EU policies on migration. The impact on fundamental rights of initiatives taken in the context of the GAMM must be thoroughly assessed. More will also need to be done to explain the EU legal framework, including the new Single Permit Directive, to the EU's partners and to migrants (Commission, 2011d, p.6).

It is unclear how this human rights angle has been effectively implemented during the last four years by the various legal and policy instruments composing the GAMM. The literature has showed that this dimension of the GAMM has suffered from a lack of proper independent monitoring and assessment, and it has been neglected in comparison to security-oriented priorities (Carrera, 2011; Cassarino, 2010; García-Andrade, Martín and Mananashvili, 2015). A particularly outstanding challenge is related to the lack of safe and proper legal channels for international protection to Europe, which are jeopardised by restrictive visa policies and border controls as well as carrier sanctions (Guild, Costello, Garlick and Moreno-Lax, 2015).

The Communication equally identified the so-called 'Migration and Mobility Dialogues' as the main drivers of the GAMM. These were expected take place as part of "the broader frameworks for bilateral relations and dialogue (e.g. Strategic Partnerships, Association Agreements or Partnership and Cooperation Agreements (PCAs), Joint Cooperation Councils or JLS Subcommittees)." It emphasized that

> Dialogues are to be pursued both by regional processes and at bilateral/national level with key partner countries. Where relevant, they should be undertaken according to the Common Foreign and Security Policy. Dialogues will build on regular political steering, through high-level and senior officials meetings, action plans, cooperation instruments and monitoring mechanisms, where relevant. In addition, they should also be pursued at local level, notably in the framework of policy/political dialogue, through the EU Delegations (Commission, 2011d, p.4).

In its accompanying Communication 'A Dialogue for Migration, Mobility and Security with the Southern Mediterranean Countries' (Commission, 2011c) of May 2011 (the Dialogue Communication), the Commission confirmed however the continuation of the control-driven conditionality approach when stating that

> … the expected outcomes of the Dialogue would depend on the efforts and progress made in all areas (migration, mobility and security), and will take into account also progress made in governance-related areas (Commission, 2011c, p.8).

Indeed, the Dialogue Communication further stated that "enhanced circulation" between the EU and Southern Mediterranean countries would be explored in what concerns visa facilitation agreements (including students, researchers and business people), and Mobility Partnerships offering schemes facilitating labour migration.[2] That notwithstanding, the Communication expressly stipulated that this 'increased mobility' would depend on "the prior fulfilment of a certain number of conditions, aimed at contributing to the creation of a secure environment in which the circulation of the persons would take place through regular channels and in accordance with the agreed modalities" (Commission, 2011c, p.10). This would in particular include concluding readmission agreements with the EU, putting in place voluntary return programmes, concluding a working arrangement with Frontex, building capacity in integrated border management, cooperating in joint surveillance in the Mediterranean and "demonstrating a willingness to cooperate with the EU in the identification of its nationals and residents, in particular in the case of police and judicial cooperation, as well as for the purposes of readmission and extradition" (Commission, 2011c, p. 11).

The perpetuation of the conditionality angle in EU policy has led to concerns about the extent to which the Dialogues truly offer 'genuine and equal partnerships'. As it has been argued elsewhere, "rather the Dialogues point to a continuation of the status quo: the insecuritisation of movement, the proliferation of policies that endanger the human rights of migrants and weak and imbalanced partnerships between the EU and its neighbours in the Southern Mediterranean" (Carrera, den Hertog and Parkin, 2013, p. 23).

The Commission published a report on the implementation of the GAMM 2012-2013 in February 2014 (Commission, 2014a), where progress in respect of dialogues and instruments is presented in detail (see section 4 below for a comprehensive picture on the state of affairs in the current legal and policy instruments). An interesting passage of the report refers to the advantages and disadvantages resulting from the flexibility inherent to the GAMM tools. It underlines that

> The non-binding and flexible nature of the GAMM is one of the advantages of the framework, allowing particular MS to cooperate (to various degrees) on work in countries or regions where they have particular expertise. However, *this flexibility is also the Achilles heel of the approach*, as it in some cases makes it difficult to secure a balanced and complete EU offer to third countries, e.g. in connection with a MP. Furthermore, there are significant differences between the levels of participation of MS in the various cooperation frameworks. For example five MS do not participate in any of the MPs concluded so far. The majority of MS participating in the MPs have not yet made any financial contribution to their implementation (Commission, 2014a, p.20; emphasis added).

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[2] In particular these were expected to include: "Depending on the actual possibilities and needs of the EU Member States interested in actively participating in the Mobility Partnerships and of their respective labour markets, and taking into account their right to determine the volumes of economic migrants to be admitted, the Mobility Partnerships could also encompass specific schemes for facilitating labour migration between interested Member States and the Southern Mediterranean countries. Such schemes could enable (1) specific programmes and/or facilitated legal frameworks for circular migration (including also in the seasonal sector), (2) capacity building to manage remittances towards enhancing their development impact, (3) capacity building for efficient matching between labour supply and demand and for managing return and reintegration, (4) recognition of professional and academic skills and qualifications, (5) development and implementation of legal frameworks for a better portability of social rights, (6) enhanced access to information on the job vacancies available in the EU Member States' labour markets, (7) identification of measures designed to improve co-operation and co-ordination between South Mediterranean countries and EU Member States on matters related to skills and how to better match labour supply and demand, building upon the work already done by the European Training Foundation (ETF), (Commission, 2011c, p.10).

As it has been argued elsewhere, this 'flexibility' also has deep repercussions from the perspective of the rights of migrants and legal, democratic and judicial accountability (Carrera and Hernandez i Sagrera, 2009 and 2011; Carrera, 2011; Carrera, den Hertog and Parkin, 2012; Carrera and den Hertog, 2014). The very nature of these policy and informal arrangements has also hindered proper monitoring of the human rights effects of this kind of cooperation (García Andrade et al., 2015, p. 15). The Commission Report also recalls the criteria used by the EU when deciding on geographical prioritisation. It refers to the principle of 'geographical balance' as the key criterion, along with the following criteria: first, strategic interest of a third country in one GAMM area ("in particular the extent of migratory pressure as well as readmission and mobility issues"); second, overall political relations with that country, including human rights and other aspects (trade, development, security, tourism, etc.); third, expressed interest by the third country to cooperate; and fourth, clear vision on expected outcomes and results.

What are the main instruments composing the EU external migration policy under the guises of the GAMM? Section 4 will now outline in detail the policy and legal instruments which together make up EU external migration policy, as foreseen in the GAMM.

4. When 'EU Migration Policy' goes abroad: On Policy and Legal Instruments

This Section examines the main legal and policy instruments composing the EU external migration policy, and outlines which countries are covered by which instruments. In order to organize the various legal and policy instruments which emerged and shaped the contours of the external EU migration policy dimensions, the following categorization or typology is proposed;

1. **Legal instruments:** these mainly comprise international agreements which are recognized as legally binding in European legal provisions, in particular Part Five on 'International Agreements' (Arts. 216-219) and Title V (Area of Freedom, Security and Justice), Articles 77 and 79 Treaty on the Functioning of the European Union (TFEU). They also encompass EU legal acts enshrined in Part Six on 'Institutional and Financial Provisions', Chapter 2 on Legal /acts of the Union (Arts. 288-299) TFEU. Legal instruments are subject to the inter-institutional decision-making framework enshrined in the Treaties and fall under the democratic and judicial scrutiny of the European Parliament and the Court of Justice of the European Union (section 4.1 below).

2. **Policy tools:** these refer to policy instruments of a political or policy (soft) nature. They lack any legally-binding nature and are not formally envisaged in any European treaty provision. They fall outside the Community method of cooperation and inter-institutional Treaty-based arrangements, and are not subject to democratic and judicial EU accountability (section 4.2).

3. **Political instruments and dialogues:** they are represented by bilateral or regional political instruments aimed at providing a framework of cooperation and discussion between EU institutions and third countries' authorities for negotiating the above-mentioned legal instruments and policy tools (section 4.3).

4. **Policy Processes:** consist of experts-driven regional (non-political) processes bringing together technical experts from Ministries/authorities of relevant states as well as initiatives where the European Commission cooperates with international institutions such as the International Organisation for Migration (IOM), the International Centre for Migration Policy Development (ICMPD) and UNHCR (section 4.4).

5. **Accompanying policy tools:** these are meant to ensure the exchange of information, the building of knowledge on third countries' migration phenomenon and law enforcement to law enforcement 'technical' cooperation. They are usually a sub-component of policy tools (section 4.5).

6. **Projects and programmes:** consist of funding, operational support and capacity building instruments which may fall under support or policy tools (section 4.6).

4.1 Legal instruments

4.1.1 EU Readmission agreements

In 2014 the Council reaffirmed that readmission agreements are "tools of an effective return policy" and that further agreements should be initiated and concluded with third countries (Council, 2014c, p.5). The obligation to take back one's own citizens if they are found to be illegally present in the territory of another state is an established principle of international law.

However, EU Readmission Agreements go further by requiring signatories to also take back third-country nationals and stateless persons if these transited through their territory en route to the EU (Trauner and Kruse, 2008; Coleman, 2009; Panizzon, 2012). In some EURAs the readmission clause of third country nationals was deferred for a certain period of time (2 years for Albania and Ukraine, 3 years for the Russian Federation, all of which have by now applicable). Readmission agreements are reciprocal, meaning that EU member states have the same obligations as the third country concerned. Article 79(3) TFEU now gives an express legal competence for the EU to conclude readmission agreements with third countries.

These are legally binding international agreements. However, they do not apply to all member states: due to their opt-outs, the UK, Denmark and Ireland are not bound by readmission agreements. The UK and Ireland may decide to opt in to agreements on a case-by-case basis, and EU readmission agreements emphasise that a similar bilateral agreement should be signed between Denmark and the third country concerned. In 2002 the Council recommended selecting third countries for readmission agreements based on certain criteria: the migratory pressure from the country; countries with an association or cooperation agreement; neighbouring countries; the potential for added value resulting from a readmission agreement; and the geographical balance between countries and regions of origin and transit (Council, 2002). The signature of a readmission agreement is a requirement for a Mobility Partnership.

To date, 17 readmission agreements have been signed: with Hong Kong;[3] Macao;[4] Sri Lanka;[5] Albania;[6] Macedonia;[7] Ukraine;[8] Moldova;[9] Bosnia and Herzegovina;[10] Montenegro;[11] Serbia;[12] Russia;[13] Pakistan;[14] Georgia;[15] Armenia;[16] Cape Verde;[17] Azerbaijan;[18] and Turkey.[19] Negotiations are ongoing with Algeria, China (Commission, 2011g, p.3), Morocco (Wolff, 2014), Belarus (Council, 2014d, p.17) and Tunisia (Council, 2015a). Table 1 below shows an updated 'stock-taking' of EU readmission agreements entered into force or opened for negotiations until present. The middle- and right-hand

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[3] Official Journal of the European Union L 17/25 24 January 2004

[4] Official Journal of the European Union L 143/99 30 April 2004

[5] Official Journal of the European Union L 124/43 17 May 2005

[6] Official Journal of the European Union L 124/22 17 May 2005

[7] Official Journal of the European Union L 334/7 19 December 2007

[8] Official Journal of the European Union L 332/48 18 December 2007

[9] Official Journal of the European Union L 334/149 19 December 2007

[10] Official Journal of the European Union L 334/66 19 December 2007

[11] Official Journal of the European Union L 334/26 19 December 2007

[12] Official Journal of the European Union L 334/46 19 December 2007

[13] Official Journal of the European Union L 129/40 17 May 2005

[14] Official Journal of the European Union L 287/52 4 November 2010

[15] Official Journal of the European Union L 52/47 25 February 2011

[16] Official Journal of the European Union L 289/13 31 October 2013

[17] Official Journal of the European Union L 282/15 24 October 2013

[18] Official Journal of the European Union L 128/17 30 April 2014

[19] Official Journal of the European Union L 134/3 7 May 2014

columns show clearly that the time taken to conclude negotiations varies dramatically between the countries: from only just over a year for countries in the Western Balkans, to 12 years in the case of Turkey.

In 2011 the European Commission issued a Communication evaluating EU Readmission Agreements (Commission, 2011e). It highlighted the inconsistent application of the agreements, and concluded that while a majority of EU member states use EU readmission agreements for their returns, they also still use their bilateral frameworks which preceded them (p.4). Furthermore, according to the Communication, the third country nationals' clause had been rarely used with countries not bordering the EU (i.e. Sri Lanka, Montenegro, Hong Kong and Macao), which led the Commission to recommend to thoroughly evaluate with each country the need to insert such as clause (p.5). Interestingly the Commission identified two main factors causing "excessive delays and the difficulty of bringing partner countries to the negotiating table": first, the lack of incentives; and second, the lack of agreement with EU member states as regards the maximum detention period of irregular immigrants. As regards the 'lack of incentives' the Communication stated that

> The initial EU approach was to invite third countries to negotiate a readmission agreement, without the EU offering anything in return. As these agreements have few benefits for the third country concerned, they normally want to receive something in exchange for concluding a readmission agreement with the EU…visa facilitation agreements can provide the necessary incentive for readmission negotiations without increasing irregular migration…The other incentive with great potential is financial assistance for implementing the agreement…Broader and more substantive incentives, both in the area of migration and other areas of cooperation with the partner country (the Global Approach to Migration 'toolbox'), have so far hardly been used. Mobility Partnerships only involve a limited number of MS and are still at an early stage. Moreover, although they include some legal migration opportunities for the third country, given the limited interest among MS, there have so far only been small-scale offers which can hardly be regarded as incentives for making progress on readmission (Ibid, pp. 6-7).

On this basis the Commission recommended that a 'fundamental shift' should be made when devising EU readmission agreements, particularly in what concerns 'the incentives', in particular:

> The EU should embed the readmission obligation firmly into its framework agreements with third countries, for own nationals d'office and for TCNs linked with further incentives. Concretely, and after having assessed the appropriateness together with the EEAS, this could mean developing the standard migration clause used in EU framework (association or cooperation) agreements into more elaborate and directly operational readmission clauses. This leverage could also be used by negotiating a EURA in parallel to a PCA or other kind of association or cooperation agreement. (Ibid, p. 7)

Country	Negotiations opened	Entry into force of agreement
Morocco	September 2000	[Negotiations ongoing]
Sri Lanka	September 2000	1 May 2005
Pakistan	September 2000	1 December 2010
Russia	September 2000	1 June 2007
Hong Kong	April 2001	1 March 2004
Macao	April 2001	1 June 2004
Ukraine	June 2002	1 January 2008
Turkey	November 2002	1 October 2014
Albania	November 2002	1 May 2006
China	November 2002	[Negotiations ongoing]
Algeria	November 2002	[Negotiations ongoing]

Macedonia	November 2006	1 January 2008
Bosnia & Herzegovina	November 2006	1 January 2008
Montenegro	November 2006	1 January 2008
Serbia	November 2006	1 January 2008
Moldova	December 2006	1 January 2008
Georgia	November 2008	1 March 2011
Cape Verde	June 2009	1 December 2014
Belarus	February 2011	[Negotiations ongoing]
Armenia	December 2011	1 January 2014
Azerbaijan	December 2011	1 September 2014
Tunisia	December 2014	[Negotiations ongoing]

Table 1: EU readmission agreements

4.1.2 EU Visa Policy: the case of Visa Facilitation Agreements

EU visa policy has been, since its inception in late 1980's, a historical approach to controlling irregular migration and to ensure border control (Guild, 2001). The EU has in place a number of agreements with third countries whose nationals require a visa upon entering the EU territory, and since the 2007 EU common visa list, there are no more and no less than 118 countries whose nationals require visa when entering the EU[20] and at least four broad categories of visas are envisaged (uniform, long-term visas, visas with limited territorial validity and visas issues at the border and short-term or travel visas). The impacts of visa requirements on mobility and irregular migration are not clear (see Commission, 2012a; 2004b).

Visa facilitation agreements have been conceptualised as a tool to incentivise third countries' cooperation on EU readmission policy (e.g. Council, 2004, p.18), beginning with the Russian demand in 2003 for a clear incentive in order for negotiations on readmission to proceed (Hernández i Sagrera, 2014, p.12). Visa facilitation agreements do *not* remove the visa obligation; they may cap the price of a visa, set a deadline within which member states must issue a visa to citizens of the third country, and facilitate the issuance of multiple-entry visas to certain groups in society (e.g. members of parliament) (Trauner and Kruse, 2008).

Visa facilitation agreements are linked to several other instruments of EU external migration policy: third countries will only be offered a visa facilitation agreement if they sign a readmission agreement, although signing a readmission agreement does not automatically guarantee that a visa facilitation agreement will follow (Council, 2005, p.3); a visa facilitation agreement will generally be signed within the framework of a Mobility Partnership, providing that the readmission agreement has also been signed; and a visa facilitation agreement is a first step towards eventual visa liberalisation, whereby the visa obligation is removed (Hernández i Sagrera, 2014, p.11; see also section 4.3.2 below). To date, visa facilitation agreements have been signed with 12 countries: Albania;[21] Bosnia and Herzegovina;[22] Macedonia;[23] Moldova;[24] Montenegro;[25] Russia;[26] Serbia;[27] Ukraine;[28] Georgia;[29] Armenia;[30] Azerbaijan;[31] and Cape Verde.[32]

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[20] Data checked on the 28th of October 2015, according to the Schengen Visa Info service, accessible at http://www.schengenvisainfo.com/who-needs-schengen-visa/.

[21] Official Journal of the European Union L 334/85 19 December 2007

[22] Official Journal of the European Union L 334/97 19 December 2007

[23] Official Journal of the European Union L 334/125 19 December 2007

4.1.3 Association Agreements

Association Agreements are all-encompassing frameworks for bilateral relations between the EU and the third countries with which they are signed. In most cases they provide for the gradual liberalisation of trade. Most Association Agreements include migration as one of the topics to be covered in a dialogue on social matters, and contain one article on prevention of irregular migration. Some also include migration under cooperation on statistics. Association Agreements have been signed with Algeria;[33] Egypt;[34] Israel;[35] Jordan;[36] Lebanon;[37] Morocco;[38] Tunisia;[39] Turkey;[40] Georgia;[41] Moldova;[42] and Ukraine.[43] An interim Association Agreement has been signed with the Palestinian Territories.[44] An Association Agreement with Syria has been initialled, but is not yet signed (Council, 2009b). Negotiations with Azerbaijan on an Association Agreement were begun in 2010 but in 2014 the Azerbaijani government refused to sign (Trend, 2014).

4.1.4 Partnership and Cooperation Agreements

Partnership and Cooperation Agreements (PCAs) have been agreed with Armenia;[45] Azerbaijan;[46] Georgia;[47] Indonesia (Council, 2009c); Iraq;[48] Kazakhstan;[49] Kyrgyzstan;[50]

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[24] Official Journal of the European Union L 334/169 19 December 2007

[25] Official Journal of the European Union L 334/109 19 December 2007

[26] Official Journal of the European Union L 129/7 17 May 2007

[27] Official Journal of the European Union L 334/137 19 December 2007

[28] Official Journal of the European Union L 332/68 18 December 2007

[29] Official Journal of the European Union L 52/34 25 February 2011

[30] Official Journal of the European Union L 289/2 31 October 2013

[31] Official Journal of the European Union L 128/49 30 April 2014

[32] Official Journal of the European Union L 282/3 24 October 2013

[33] Official Journal of the European Union L 265/2 10 October 2005

[34] Official Journal of the European Union L 304/39 30 September 2004

[35] Official Journal of the European Union L 147/3 21 June 2000

[36] Official Journal of the European Union L 334/3 6 December 2012

[37] Official Journal of the European Union L 143/2 30 May 2006

[38] Official Journal of the European Union L 70/2 18 March 2000

[39] Official Journal of the European Union L 97/2 30 March 1998

[40] Official Journal of the European Union C 113/2 24 December 1973

[41] Official Journal of the European Union L 261/4 30 August 2014

[42] Official Journal of the European Union L 260/4 30 August 2014

[43] Official Journal of the European Union L 161/3 29 May 2014

[44] Official Journal of the European Union 187/3 16 July 1997

[45] Official Journal of the European Union L 239/3 9 September 1999

[46] Official Journal of the European Union L 246/3 17 September 1999

[47] Official Journal of the European Union L 205/3 4 August 1999

[48] Official Journal of the European Union L 204/20 31 July 2012

Moldova;[51] Mongolia (Council, 2013f); the Philippines (Council, 2011b); Russia;[52] Singapore (EEAS, 2013b); Tajikistan;[53] Thailand (EEAS, 2013c); Ukraine;[54] Uzbekistan;[55] and Vietnam (EEAS, 2012b). In 2005, the Commission received a mandate to negotiate a PCA with China (Sautenet, 2007), but no agreement has been concluded yet (Council, 2014e, p.20). Negotiations on a PCA are ongoing with Malaysia (European Parliament, 2013). A PCA was agreed with Turkmenistan already in 1998, but ratification has been delayed due to the human rights situation in the country (European Parliament, 2015). Migration is addressed in different ways in PCAs. In the agreements with Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Ukraine and Uzbekistan there is a title or article dedicated to cooperation on irregular migration. This includes mention of the principle of readmission. Irregular migration is the only dimension of migration addressed in all these agreements. For some countries the agreement is broader, addressing several dimensions related to migration (such as the root causes of migration, migration and development, visas, border management, and fair treatment of migrants). This is the case for Indonesia, Iraq, the Philippines, Tajikistan and Vietnam.

Cooperation Agreements exist with a number of countries, in many cases predating the Partnerships and Cooperation Agreements: the Gulf countries (Bahrain, Saudi Arabia, Oman, United Arab Emirates, Qatar and Kuwait);[56] Cambodia;[57] India;[58] Laos;[59] Pakistan;[60] and Yemen.[61] Cooperation Agreements on Partnership and Development have been signed with Bangladesh[62] and Sri Lanka;[63] and negotiations are ongoing with Afghanistan (Council, 2013g). These types of agreements are narrower in scope than PCAs are, and therefore do not refer to cooperation on migration. Instead, they focus on trade and economic cooperation. A framework agreement exists with South Korea (EEAS, 2010), which includes cooperation on migration, with a focus on irregular migration.

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[49] Official Journal of the European Union L 196/3 28 July 1999

[50] Official Journal of the European Union L 196/48 28 July 1999

[51] Official Journal of the European Union L 181/3 24 June 1998

[52] Official Journal of the European Union L 327/3 28 November 1997

[53] Official Journal of the European Union L 350/3 29 December 2009

[54] Official Journal of the European Union L 49/3 19 February 1998

[55] Official Journal of the European Union L 229/3 31 August 1999

[56] Official Journal of the European Union L 54/3 25 February 1989

[57] Official Journal of the European Union L 269/18 19 October 1999

[58] Official Journal of the European Union L 223/24 27 August 1994

[59] Official Journal of the European Union L 334/15 5 December 1997

[60] Official Journal of the European Union L 378/22 23 December 2004

[61] Official Journal of the European Union L 72/18 11 March 1998

[62] Official Journal of the European Union L 118/48 27 April 2001

[63] Official Journal of the European Union L 85/33 19 April 1995

4.2 Policy Tools

4.2.1   Mobility Partnerships

Mobility Partnerships (MPs) were introduced in 2007, and are negotiated with "third countries that have committed themselves to cooperating actively with the EU on management of migration flows, including by fighting against illegal migration, and that are interested in securing better access to EU territory for their citizens" (Commission, 2007, p.3). In other words, third countries are offered cooperation on legal migration, in return for their cooperation on preventing irregular migration. Mobility Partnerships are differentiated according to the third country concerned, but the Commission communication does set out some suggestions of the kinds of commitments expected. Third countries should commit to readmitting both their own nationals and stateless persons; undertake initiatives to discourage illegal migration; make efforts to improve border control, including cooperation with EU member states; undertake measures to combat human trafficking; and commit to improving domestic social and economic conditions.

In return, the EU and its member states may offer improved opportunities for legal migration for nationals of the third country, for instance by facilitating labour market access; provide financial or technical assistance to help third countries develop their capacity to manage migration; implement measures to address the risk of brain drain and promote circular migration; and improve the procedures for issuing visas to nationals of the third country, for instance extending opening hours in member states' embassies. The Commission communication acknowledges that Mobility Partnerships will necessarily have a complex legal structure, as they involve both elements falling under member states' competence and elements falling under EU competence. In practice, the member states have wielded considerable influence over the shape and content of the Mobility Partnerships (Reslow and Vink, 2015). For instance, member states insisted that their participation in Mobility Partnerships would be on a voluntary basis, and that the partnerships are not legally binding.

To date, Mobility Partnerships have been agreed with eight countries: Moldova (Council, 2008a), Cape Verde (Council, 2008b), Georgia (Council, 2009a), Armenia (Council, 2011a), Morocco (Council, 2013a), Azerbaijan (Council, 2013b), Jordan (Council, 2014a) and Tunisia (Council, 2014b). Negotiations are ongoing with Belarus, and a draft declaration has been created (Council, 2015b). In practice, Mobility Partnerships are signed as political declarations, setting out the intention of the EU and the third country concerned to cooperate. The declarations are structured around four pillars: legal migration; irregular migration; asylum and international protection; and migration and development. The declaration also embeds the Mobility Partnership in the existing cooperation between the EU and the third country concerned. Attached to the declaration, in an annex, is a list of the proposed projects to be carried out within the Mobility Partnership. The partnership is thus implemented through the implementation of these projects, and a Mobility Partnership can best be understood as an 'umbrella' for these different projects.

Projects may be proposed by a member state or group of member states, by the European Commission or another EU agency, or by the third country itself. An example of a project proposed by a member state is the proposal by Bulgaria to negotiate bilateral agreements with Armenia in the area of social security and the management of labour migration (Council, 2011a, p.11). An example of a project proposed by the Commission is the proposal to negotiate a visa facilitation agreement with Cape Verde (Council, 2008b, p.10). An example of a project proposed by a third country itself is the proposal by Moldova to

create an action plan for improving travel and identity document security (Council, 2008a, p.17). 4.2.2. Common Agendas on Migration and Mobility

When the Global Approach to Migration was re-launched in 2011 as the Global Approach to Migration and Mobility, the Commission suggested creating a new policy instrument, the Common Agenda on Migration and Mobility (CAMM), as an alternative to the Mobility Partnerships (Commission, 2011d, p.11). CAMMs contain many of the same elements as Mobility Partnerships, but they will be concluded with "countries outside the EU neighbourhood or countries where there is no mutual interest in entering in to negotiations on readmission and/or visa facilitation agreements" (Council, 2012b, p. 37).

To date, only one third country has concluded negotiations on a CAMM, namely Nigeria (EEAS, 2014, p.2). Exploratory talks are underway with several other third countries: Ethiopia has indicated its interest in establishing a CAMM; the above-mentioned High Level Working Party on Asylum and Migration (HLWG) has discussed the possibility of establishing a CAMM with Brazil (Council, 2014d, p.2); an information workshop on a possible CAMM was organised in Ghana in 2012 (Council, 2012b, p.21); a draft CAMM was proposed to India in 2013 (Commission, 2014a, p.8); and in 2013 the EU-South Africa Summit agreed to "explore options for further enhancing and structuring [the] cooperation, including the possible establishment of a Common Agenda on Migration and Mobility" (Commission, 2014a, p.7).

Both the CAMMs and the MPs are 'political partnerships', and are non-legally binding instruments. MPs imply more far-reaching commitments, principles and rights for the countries involved, including readmission conditions, while the CAMMs do not foresee visa facilitation of readmission conditions. For example, although the CAMM is a far less advanced level of cooperation than the MPs, it is aimed at allowing for further negotiations to take place in the framework of a MP.

4.2.2 New Policy Tools: the Western Balkans Conference and the Valletta Summit

The new policy tools consisting of high level working meetings are driven by the European Council with the support of some EU member states and they aim to "ensure effective and operational follow up to the High-level Conference on the Eastern Mediterranean/Western Balkans Route, with particular emphasis on the management of migratory flows and the fight against criminal networks; (…) to effectively implement all readmission commitments, whether undertaken through formal readmission agreements, the Cotonou Agreement or other arrangements; (…) to further increase leverage in the fields of return and readmission, using where appropriate the "more-for-more" principle. In this regard, the Commission and the High Representative will propose, within six months, comprehensive and tailor-made incentives to be used vis-à-vis third countries" (Council, 2015e, p. 2).

The Western Balkans Conference is aimed at addressing the refugee crisis, the Schengen border code, and the reasons why the migrants from Middle East are taking the trip to the European Union through the Balkans. The Conference unites representatives of the international organizations (UNHCR, International Organization for Migration, World Food Program) and EU officials (EEAS, Frontex, EASO), ministers for home affairs and ministers for foreign affairs from EU member states and from Turkey, Lebanon, Jordan and the Western Balkans with the aim to enable them to cooperate better in managing the refugee crisis and the migratory flows. The high level meeting is set out as a consultative and mobilization tool and it amounted to a declaration. This declaration has received great

criticism, for the way it addresses migration from a management of borders and return of persons perspective (Council, 2015e).

The High Level Valletta Summit on Migration, planned for November 2015, is aimed at addressing the root causes of migration from Africa and other key countries, such as conflict, political and economic instability, human rights violations and poverty (Council, 2015f). The summit is based on the already established European cooperation mechanisms between Europe and Africa, such as the Rabat and the Khartoum processes on migration and the EU-Africa Dialogue on Migration and Mobility. The participant countries and parties aim to address the root causes of migration, intensify cooperation on return and readmission, and improve access to legal migration paths and to provide more protection to migrants, asylum seekers and vulnerable groups. It is worth mentioning that in the context of the Declaration of the High-level Conference on the Eastern Mediterranean - Western Balkans Route the following position has been adopted: 'The follow-up to this Declaration will be ensured through regular contacts both at political and technical level and, as appropriate, relevant action plans will be developed. Where relevant, existing bilateral and regional frameworks for dialogue and cooperation will be used, including the EU stabilisation and association, enlargement or neighbourhood processes and high-level dialogues. The Mobility Partnership with Jordan and the Dialogue on Migration, Mobility and Security with Lebanon also provide important frameworks, including with a view to future possible agreements on visa facilitation/readmission. The Silk Route Partnership for Migration under the Budapest process will provide an opportunity for further engagement between main countries of origin, transit and destination. The Prague process will also provide a useful platform of cooperation. Other regional initiatives, such as MARRI and the Brdo process, will contribute further to this goal.' (Council, 2015d, paragraph 35).

4.3 Political Dialogues and Instruments

4.3.1   European Neighbourhood Policy

The European Neighbourhood Policy (ENP) is the framework for EU cooperation with countries in the Mediterranean and eastern and south-eastern Europe. Ever since its inception, migration has been one of the thematic priorities for cooperation with ENP countries. In its 2004 strategy paper on the ENP, the Commission argued that this framework could "help the Union's objectives in the area of Justice and Home Affairs, in particular in the fight against organised crime and corruption, money laundering and all forms of trafficking, as well as with regard to issues related to migration" (Commission, 2004, p.6).

Cooperation on border management, migration and asylum is deemed to constitute a key component in ENP Action Plans (p.21). The following countries are covered by the ENP: Algeria (EEAS and Commission, 2014a);[64] Armenia (EEAS, 2006a); Azerbaijan (EEAS 2006b); Belarus (EEAS and Commission, 2014b); Egypt (EEAS, 2007); Georgia (EEAS, 2006c); Israel (EEAS, 2006d); Jordan (EEAS, 2012a); Lebanon (EEAS, 2005a); Libya (EEAS and Commission, 2014c); Moldova (EEAS, 2005b); Morocco (Council, 2013c);

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[64] The website of the European External Action Service states that the ENP is not yet "activated" for Algeria, Belarus, Libya or Syria. For these countries, no action plan yet exists, although an action plan for Algeria is under negotiation (EEAS, n.d.).

Palestinian Territories (EEAS, 2013a); Syria;[65] Tunisia (EEAS, 2005c); and Ukraine (Commission, 2009). Cooperation on migration (legal migration, irregular migration, border management, readmission, visas, and asylum) is addressed in a section on the action plans dedicated to cooperation in justice and home affairs/the area of justice, freedom and security (see e.g. EEAS, 2006a, p.26 for Armenia).

The European External Action Service (EEAS) issues annual progress reports on ENP countries' progress towards the objectives stated in the action plans. In addition to the action plans, funding from the European Neighbourhood Instrument has also been directed towards migration-related projects. In particular, the Euromed project, currently in its third phase, has received €5 million funding from the EU and is aimed at improving cooperation on migration between EU member states and the southern ENP countries: Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Syria, Morocco, Palestinian Territories, and Tunisia (Euromed Migration III, n.d.).

4.3.2   Visa Liberalisation Dialogues

Visa liberalisation dialogues are conducted with the eventual aim of establishing a visa-free regime with the third country concerned. In order to reach this goal, third countries must make reforms in four areas: document security (e.g. introducing biometric passports); irregular migration, readmission, asylum and migration management (e.g. adopting international standards on the status of refugees); public order and security (e.g. adopting UN and Council of Europe norms on trafficking in human beings); and external relations and fundamental freedoms (e.g. securing the rights of minorities) (Hernández i Sagrera, 2014, pp.14-15).

The reforms to be achieved are set out in an action plan. Visa liberalisation dialogues are related both to other instruments of EU external migration policy, and to other international organisations: signing a Working Arrangement with Frontex is a condition of the visa liberalisation dialogue; and the norms to be adopted in terms of public order and security emanate from the UN and Council of Europe, not the EU (Hernández i Sagrera, 2014, p.14). Visa liberalisation dialogues have been initiated with six countries: Georgia (Commission, 2013a); Kosovo (Commission, 2012b); Moldova (Commission, 2011a); Russia (Commission, 2011b); Turkey (Commission, 2013b); and Ukraine (Commission, 2010). The Commission issues regular reports on the progress made by third countries towards the goals established in the action plans; for instance, in its 2013 report on the visa liberalisation dialogue with Moldova, the Commission recommended that, based on the reforms adopted, visa-free travel should be allowed for Moldovan citizens (Commission, 2013c).

4.3.3   Dialogue on Migration, Mobility and Security

In 2011 the Commission proposed to establish a Dialogue on Migration, Mobility and Security with the southern Mediterranean countries, in response to the events of the Arab spring. The overall aim of the dialogue is to "encourage reforms – aimed at improving security – which the partner countries may engage in, giving their citizens a possibility of enhanced mobility towards the EU Member States, whilst addressing the root causes of migratory flows" (Commission, 2011c, pp. 7-8). The Commission communication lists several measures to be taken in the short and long term, such as the establishment of a

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[65] Cooperation with Syria is currently suspended, although direct development assistance will continue to be provided under the European Neighborhood Instrument (Commission, 2015c)

regional protection programme, capacity-building of third countries' border authorities, and ultimately creating jobs and improving living conditions throughout the region.

Dialogues on Migration, Mobility and Security have been established with Morocco, Tunisia, Jordan (Council, 2014d, p.2), and Lebanon, and exploratory talks have been conducted with Egypt (Commission, 2015a, p.12). Dialogues on Migration, Mobility and Security are linked to several of the other instruments of EU external migration policy: establishing a Working Arrangement between Frontex and the third country concerned is one measure to be undertaken (Commission, 2011c, p.5), and the eventual goal of such a dialogue is the establishment of a Mobility Partnership (Commission, 2015b), which happened for the cases of Morocco, Tunisia and Jordan.

4.3.4 ACP-EU Migration Dialogue

The ACP-EU Migration Dialogue was launched in 2010 and is based on Article 13 of the Cotonou Agreement. Article 13 states that "migration shall be the subject of in depth dialogue in the framework of the ACP-EU partnership". It lists several principles, including fair treatment of third country nationals, non-discriminatory treatment of workers, improving living and working conditions, and cooperation on return and readmission. The ACP-EU Migration Dialogue focuses particularly on remittances, visas and readmission (Commission, 2014a, p.13).

The Dialogue includes the ACP states: Benin, Burkina Faso, Cape Verde, Ivory Coast, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo, Burundi, Kenya, Rwanda, Tanzania, Uganda, Comoros, Djibouti, Eritrea, Ethiopia, Madagascar, Mauritius, Malawi, Seychelles, Somalia, Zambia, Zimbabwe, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of Congo, Equatorial Guinea, Gabon, São Tomé and Príncipe, Angola, Botswana, Lesotho, Mozambique, Namibia, South Africa, Swaziland, Antigua, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Cook Islands, Timor-Leste, Fiji, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. Cuba is not a signatory to the Cotonou Agreement; Sudan withdrew in 2009 (Sudan Tribune, 2009); and South Sudan has requested accession which has been approved by the ACP-EU Council of Ministers (ACP-EU Joint Document, 2013, p. 5).

4.3.5 Africa-EU Dialogue on Migration and Mobility

The Africa-EU Dialogue on Migration and Mobility has been created within the framework of the Africa-EU cooperation on mobility, migration and employment. The Africa-EU Partnership is the overarching framework for cooperation between the African Union (AU) and the EU. In 2014 an action plan was adopted setting out the priorities for this cooperation on migration for 2014-2017: addressing trafficking in human beings; preventing irregular migration; strengthen the contribution of remittances to development; enhance diaspora engagement; fostering well-managed mobility between Africa and the EU; and adopting and fully enforcing international legal instruments on international protection (Africa-EU Partnership, 2014).

52 African countries participate in the dialogue: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cape Verde, Cameroon, Chad, Comoros, Congo, Ivory Coast, Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar,

Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, São Tomé and Príncipe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

4.3.6   Eastern Partnership Panel on Migration and Asylum

The Eastern Partnership is the EU's framework for cooperation with Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. The panel on Migration and Asylum was established in 2011 and is the forum for dialogue on migration within the Eastern Partnership (Council, 2014d, p.7). Within the panel on Migration and Asylum, meetings have been organised on various topics, including refugee determination status, circular migration, and integration (Commission, 2014a, p.11). The aim is to strengthen the migration and asylum systems of the Eastern partners. The Swedish Migration Board and the IOM Mission in Ukraine provide general support to the panel, assist with the organisation of meetings, and maintain the panel website.

4.3.7   EU-CELAC Structured and Comprehensive Dialogue on Migration

The EU-CELAC Structured and Comprehensive Dialogue on Migration was launched in 2009 (Council, 2014d, p.9). Migration is one of the key areas identified for EU-CELAC cooperation, and the objectives to be achieved were highlighted in the Action Plan for 2013-2015: exchange of information on migration flows; develop measures to make the transfer of remittances cheaper; promote the full respect of human rights; and cooperate on education and health of migrants (Council, 2013d, pp.6-7).

Interestingly, the document makes no mention of cooperation on irregular/illegal migration, apart from cooperation on the prevention of human trafficking. The countries covered by EU-CELAC cooperation are: Antigua and Barbuda; Argentina; Bahamas; Barbados; Belize; Bolivia; Brazil; Chile; Colombia; Costa Rica; Cuba; Dominica; Dominican Republic; Ecuador; El Salvador; Grenada; Guatemala; Guyana; Haiti; Honduras; Jamaica; Mexico; Nicaragua; Panama; Paraguay; Peru; Saint Lucia; Saint Kitts and Nevis; Saint Vincent and the Grenadines; Suriname; Trinidad and Tobago; Uruguay; and Venezuela. Several of the smaller island states are therefore involved both in EU-CELAC cooperation and in ACP-EU cooperation.

4.3.8   EU-India High Level Dialogue on Migration and Mobility

The EU-India High Level Dialogue on Migration and Mobility was launched in 2006, and met in 2010 and 2012 (Commission, 2014a, p.8). At the 2012 meeting, topics discussed included skill matching; the mobility of students, researchers and scientists; cooperation on legal migration and prevention of irregular migration (MPC, n.d.).

4.3.9   Migration Dialogue Forum (South Africa)

Since 2008, the EU and South Africa discuss migration issues in a yearly meeting of the Migration Dialogue Forum (Council, 2014d, p.19). This forum brings together representatives of the European External Action Service, DG HOME of the Commission, the South African Department of Home Affairs and the South African Ministry of Foreign Affairs (European Strategic Partnerships Observatory, n.d.). Within this framework, South Africa has indicated its interest in a visa facilitation agreement, and the EU has requested a visa-free regime for citizens of all EU member states (Commission, 2014a, p.7).

4.3.10 EU-US Cooperation Platform on Migration and Refugee Issues

In 2010 the EU-US Cooperation Platform on Migration and Refugee Issues was launched. Topics covered include "unaccompanied minors, biometrics, refugee resettlement, trafficking in human beings, development of capacity building for migration management in third countries and contribution of the diaspora to the development of countries of origin of migration" (Council, 2014d, p.21). In November 2013, for instance, the Platform discussed the Syrian refugee crisis, with the US offering to share its experience on migration from the Caribbean and Mexico (Council, 2013e, p.2).

4.3.11 EU-Russia Migration Dialogue

The EU-Russia Migration Dialogue was established in 2011. Meetings were held in 2011 on international protection, in 2012 on illegal migration and migration and development, and in 2013 on legal migration. For the Russian administration, participants in the Dialogue include the Federal Migration Service, the Ministry of Foreign Affairs, and the Ministry of Labour (Permanent Mission of the Russian Federation to the European Union, 2013).

4.3.12 EU-China Dialogue on Migration and Mobility

The first meeting of the EU-China Dialogue on Migration and Mobility was held in Brussels in 2013 (Council, 2014d, p.20). At this meeting, issues discussed included readmission and a visa waiver agreement for diplomats (Commission, 2014a, p.8). For the period 2015-2018, the Dialogue will be supported by the IOM Liaison Office in China (IOM, 2015).

4.4 Policy Processes

4.4.1 The Budapest Process

The Budapest Process is a consultative forum initiated in 1991 which aims at "developing comprehensive and sustainable systems for orderly migration" (Council, 2014d, p.8). It shares a number of similarities with the Prague Process: it is funded by the EU; its secretariat is located at ICMPD; its size and membership composition is similar; and EU and international bodies (such as Frontex, Europol and IOM) participate. The countries participating in the Budapest Process are: Afghanistan, Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Georgia, Iraq, Kazakhstan, Kyrgyzstan, Macedonia, Moldova, Montenegro, Pakistan, Russia, Serbia, Tajikistan, Turkey, Turkmenistan, Ukraine, and Uzbekistan. Australia, Bangladesh, Canada, China, Iran and USA are observer states (ICMPD, n.d.).

4.4.2 The Rabat Process

The Rabat Process was launched in 2006 and aims to "enhance dialogue and cooperation between countries of origin, transit and destination along the West African migration route" (Council, 2014d, p.8). Ministerial meetings were held in Rabat (2006), Paris (2008), Dakar (2011) and Rome (2014). At each ministerial meeting a strategy has been adopted as a framework for cooperation for a 2-3 year period. The current Rome Programme is based on four pillars: organising mobility and legal migration; improving border management and combating irregular migration; strengthening the synergies between migration and development; and promoting international protection.

However, the emphasis is on strengthening the links between migration and development and preventing irregular migration (Rabat Process, n.d.). Thematic meetings have been held focussing, for instance, on border management and evidence-based policy-making in the field of migration (Commission, 2014a, p.12). The Rabat Process is financed by the EU, and implemented by ICMPD and the International and Ibero-American Foundation for Administration and Public Policies (FIIAPP). It encompasses 27 countries: Benin, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Democratic Republic of Congo, Egypt, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Ivory Coast, Liberia, Libya, Mali, Morocco, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo, and Tunisia.[66] Algeria attended the meetings in Rabat and Dakar as an observer. Many of the individual bilateral projects carried out with these countries are listed on the website of the Rabat Process under 'initiatives in the region'. In this way, the Rabat Process brings together EU initiatives in the countries concerned. There is considerable overlap between the countries covered by the Rabat Process and the participants in the ACP-EU Migration Dialogue and the Africa-EU Dialogue on Migration and Mobility.

4.4.3   The Prague Process

The Prague Process was launched in 2009 and engages 50 countries in dialogue and cooperation on migration issues (Council, 2014d, p.6). The Prague Process is funded by the EU, and the secretariat is located at ICMPD. Meetings take place in different fora: meetings of the National Contact Points, Expert Meetings, Senior Officials' Meetings, and Ministerial Conferences (Prague Process, 2014a). In the past, workshops have been organised on a variety of issues, including legal migration, migration and development, international protection, circular migration, migration profiles, irregular migration, and return and readmission (Commission, 2014a, p.10).

18 non-EU countries are included in the Prague Process: Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Georgia, Kazakhstan, Kosovo, Kyrgyzstan, Macedonia, Montenegro, Moldova, Russia, Serbia, Tajikistan, Turkey, Turkmenistan, Ukraine and Uzbekistan (Prague Process, 2014b). In terms of membership, there is considerable overlap between the Prague Process, the Budapest Process, and the Eastern Partnership Panel on Migration and Asylum.

4.5 Accompanying Policy Tools

4.5.1   Migration Missions

Migration missions aim to exchange information on EU and third country policies on migration and development; discuss third countries' priorities in relation to regional migration dialogues; and decide on the format for future dialogue on migration issues between the EU and the third country concerned (Council, 2007, p.4). Third countries are selected for migration missions based on: interest of member states; migratory pressure; shared interests; institutional capacity and willingness; and the EU's general relations with the country concerned (Council, 2012a, pp.4-5). A migration mission consists of an initial meeting with senior government officials of the third country, followed by a meeting with all government stake-holders and a separate meeting with NGO representatives (Council, 2007, p.6). Migration missions have been organised to sixteen countries: Armenia, Azerbaijan, Belarus,

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[66] http://processusderabat.net/web/uploads/cms/Rabat-Declaration---EN.pdf

Cameroon, Cape Verde, Ethiopia, Georgia, Ghana, Kenya, Mauritania, Nigeria, Peru, Senegal, South Africa, Tanzania and Ukraine (Council, 2012a, p.3).

4.5.2   Frontex Working Arrangement

Since 2005, the EU has an External Borders Agency (Frontex), based on Warsaw, Poland. Its main objectives are to improve the 'integrated border management of EU external borders', mainly through the coordination of operational cooperation between EU member states, the training of national border authorities, supporting joint return operations and the preparation of risks assessments. Surprisingly, the literature has studied how Frontex has become an increasingly external policy actor and a promoter of extraterritorial migration controls (Guild and Bigo, 2010; Carrera, den Hertog and Parkin, 2013).

Frontex Working Arrangements govern operational cooperation between Frontex and authorities of the third country concerned (Frontex, n.d.). Objectives of Working Arrangements include countering irregular migration, strengthening border security, developing good relations, and cooperating on risk analysis, conducting training and joint return operations. Working Arrangements can form the basis for operations in the territorial waters of the third country concerned, and the involvement of the third country's authorities in such operations (Fink, 2012, pp.29-30).

Frontex has concluded Working Arrangements with seventeen countries: Albania (Frontex, 2009a); Armenia (Frontex, 2012a); Azerbaijan (Frontex, 2013); Belarus (Frontex, 2009b); Bosnia and Herzegovina (Frontex, 2009c); Canada (Frontex, 2010a); Cape Verde (Frontex, 2011); Georgia (Frontex, 2008a); Moldova (Frontex, 2008b); Macedonia (Frontex, 2009d); Montenegro (Frontex, 2009e); Nigeria (Frontex, 2012b); Russia (Frontex, 2006); Serbia (Frontex, 2009f); Turkey (Frontex, 2012c); USA (Frontex, 2009g); and Ukraine (Frontex, 2007). Negotiations are ongoing with Brazil, Egypt, Libya, Mauritania, Morocco, Senegal and Tunisia (Frontex, n.d.).

A number of challenges have been underlined by the literature concerning these Working Arrangements, which relate to legal uncertainty and lack of proper democratic accountability and scrutiny. According to Guild and Bigo (2010), these kinds of arrangements are of profound concern as they put a predominant emphasis on

> the collaboration against "illegals", on exchange of technologies of coercion and surveillance, on training of local polices as the main activities to promote an extended area of freedom, security and justice, is neither a security agenda developing protection, or a freedom agenda promoting rights of access, it is a coercive agenda which turns stability or immobility as a value, or which wants to transform foreigners into docile subjects (p. 172).

4.5.3   Migration profiles

Migration profiles are a 'knowledge tool' which "identify and address data gaps and needs regarding current migration patterns, labour market trends, legislation and policy frameworks, information on remittance flows, diasporas and other development-related data" (Commission, 2011c, p.20). They can thus improve the evidence base for migration policy-making in third countries, and are therefore arguably related to all other aspects of EU external migration policy: in order to know which instruments are appropriate for a particular third country, it is necessary to first know what the migration situation is in that country. The Global Approach to Migration and Mobility states that ownership of such a migration profile "should be in the hands of the partner country" (ibid.). The EU has not produced migration profiles itself, but has co-financed the migration profiles produced by the Migration Policy Centre (at the European University Institute) and IOM. The migration profiles produced by

MPC and IOM overlap in terms of the third countries covered, and the EU has also co-financed two migration profiles each for a number of countries: Mali, Mauritania, Moldova, Niger, and Senegal.

MPC has produced migration profiles for 22 countries with EU funding: Algeria (MPC, 2013a); Armenia (MPC, 2013b); Azerbaijan (MPC, 2013c); Belarus (MPC, 2013d); Egypt (MPC, 2013e); Georgia (MPC, 2013f); Jordan (MPC, 2013g); Lebanon (MPC, 2013h); Libya (MPC, 2013i); Mali (MPC, 2010a); Mauritania (MPC, 2013j); Moldova (MPC, 2013k); Morocco (MPC, 2013l); Niger (MPC, 2011); Palestinian Territories (MPC, 2013m); Russia (2013n); Senegal (MPC, 2010b); Sudan (MPC, 2012); Syria (MPC, 2013o); Tunisia (MPC, 2013p); Turkey (MPC, 2013q); and Ukraine (MPC, 2013r).

The IOM migration profiles co-financed by the EU fall within other projects; for example, the migration profile for Serbia is part of the project 'Capacity Building of Institutions Involved in Migration Management and Reintegration of Returnees' (IOM, 2010). IOM has produced migration profiles for 17 countries with EU funding: Benin (IOM, 2011a); Cameroon (IOM, 2009a); Cape Verde (IOM, 2009b); Democratic Republic of Congo (IOM, 2009c); Ecuador (IOM, 2011b); Ghana (IOM, 2009d); Ivory Coast (IOM, 2009e); Mali (IOM, 2009f); Mauritania (IOM, 2009g); Moldova (IOM, 2012a); Nicaragua (IOM, 2012b); Niger (IOM, 2009h); Nigeria (IOM, 2009i); Peru (IOM, 2012c); Senegal (IOM, 2009j); Serbia (IOM, 2010); and Zimbabwe (IOM, 2009k).

4.6 Projects and Programmes

4.6.1 Joint Migration and Development Initiative

The Joint Migration and Development Initiative (JMDI) is a joint project of the EU and UN which aims to harness the potential of migration for development. It is implemented through a number of projects in sixteen countries: Algeria; Cape Verde; Ecuador; Egypt; Ethiopia; Georgia; Ghana; Jamaica; Mali; Moldova; Morocco; Nigeria; Philippines; Senegal; Sri Lanka; and Tunisia. For example, Egypt and Greece carried out a project to develop Egyptian fisheries and transfer the skills of Egyptian fishermen migrating seasonally to Greece to their home country (Joint Migration and Development Initiative, 2011).

4.6.2 Other Projects

Besides the overarching frameworks for cooperation mentioned above, the EU funds and/or implements a number of multilateral and bilateral migration-related projects in third countries. For the period 2014-2020, funding for external migration policy comes from the Asylum, Migration and Integration Fund. The budget for this fund for 2014 was €37,4 million, dedicated to the following priorities: identifying and promoting best practices in the area of asylum; information campaigns on the dangers of irregular migration to the EU; support to the return and reintegration of victims of human trafficking; support to the preparation and implementation of current and future Mobility Partnerships and Common Agendas on Migration and Mobility; and activities such as research, information and communication (Commission, 2014b, pp.4-5). Previously, actions related to migration were funded by the budget line B7-667 (2001-2003), the Aeneas programme (2004-2006), and the Thematic Programme for Cooperation with Third Countries in the areas of Migration and Asylum (2007-2013).

Several EU-funded projects are implemented by or in cooperation with international organisations such as ICMPD, IOM, the Organisation for Economic Co-operation and

Development (OECD), or the International Committee of the Red Cross. This sub-section will first list multilateral migration-related projects funded by the EU:

- The EU has funded the Support to Free Movement of Persons and Migration in West Africa (FMM West Africa) project to the tune of €26 million. The project aims at supporting the ECOWAS Commission to implement its protocol on free movement, in order to harness the potential of migration for development. The project covers the fifteen ECOWAS member states (Benin; Burkina Faso; Cape Verde; Gambia; Ghana; Guinea; Guinea-Bissau; Ivory Coast; Liberia; Mali; Niger Nigeria; Senegal; Sierra Leone; and Togo) and Mauritania. The aim is to build capacity in the areas of migration data, border management, labour migration, and counter-trafficking (FFM West Africa, 2015).

- Another example of a multilateral project is the EU-ASEAN Migration and Border Management Programme, which aims to share experiences of EU regional border cooperation in the framework of Schengen with ASEAN countries (ASEAN, 2008).

- The EU co-funds the OECD project Interrelations between Public Policies, Migration and Development: Case Studies and Policy Recommendations (IPPMD), which aims to assist target countries with incorporating migration into their development strategies. IPPMD is carried out in 10 countries: Armenia, Burkina Faso, Cambodia, Costa Rica, Ivory Coast, Dominican Republic, Georgia, Haiti, Morocco and the Philippines (OECD, 2015).

- In Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan the EU has co-funded a project to improve living conditions and protect rights.[67]

- The Seahorse Programme aims to enhance the understanding of the Algerian, Tunisian, Egyptian and Libyan authorities of irregular migration and their capacity to respond to such migration flows (European Parliament, 2012).

- In Egypt, Ghana, Morocco and Tunisia the EU has funded pre-departure training for labour migrants.[68]

- A project on dialogue and exchange of practices in returns is implemented in Algeria, Morocco and Nigeria.[69]

- In Algeria, Morocco and Tunisia the EU is funding a project to create business and employment.[70]

- A project in Jordan, Morocco and Tunisia aims to improve the asylum systems of those countries by promoting their participation in the work of the European Asylum Support Office (EASO) and Frontex.[71]

- In Cape Verde, Ivory Coast, Morocco and Senegal a project is being implemented to build capacity on professional training, social protection, remittances and diasporas.[72]

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[67] http://eeas.europa.eu/delegations/kazakhstan/projects/list_of_projects/283097_en.htm

[68] http://processusderabat.net/web/index.php/initiatives-in-the-region/pre-departure-trainings

[69] http://processusderabat.net/web/index.php/initiatives-in-the-region/european-initiative-on-integrated-return-management-eurint-phase-ii

[70] http://processusderabat.net/web/index.php/initiatives-in-the-region/to-support-the-creation-of-business-and-employment-in-the-maghreb-migration-for-local-development

[71] http://processusderabat.net/web/index.php/initiatives-in-the-region/project-to-support-the-asylum-systems-in-jordan-morocco-and-tunisia-in-addition-to-providing-awareness-raising-support-to-authorities-active-in-border-management-in-morocco-and-tunisia

- The EU Immigration Portal aims to provide information on migration to the EU to citizens of Algeria, Burkina Faso, Cameroon, Cape Verde, Chad, Congo, Ivory Coast, Democratic Republic of Congo, Egypt, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Libya, Mali, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Sudan, and Togo.[73]
- The EU funds the MADE network which aims to contribute to migration and development by connecting civil society actors in Algeria, Benin, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Congo, Democratic Republic of Congo, Ivory Coast, Egypt, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, and Sierra Leone.[74]
- The border authorities in Mali, Mauritania and Senegal are being trained and provided with equipment as part of a project to prevent irregular migration to the Canary Islands (Rabat Process, 2014).
- The SEACOP project aims to reinforce cooperation with Cape Verde, Ghana and Senegal against maritime trafficking (Rabat Process, 2014).
- The African Postal Financial Services Initiative aims to reduce the costs of remittances by involving postal networks in offering financial services. The project targets Benin, Burundi, Egypt, Ethiopia, Ghana, Kenya, Madagascar, Senegal, Uganda, Zambia and Zimbabwe (International Fund for Agricultural Development.). A similar project (a postal initiative to improve the range of remittance corridors available) is implemented in Burkina Faso, Cameroon, Ivory Coast and Mali (Rabat Process, 2014).
- In Egypt, Libya and Tunisia, IOM is implementing the START project which aims to enhance national capacities to manage migration in the aftermath of the Arab Spring (IOM, n.d.).
- The West Africa Network for the Protection of Children is a project for the protection and reintegration of young migrants and children in Benin, Burkina Faso, Cape Verde, Ivory Coast, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo (Rabat Process, 2014).

The EU is also currently implementing bilateral programmes related to migration in several countries. These projects may be linked to other instruments of EU external migration policy mentioned above. For example, the Common Visa Application Centre in Cape Verde is a project of the Mobility Partnership (Rabat Process, 2014). Projects are currently implemented on asylum in Angola (resettlement of return migrants);[75] on capacity building and migration management in Brazil (capacity-building),[76] Montenegro (the asylum and migration system),[77] Ghana (creating a national migration policy and strengthening migration

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[72]   http://processusderabat.net/web/index.php/initiatives-in-the-region/medao-provision-of-support-and-advice-to-african-public-administrations-responsible-of-initiatives-related-to-migration-and-development-within-the-west-african-route

[73]   http://processusderabat.net/web/index.php/initiatives-in-the-region/the-eu-immigration-portal-http-ec-europa-eu-immigration

[74]   http://processusderabat.net/web/index.php/initiatives-in-the-region/made-the-migration-and-development-civil-society-programme-including-among-others-made-africa

[75] http://eeas.europa.eu/delegations/angola/projects/list_of_projects/282695_pt.htm

[76] http://www.icmpd.org/Ongoing-Projects.1636.0.html

[77] http://www.delmne.ec.europa.eu/code/navigate.php?Id=857

management), Libya (strengthening public institutions responsible for migration and building capacity on border management), Chad (reforming the internal security forces), Nigeria (better management of migration), Mauritania (supporting the implementation of the national strategy on migration management, and Tunisia (promoting debate and capacity of civil society on migration) (Rabat Process, 2014); on migration and development in Armenia (circular migration and migration and development),[78] Moldova (migration and development),[79] Algeria (creating business and employment) (Rabat Process, 2014); on migrants' rights and prevention of trafficking in Israel (migrants' rights),[80] Somalia (prevention of human trafficking),[81] and Egypt (providing aid to victims of human trafficking and promoting migrants' rights) (Rabat Process, 2014). Several projects are carried out in Cape Verde: on diaspora engagement, establishing the Common Visa Application Centre, and strengthening capacities on migration management (Rabat Process, 2014).

In light of the above, a central issue concerns the extent to which there is any coherency cross-cutting all these projects and programmes, as well as an exact picture of their practical effects on the ground. It is apparent that there is a differentiated approach towards third countries. Some countries are the beneficiaries of several EU projects, whereas in others no projects are implemented at all. Morocco, for instance, is the target country of a large number of bilateral EU projects. In addition to the multilateral projects mentioned above, the EU is funding projects in Morocco on mobility of students, researchers and academics;[82] support to the Moroccan higher education system;[83] facilitating Moroccan students' access to employment in France;[84] strengthening the institutional capacity of Morocco's Office for Occupational Training and Promotion of Employment;[85] promoting respect for migrants' rights;[86] providing information on legal migration opportunities;[87] preventing irregular migration of unaccompanied minors;[88] training Moroccan civil servants;[89] facilitating return

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[78]http://eeas.europa.eu/delegations/armenia/projects/list_of_projects/310122_en.htm;
http://eeas.europa.eu/delegations/armenia/projects/list_of_projects/282525_en.htm;
http://eeas.europa.eu/delegations/armenia/projects/list_of_projects/309112_en.htm

[79] http://eeas.europa.eu/delegations/moldova/projects/list_of_projects/282406_en.htm

[80] http://eeas.europa.eu/delegations/israel/projects/list_of_projects/332666_en.htm

[81]http://eeas.europa.eu/delegations/somalia/documents/projects/20140430_ec_development_programme_april_2014_en.pdf

[82] http://processusderabat.net/web/index.php/initiatives-in-the-region/eu-s-erasmus-mundus-and-marie-curie-programmes-successors-from-2014-onwards-namely-erasmus-for-all-and-marie-sk-odowska-curie

[83] http://processusderabat.net/web/index.php/initiatives-in-the-region/tempus-programme-successor-from-2014-onwards-erasmus-for-all

[84] http://processusderabat.net/web/index.php/initiatives-in-the-region/facilitating-moroccan-students-access-to-employment

[85] http://processusderabat.net/web/index.php/initiatives-in-the-region/strengthening-the-institutional-capacity-of-the-ofppt-morocco-s-office-for-occupational-training-and-promotion-of-employment

[86] http://processusderabat.net/web/index.php/initiatives-in-the-region/promoting-respect-for-sub-saharan-migrants-rights-in-morocco; http://processusderabat.net/web/index.php/initiatives-in-the-region/tamkine-migrants-project

[87] http://processusderabat.net/web/index.php/initiatives-in-the-region/development-of-an-information-campaign-targeted-at-young-people-in-cities-particularly-in-the-north

[88] http://processusderabat.net/web/index.php/initiatives-in-the-region/children-on-the-move-a-responsible-approach-to-the-migration-of-minors

[89] http://processusderabat.net/web/index.php/initiatives-in-the-region/training-moroccan-civil-servants-to-enhance-their-skills-in-managing-migration-flows-to-italy

of unaccompanied minors;[90] enhancing development of rural areas in Morocco;[91] mobilising skills of students;[92] migration and development;[93] and supporting the implementation of the Mobility Partnership.[94]

4.7 Comparative overview of EU external migration policy instruments: Preliminary Findings

The previous sub-sections have presented detailed information on the legal and policy instruments of EU external migration policy, following a categorization aimed at making a distinction between legally binding instruments, policy instruments, political instruments and dialogues, accompanying policy tools and projects and programmes. This sub-section provides a comparative overview of these various instruments, by showing what they have in common and how they differ.

Firstly, some of the instruments presented above are legally binding, whilst others are political agreements or policy declarations. This changing nature has a clear impact on the agency of affected individuals to seek redress and effective remedies when their rights are negatively affected or restricted in the scope of each of the instruments. Readmission agreements, visa facilitation agreements, association agreements and PCAs and cooperation agreements are legally binding international agreements. Terms of reference may be agreed for other instruments, such as migration missions (Council, 2009d, p. 3), Frontex working arrangements, or projects, but these are below treaty level and are affected by various accountability challenges.

The remaining instruments, such as MPs, CAMMs and the various bilateral and multilateral dialogues, are political instruments. The different natures of policy instruments has implications for the actors involved: if an instrument of EU external migration policy is based on article 218 TFEU, its conclusion must be approved by the European Parliament and it becomes subject to judicial review by the Court of Justice of the European Union (CJEU). Several scholars have therefore been critical of the use of non-legally binding instruments as they limit legal scrutiny and undermine transparent decision-making processes in policies affecting rights and liberties of individuals (see e.g. Fink, 2012, on Frontex working arrangements).

Secondly, policy instruments differ in terms of the actors involved. Section 5 below will set out in detail the EU institutions and actors involved in making and implementing EU external migration policy, so this sub-section will be limited to looking at the third countries. Some instruments are 'bilateral', addressed at only one third country; this is the case for Mobility Partnerships, readmission agreements, visa facilitation agreements, visa

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[90]   http://processusderabat.net/web/index.php/initiatives-in-the-region/european-return-platform-for-unaccompanied-minors-erpum-ii-project

[91]   http://processusderabat.net/web/index.php/initiatives-in-the-region/project-to-support-the-forces-driving-integrated-development-in-the-rural-areas-of-morocco-s-north

[92]   http://processusderabat.net/web/index.php/initiatives-in-the-region/maintaining-the-system-for-keeping-in-touch-with-former-scholarship-students-that-was-set-up-under-the-eu-s-erasmus-mundus-programme

[93]   http://processusderabat.net/web/index.php/initiatives-in-the-region/program-on-the-component-of-migration-and-development

[94] http://processusderabat.net/web/index.php/initiatives-in-the-region/support-to-the-mobility-partnership-between-the-eu-and-morocco

liberalisation dialogues, migration profiles, migration missions, dialogues on migration, mobility and security, common agendas on migration and mobility, association agreements, PCAs, and the various bilateral dialogues such as the EU-Russia migration dialogue.

Other instruments are 'multilateral', such as the Rabat process, the Prague process, the Budapest process, the ACP-EU migration dialogue, the Africa-EU dialogue on migration and mobility, the Eastern Partnership panel on migration and asylum, and the EU-CELAC structured and comprehensive dialogue on migration. These instruments incorporate several third countries. Moreover, they may engage actors who are different from government representatives but rather 'experts' from relevant states' ministries and international organisations.

Some instruments may be either bilateral or multilateral. This is particularly the case for Frontex working arrangements, which have been concluded with individual law enforcement authorities' third countries, but also with the Border Commandants' Council of the Commonwealth of Independent States (Frontex, 2010b).

Other instruments have a hybrid nature, containing both bilateral and multilateral elements. This is true of the European Neighbourhood Policy, which is inherently addressed at all countries in the EU's neighbourhood, but which is differentiated and implemented on a country-by-country basis. The Joint Migration and Development Initiative is an overarching initiative addressed at sixteen countries, but implemented through bilateral projects. EU-funded projects are either bilateral or multilateral.

Finally, policy instruments may be narrow or broad in terms of their content. The Global Approach to Migration and Mobility is based on four pillars: migration and mobility, irregular migration, asylum and international protection, and migration and development (Commission, 2011d). Some instruments of EU external migration policy address only one of these pillars: readmission agreements, for example, concern only irregular migration; visa facilitation agreements concern only legal migration; individual projects have one or two core objectives to be achieved. Other instruments are broader in scope: Mobility Partnerships, for instance, specifically address all four pillars of the Global Approach; the various bilateral and multilateral dialogues are long-term instruments and their focus may shift and change over time. Some instruments are misleadingly named; the EU-China dialogue on migration and mobility does not only address legal migration, as the name suggests, but also irregular migration. The EU-CELAC structured and comprehensive dialogue on migration has a generic name and might therefore be assumed to cover all aspects of migration, but in reality does not concern cooperation on irregular migration at all.

In Task 3.2 of this Work Package we will seek to gain a better understanding of why a certain content (and which one precisely) is given to particular policy instrument/legal tool and a geographical area/specific countries concerned.

4.8 Preliminary Mapping EU external migration instruments

This sub-section compiles the information presented above in the 6 categories of legal instruments and policy tools identified, in order to show graphically the scope of EU external migration policy and legal instruments and tools. It presents a map showing the comparative importance of the world's regions for EU external migration policy (figure 1). The red dots represent, per country, the numbers of instruments of EU external migration policy; the larger the dot, the more instruments the country concerned is targeted by. Appendix 1 presents further diagrams, namely Venn diagrams per region to show which countries are targeted by

which instruments of EU external migration policy; the countries at the centre of each Venn diagram are the ones involved in the most aspects of EU external migration policy.

A number of preliminary conclusions can be drawn from these visualisations. The EU's neighbourhood (eastern and south-eastern Europe and the southern Mediterranean countries) is clearly the most important region in EU external migration policy, as shown in figure 1. In fact, due to the large number of policy instruments and overlapping participation in these various instruments, it was not possible to represent this region in a Venn diagram; instead, a table is presented in Appendix 1 (some countries are included in the diagrams for Africa and Asia). Similarly, a separate map is presented in Appendix 1 for eastern and south-eastern Europe (figure 8). Countries in Oceania, on the other hand, are least targeted by EU external migration policy (figure 7). Within some regions, one or more countries emerge as occupying a central role – these are the countries at the centre of the Venn diagrams. For Africa, this is first and foremost Cape Verde, and then Morocco, Tunisia, Algeria, Libya and Nigeria (figure 5). For Asia, this is Azerbaijan (figure 6). For the EU's neighbourhood, this is Georgia, followed by Moldova, Ukraine, Armenia and Azerbaijan (table 3).

The diagrams are also interesting in terms of revealing what is missing: although the EU has a specific forum for cooperation with the US on migration issues, it has no equivalent with other major developed nations such as Canada, Australia or Japan. Several countries around the world are not targeted at all by EU external migration policy, most of them in Asia (Bangladesh, Cambodia, Iran, Laos, Myanmar, Malaysia, Oman, Saudi Arabia, United Arab Emirates, and Yemen). This reflects the absence of a regional dialogue on migration between the EU and Asia.

Finally, the diagrams reveal several overlaps between the different instruments; in particular, several African countries are involved in both the Africa-EU Dialogue on Migration and Mobility and the ACP-EU Migration Dialogue (this overlap is visible in figure 5), and several countries in eastern and south-eastern Europe are involved in both the Prague and Budapest processes (this overlap is visible in table 3).

These diagrams are rather blunt tools, in the sense that they show the number of policy instruments targeted at specific third countries, but not the quality, nature/scope and kind of cooperation between the EU and a particular third state, e.g. is it more focused on 'migration' and/or on 'mobility' following the conceptual framing offered by the GAMM. They neither show the specific substantive features of migration and/or mobility-related components and approaches in each of these instruments, or their actual practical function and implementation. Nor do they address how or why the priorities differ when comparing the various regions and countries. For instance, implementation may not be smooth, thus hampering the effectiveness of EU external migration policy. For this reason, the next report in the EURA-NET project (task 3.2) will specifically assess implementation of EU external migration policy, and go deeper into a critical analysis of the kinds of cooperation, with particular focus on EU-Asia relations.
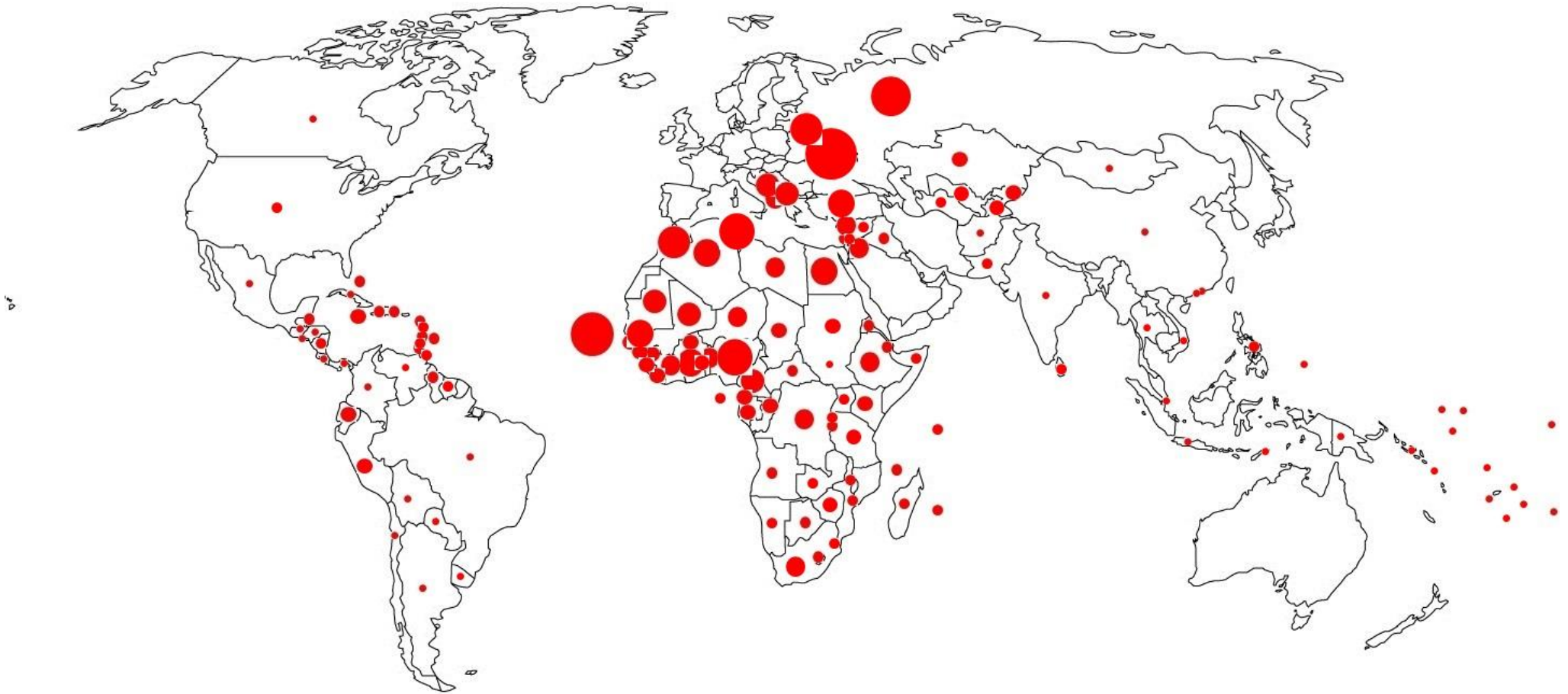
Figure 1: Map of EU external migration policy around the world

5. EU External Migration Policies: The European Migration Agenda and the EU Actors behind it

This section of the report addresses the extent to which the institutional relational and hierarchies in EU external migration policies has been subject to any important transformations after the establishment of the new Commission and the European External Action Service (EEAS) in 2014. The section aims to offer a nexus between the analysis provided on the instruments of the GAMM with the EU institutional actors which play a leading role in their shaping, adoption and implementation. It starts by studying the so-called 2015 European Migration Agenda (section 5.1), which constitutes the new EU policy agenda setting the priorities and instruments to guide EU cooperation with third countries on migration, borders and asylum for the years to come. The section and then moves on to critically examining the main EU institutional actors behind the Agenda, in an attempt to understanding the current setting of priorities and the normative approaches which prevail in the Agenda and further follow-up EU policy measures when it comes to external migration policies (section 5.2).

5.1 A European Migration Agenda: 'Whose' Agenda?

The European Commission published the so-called European Migration Agenda in May 2015 (Commission, 2015d). It aims at bringing 'coherency' and 'comprehensiveness' to the EU policies addressing migration. The Agenda is a political document calling for "a new, more European approach" requiring the use of "all policies and tools at our disposal – combining internal and external policies to best effect" (Commission, 2015d, p.2). It makes an express call to all the relevant actors to make it a reality. The Communication is divided into two main sections: A first section dealing with 'immediate actions' (Section II), and another outlining 'four pillars to manage migration better' (Section III).

In Section II, which deals with 'immediate actions', The Agenda makes reference to "working in partnership with third countries to tackle the migration upstream" (p.5). Here it is interesting to underline the role given to both the Commission and the EEAS when working together with third states, which will be closely connected to "political initiatives to promote stability" (p.5) in actions led by the HR/VP in the EEAS. These include firstly regional development and protection programmes; secondly a pilot-multipurpose centre in Niger involving the Niger authorities, as well as the International Organisation for Migration (IOM) and UNHCR; and thirdly migration becoming a specific component of ongoing Common Security and Defence Policy (CSDP). Within the same logic of 'promoting stability abroad', the Agenda states that "close attention will also be paid to our eastern partners, the Western Balkans and Asia fostering existing cooperation frameworks" (p.5).

When it comes to Section III on managing migration better, the Agenda first makes reference to the identification of migration policy as a key political priority for the new Commission President Juncker, as outlined in his political guidelines. As we will develop in section 5.2 below, the new structure of the European Commission reveals an organisational system led by a First Vice-President (Timmermans) on Rule of Law, Fundamental Rights and Better Regulation (Carrera and Guild, 2015), who has been entrusted with the competence of coordinating the new Commissioner for Migration and Home Affairs (Avramopoulos) (Carrera and Guild, 2014).

The interviews conducted for the purposes of this report revealed that differently from the previous Barroso Commission, the elaboration and adoption of the European Agenda on Migration has taken a 'top-down' approach. The main political guidelines have been decided not at DG HOME level, but rather at the level of the Commission President and Vice-President, in cooperation with the HR/VP of the EEAS. It is therefore not surprising that the Section III of the Agenda calls for *"enhanced coherence between different policy sectors, such as development cooperation, trade, employment, foreign and home affairs policies"* (Commission, 2015d, p.6). That notwithstanding, the extent to which this new intra-institutional system of decision making has exerted any visible effects on the kind of migration-related policies which have been prioritized by the Commission (in comparison to the Barroso Commission) remains to be further explored in the next deliverable of the EURA-NET project (3.2).

The Agenda also sets a clear direction for the EU to continue engaging beyond its borders and strengthen cooperation with "global partners, address root causes, and promote modalities of legal migration that foster circular growth and development in the countries of origin and destination" (p.8). It is striking that no express reference is made to the GAMM in any of the general sections dealing with external policy dimensions in the Agenda, with one sole exception: in footnote 47 when talking about the political priority given to "maximizing the development benefits for countries of origin" (Commission, 2015d, p. 16). Interviews with policy makers have confirmed that the Agenda is the new EU policy strategy for addressing the issue of migration and at this time it is not evident the extent to which it will take stock of previously existing agenda, such as the one laid down in the GAMM, which used to be a predominantly a DG HOME-driven policy instrument.

The GAMM is nowhere to be seen in the First Pillar theme 'Reducing the Incentives for Irregular Migration'. Here the Agenda refers to the need to address the root causes of migration which it relates to "global issues". The text gives a first hint of internationalisation processes (involving the EEAS in the driving seat) when saying that "migration should be recognized as one of the primary areas where an active and engaged EU external policy is of direct importance to EU citizens" (p.7). The Agenda puts emphasis on partnerships with countries of origin and transit, and refers to existing regional and bilateral frameworks of cooperation. Reference is here made in footnote 13 to the Rabat Process, the Budapest Process, the Prague Process, and the EU-Africa Migration and Mobility Dialogue.

The contribution by the EEAS is clear when the Agenda expresses the need to 'step up' the role by the EU Delegations in third countries to ensure enhanced coordination, mainstreaming migration issues into development cooperation and reporting on major migration-related developments in these countries (p.8). Interviews with Brussels-based policy makers have highlighted that differently from the GAMM, which specifically dealt with the foreign affairs aspects of EU migration policy, the Agenda means that the external dimensions of EU migration policy are now an intrinsic part across the various pillars comprising the common EU migration policy more generally. Next, one can perceive the input by DG International Cooperation and Development (DEVCO) of the Commission in the wording of the Agenda within this Pillar. It underlines the budget allocation of €96.8 billion between 2014-2020 for EU external cooperation assistance,, paying particular attention not to 'external governance' or control-oriented aspects of EU migration policies, but rather issues like "poverty, insecurity, inequality and unemployment which are among the root causes of irregular and forced migration" (p.8).

Specific priority is given under the 'Irregular Immigration' pillar to home affairs-driven initiatives, such as those pursued by EU Home Affairs agencies (Europol and Frontex),

as well as a new strategy, the EU Action Plan against Smuggling (Commission, 2015e) (already adopted in May 2015). The focus on return, readmission and reintegration is clear when the Agenda states that

> the EU will help third countries to meet their obligations by offering support such as capacity building for the management of returns, information and awareness campaigns, and support for reintegration measures. The Commission will also revise its approach to readmission agreements, prioritising the main countries of origin of irregular migrants (Commission, 2015d, p.10).

When presenting the second pillar of the Agenda ('Border Management – saving lives and securing external borders'), the role of Frontex is emphasised:

> The development of high standards inside the EU will also make it easier for Europe to support third countries developing their own solutions to better manage their borders. Initiatives in key African and neighbourhood countries could be supported by Frontex as well as by EU funding and related initiatives in the context of EU neighbourhood and development policies. The goal should be to encourage more secure borders, but also to strengthen the capacity of countries in North Africa to intervene and save lives of migrants in distress. (pp.11-12).

Next, the fourth pillar of the Agenda deals with 'A New Policy on Legal Migration'. Of relevance is the allusion to DG HOME's efforts to develop a "new legal migration policy mirroring the modernisation of our visa policy" (p.15). In particular, reference is here made to the revision of the EU Visa Code and the proposed new type of visa: the EU Touring Visa. The Agenda states that this initiative aims at maximising "the positive economic impact of attracting more tourists, and visitors on personal or professional grounds while minimising the risks of irregular migration and security" (pp.15-16). This is a fundamental aspect of the Agenda, which brings back the tensions behind the differentiation of the GAMM between 'migration' and 'mobility'-related policy approaches and priorities.

The Agenda also mentions actions falling within the scope of 'well managed regular migration and visa policy', which includes different Commission services instruments such as the EU Blue Card Directive and Directives on Students and Researchers, as well as the plan to undertake a 'fitness check' or evaluation/assessment of the existing EU *acquis* on legal migration to identify gaps and inconsistencies (DG HOME); services and Free Trade Agreements (DG Trade); and the identification of economic sectors and occupations facing "recruitment difficulties or skill gaps", and the use of tools like EURES (Europe's Job Mobility Portal), as well as issues related to recognition of qualifications acquired by migrants through the European Qualification Framework and the revision of EUROPASS system (DG Employment, Social Inclusion and Equal Opportunities).

The Agenda alludes to the need to maximise the "development benefits for countries of origin", so that

> … migration-related targets should be included, alongside targets in areas such as promoting decent work, youth employment, wage and social protection policies which can help countries of origin to create better economic opportunities at home. The EU will continue to actively support migration-related targets as part of the final overall framework, and to emphasise the importance of harnessing the positive effects of migration as a horizontal means of implementation for the post-2015 development agenda (p.16).

The focus seems to be one not on a kind of development driven by a purely EU home affairs interests, but rather on the development and interests of the countries of origin. The Agenda states that this will complement the work of the EU in Mobility Partnerships, which until now have been conducted by DG HOME in the drivers' seat (Carrera, den Hertog and

Parkin, 2012). It is in the context of MPs that the GAMM is for the first and only time expressly mentioned in a footnote as follows

> These are the most elaborated bilateral cooperation frameworks in the field of migration. They offer a political framework for comprehensive, enhanced and tailor-made dialogue and cooperation with partner countries, including a set of targets and commitments as well as a package of specific support measures offered by the EU and interested Member States. They include the negotiation of visa facilitation and readmission agreements. (p.16)

Also, here a development-driven approach to the discussion becomes transparent (which one could attribute to DG DEVCO) when reference is made to the Commission making available €30 million to support 'capacity building' on

> effective management of labour migration, focusing on empowering migrant workers and tackling exploitation. To mirror the success of Europe in establishing a single market underpinned by labour mobility, the EU has also launched a EUR 24 million initiative to support free movement in the Economic Community of West African States. Regional labour mobility schemes encouraging South-South mobility can bring an important contribution to local development. The Commission will also promote ethical recruitment in sectors suffering from a lack of qualified workers in countries of origin by supporting international initiatives in this field. One way in which the EU can help to ensure that countries of origin benefit from migration is through facilitating cheaper, faster and safer remittance transfers. Adoption of the proposal for a "EU Payment Services Directive II"48 would help to strengthen the regulatory environment for remittances, and at least EUR 15 million will be made available through the Development Cooperation Instrument to support flagship initiatives in developing countries (Commission 2015d, p.16).

5.2 When Migration Policy Goes Abroad: Who are the EU Actors?

Who are the main EU institutions and agents shaping and driving the externalisation of EU migration policies? Who goes abroad and what are the impacts on *the kind* of policies pursued/prioritized (in particular in respect of temporary migration) and the accountability challenges encountered in these decision-making processes?

When looking critically at the European Migration Agenda and other tools delivering the EU's external dimension, it is important to assess 'who' are the actors involved in shaping and delivering which instruments, their relations, what their agendas actually are and to what extent their contributions convey a 'securitized' approach to cross-border human mobility as 'migration' or 'mobility'.

This section presents a preliminary mapping of the main EU institutions with competences over the external dimension of EU migration policies. As stated previously, it pays particular attention to the extent to which the new European Commission and EEAS, which have been in charge of elaborating the European Migration Agenda, have brought any changes to the rationale driving so far the EU external migration policies studied in section 2 of this report.

5.2.1   The European Commission

The European Commission has been one of the main actors involved in the delivery and the implementation of foreign affairs legal and policy related instruments concerning EU's external dimension. The competences and mandates of the different bodies of the Commission active in this field are various and there is a great deal of overlap and competing interests between its different Services and Directorate-Generals (DGs) which have

contributed to the creation of a fragmented, disparate landscape of actors, competences and roles. The new Jean-Claude Junker's Commission established a new college of Vice-Presidents with overarching powers and coordination responsibilities over multiple DGs. The intention has been to ensure more synergies and policy coordination/monitoring between the different Commission DGs, which corresponds to the 'better regulation strategy' adopted by the Commission (Commission, 2015e).

Several Commission DGs are directly or indirectly involved in migration-related affairs, and its external governance, primarily DG Migration and Home Affairs (HOME), but also other internal services such as DG International Cooperation and Development (DEVCO) (see table 2 below). All demonstrate a 'sector-by-sector' approach, a characteristic of the intra-institutional structure and composition of the Commission. These DGs, while being in charge of different policies, often deal with apparently similar policy issues, yet with fairly different understandings and policy approaches of what the issues and needs are. A particular example is the EU external migration policy, which at least formally is meant to combine not only home affairs policy priorities, but also development cooperation policies.

Previous research has demonstrated that even after the entry into force of the Lisbon Treaty, DG HOME has been at the driver's seat of the EU external migration policy and the implementation of the GAMM (ibid). Turf wars or ideological conflicts between the relevant institutions have intensified post-Lisbon as regards the division of roles between the EEAS and the Commission (Carrera, den Hertog and Parkin, 2012). The external dimensions of migration policies have offered a unique opportunity for this DG to 'Europeanize' migration policies via a route that does not threaten to directly encroach on national immigration systems and member states' discretion. DG HOME has used the external dimensions as an alternative means of extending its powers, discretion and competences (ibid.).

DG DEVCO has been identified as another relevant actor delivering the EU's external migration policy, yet from the perspective of 'development cooperation' and mainly through funding instruments, and as an enabler of cooperation between EU and third countries. Through the activity of its Directorates working on Human Development and Migration, trade liberalisation or on relations with specific regions, DG DEVCO has provided funding, and external assistance instruments for development abroad. To a lesser extent, as underlined in section 5.1 above, it has also been involved in the implementation of the GAMM and is now contributing to an understanding of development which is not predominantly EU-centric and migration-control focused through EU development funding.

There are important differences regarding the normative approach taken by DG HOME and DG DEVCO as regards *the kind of priorities of priorities* driving EU external migration policies. These are mainly as regards 'in whose benefit'. DG DEVCO's approach is becoming clearer in saying that EU actions should not be driven by EU member states' benefits or interests, but rather for the benefit or development of the partner country concerned. Interviews conducted for the purpose of this paper have revealed that a key point of disagreement between these DGs has been the emphasis put by DG HOME on return and readmission, which collides with the focus on development by DG DEVCO. DG HOME has given overwhelming priority to migration control and security-focused capacity building and funds to be closely tied to EU home affairs interests e.g. funds which have been allocated for improving readmission and return, or building capacity in border control and surveillance. A new guiding logic is reflected in the European Migration Agenda according to which the new financial programmes focus on third countries interests (South-to-South actions) and development does not seem to follow purely migration-control focus. The extent to which this will be effectively implemented into practice will call for close scrutiny and analysis.

As it has been underlined in section 4 above, EU external migration policy is also composed by legal instruments taking the form of Association and Partnership Agreements, as well as Trade Agreements. Interestingly, some of these include mobility-related clauses and provisions, some dealing with 'migration' (e.g. readmission clauses) and others with 'mobility' (e.g. non-discrimination clauses, services provisions, right of establishment, social security provisions, etc.). In what concerns trade agreements, the leading DG inside the European Commission is DG TRADE. Association and Partnership Agreements are however led by the EEAS, see below. The new Commission trade strategy (Commission, 2015f), drafted by DG TRADE, includes one section dealing with 'mobility and migration', with special focus on the mobility of professionals and services, stating that

> the temporary movement of professionals has become essential for all sectors to conduct business internationally. It facilitates exports and provides ways to bridge skills gaps. Restrictions to mobility are widespread internationally and may impair the full benefits of trade and investment agreements. Mobility of professionals does not undermine social and employment laws and regulations. The economic potential of the temporary movement of service providers in particular is highlighted in the European Agenda for Migration. The agenda also calls for the better use of synergies across policy areas in order to incentivise the cooperation of third countries on migration and refugees issues. Trade policy should take into account the policy framework for the return and readmission of irregular migrants (p.12).

The trade strategy proposes that the Commission (DG TRADE) will negotiate trade agreements including: mobility provisions directly related to the sale of particular goods and equipment; certain benefits for intra-corporate transferees; entry and residence for third country nationals to provide a service on a temporary basis; and the recognition of qualifications. It is at present unclear how the Commission will ensure these 'synergies' between trade policy and EU policy on return/readmission and visa facilitation, and the extent to which the migration or mobility approach will prevail in these cooperation frameworks.

The new Juncker's Commission has indeed brought important intra- and inter-institutional transformations in the EU migration policy landscape. Figure 2 below shows the new relevant Services and DGs working on portfolios with direct/indirect relevance to EU external migration policies. The creation of the new positions within the Commission, such as the appointment of the First Vice-President (Timmermans) in charge of rule of law and the EU Charter of Fundamental Rights, and the creation of the position for a Commissioner for Migration, Home Affairs and Citizenship, given to Avramopoulus (DG HOME), shows a clear political attempt to delineate the Commission's migration agenda differently. The First Vice-President is set to coordinate the Commission's work in the field of Justice and Home Affairs. This includes both coordinating and guiding the work of the Commissioner for Justice, Consumers and Gender Equality (DG JUST) and the Commissioner for Migration and Home Affairs (DG HOME) (Carrera and Guild, 2015).

The newly established position of the Commissioner on Migration, Home Affairs and Citizenship is another new element which was expected to impact the sharing of responsibilities in delivering the EU's external dimension policies, since the new mandate aims to provide assistance on issues related to containing the effects of migration, through boosting the effectiveness of border control, combatting irregular migration and fighting against terrorism and radicalisation. However, no relevant change in the actual work and approach of the DG could be really discerned in our research, apart from losing a high degree of political leverage in favour of the First Vice-President. Indeed, although the new Commissioner has been appointed with the aim of dealing with migration issues, his/her mandate falls more under a 'home affairs' and security-focused approach to migration. As figure 2 below shows, DG HOME continues to be in the driver seat when it comes to Mobility

Partnerships and CAMMs. However, the increasing role of the External Action Service and the EU Delegations in high level political dialogues with these same countries needs to be further examined (see section 5.2.2 below). The development of a framework for labour immigration is to be carried out in partnership with DG EMPL, yet still under the leadership of DG HOME, which continues to be in the drivers' seat of the external dimensions of EU migration policy under the political coordination and monitoring of the First Vice-President and Juncker's Cabinet (see Figure 2 below).

Despite these formal institutional re-configurations and Juncker's efforts to ensure better intra-Commission coordination, it is at present unclear the extent to which the exact inter-DG linkages, synergies and relations, are cooperating, competing or overlapping, and for what outcomes when it comes to EU cooperation with third countries when it comes to migration policies. The processes of rapid and urgent adoption of the set of instruments responding to the current so-called EU 'refugee crisis', show however mixed and worrying results. It is striking to see how, as advanced in section 2 above, there has been a step back thirteen years to what the Seville European Council Conclusions of 2002 intended (back then unsuccessfully) to do: i.e. conditioning development cooperation and other EU policies as an incentive for third countries to cooperate with the EU on readmission and return of irregular migrants. The EU Action Plan on Return published by the Commission the 9 September 2015 states that

> substantial leverage should also be identified outside the home affairs area to increase cooperation on readmission from third countries, in line with the request from the 25-26 June 2015 European Council that, "building on the "more-for-more" principle, EU assistance and policies will be used to create incentives for implementing existing readmission agreements and concluding new ones". Additional elements of leverage that should be used include development assistance, neighbourhood policy, trade agreements and trade preferences (with the possibility to link the conclusion of free trade agreements or the granting of preferential treatment for certain third countries to the parallel conclusion of a readmission agreement), education (Erasmus +) and culture. Member States are strongly encouraged to identify leverage in the areas that fall under their national competence, such as access of third country nationals to their labour markets (Commission, 2015g, p. 14).

This approach was then confirmed by the European Council Conclusions of 15/16 October, where EU member states agreed on the need to

> further increase leverage in the fields of return and readmission, using where appropriate the "more-for-more" principle. In this regard, the Commission and the High Representative will propose, within six months, comprehensive and tailor-made incentives to be used vis-à-vis third countries (Commission, 2015g, p. 15).

It therefore seems that, against preliminary expectations (Carrera and Guild, 2014), the involvement of the First Vice-President and the new Commission's configurations have not nuanced but rather exacerbated a home affairs driven approach in EU's relations with third countries on migration. Also, according to interviews conducted for the purposes of this report, the quick adoption of the Commission's measures responding to the refugee crisis has not always allowed proper inter-DG consultations with Commission services specialised in questions of development and fundamental rights, such as DG JUST and DG DEVCO. It was also expected that the new Commission would be working more closely with the European Parliament in these fields (Carrera and Guild, 2014), which so far has also not been really the case either in reality.

5.2.2   The European External Action Service

The High Representative of the Union for Foreign Affairs and Security Policy, who is also Vice-President of the European Commission (HR/VP), has been granted the task to ensure a unitary and 'coherent' image of the EU in the global arenas by the Treaties. The HR/VP leads the EEAS, established by the Treaty of Lisbon as a diplomatic service aimed at shaping the EU also as an external foreign policy actor. It has sought to ensure the consistency and coordination of the Union's external policies, including those related to migration. The EEAS includes more than 130 Union Delegations in non-member countries and international organisations, which represent the rotating Presidency and the EU's common foreign and security policy (CFSP) abroad.

In the field of the CFSP the HR/VP, together with the Commission, can enter in political dialogue with third countries as a representative of the Union. Moreover, as figure 2 below shows, as VP of the Commission, Mogherini coordinates in the so-called 'Europe in the World Project' all the relevant Commission DGs with competences in areas presenting an 'external dimension', which include DG HOME. As studied in section 5.1 above, the European Agenda on Migration now embeds 'external aspects' into all aspects composing the EU migration policy agenda. It for instance envisages under the pillar 'Reducing the Incentives for Irregular Immigration' as a key priority the partnerships with countries of origin and transit and making migration a core issue of EU Delegations abroad. In order to provide a link between the legal and policy tools and the actors implementing them we have developed the following table showing, in a snapshot, which European Commission and EEAS actors are in the driving seat when negotiating the most important instruments.

EU institutional actor	Legal and policy instruments	Partner institutions sharing responsibility
DG HOME	Readmission Agreements	EEAS
DG HOME	Visa Facilitation/Liberalisation Agreements	EEAS
EEAS	Association Agreement	DG HOME
EEAS	Partnership Agreement	DG HOME, EEAS
DG TRADE	Trade Agreement	DG HOME, EEAS
EEAS	High Level Dialogues	DG HOME
DG HOME	CAMMs	EEAS
DG HOME	MPs	EEAS
EEAS and DG HOME	Political Processes and Regional Dialogues	
DG HOME and DG DEVCO	Projects and Programmes	EEAS

Table 2: Inter-links between legal and policy instruments and European institutional actors implementing them
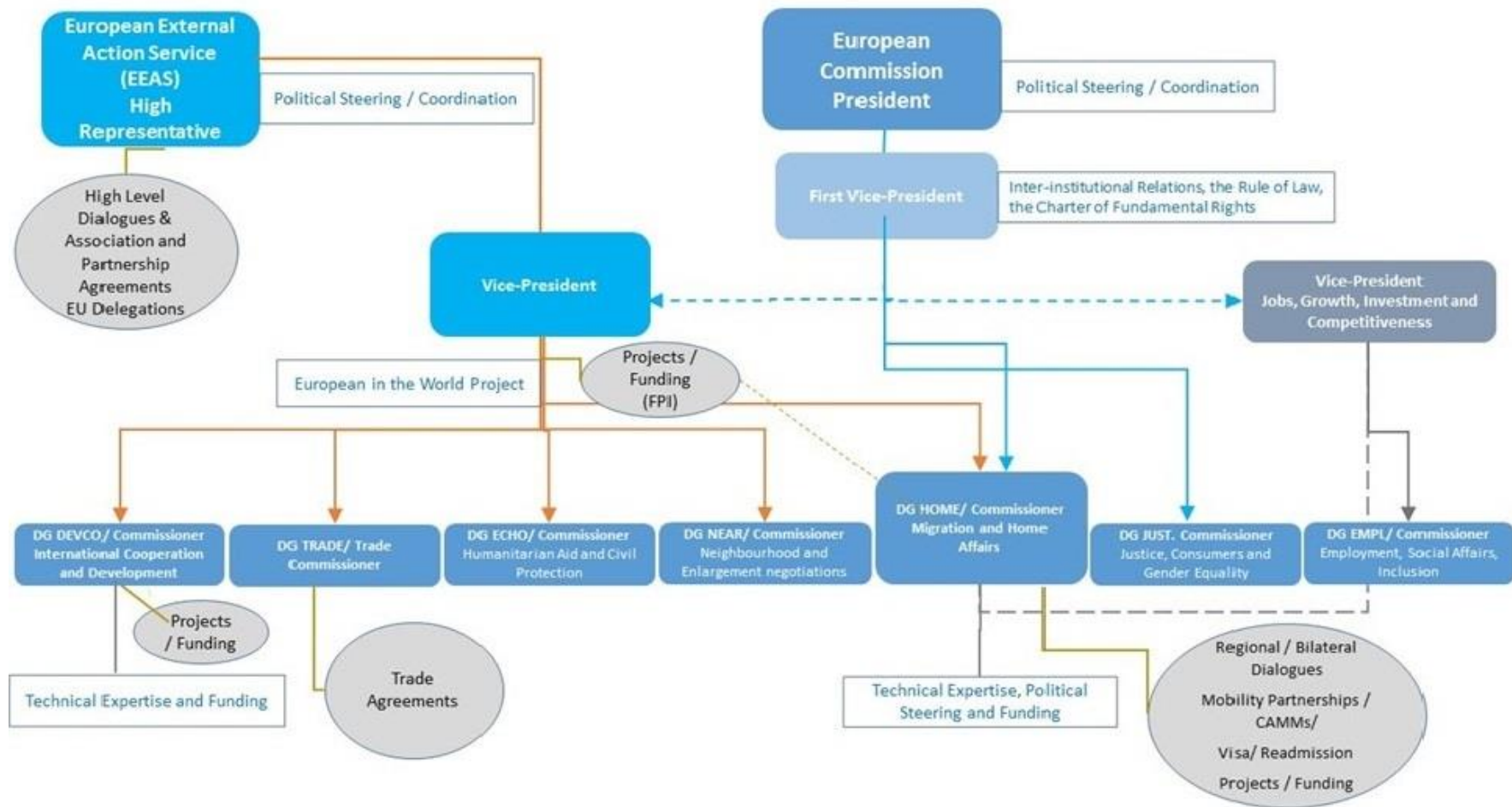
Figure 2: European Commission and EU external migration policy

5.2.3 The Council

Another central actor in the making and implementation of both legal and policy instruments in EU external migration policy is the Council of the EU, which represents EU member states' governments. Key actors inside the Council in charge of the strategic components of EU migration policies (both internal and external dimensions) are the High Level Working Group on Migration and Asylum (HLWG) as well as the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA). The presence of national officials/senior experts from the Interior Ministries of the member states in the HLWG, and in the SCIFA has brought forward the continuation of home-affairs approach to the agendas discussed (Carrera, den Hertog and Parkin, 2012; Chou 2009; Boswell, 2003). Although the HLWG formally reports to the Foreign Affairs Council, and as shown in graph 4 below, its conclusions receive little attention in this forum and its de facto line of command is to the Justice and Home Affairs Council (ibid). Moreover, in the recent stands of the Council, there seems to be a strong security-driven approach of migration, motivated by the need to find 'solutions to migratory pressures'. As such, in the Council Conclusions there is reference to the need to 'to further increase leverage in the fields of return and readmission, using where appropriate the "more-for-more" principle.' (Council, 2015d).

The Council intra-institutional configurations dealing with EU external migration policies have been subject to some innovations and important discussions during the last years. A new JAI-RELEX Working Party (JAIEX) has been set up in charge of coordinating external relations and JHA policies, yet it seems to be dealing with mainly police and criminal justice cooperation aspects and EU home affairs agencies like Europol and Eurojust. There have been important internal discussions concerning the intra-institutional design of the Council when it comes to the external dimensions of EU migration policies. In a joint informal meeting of Ministers of Foreign Affairs and Ministers of Interior in Rome on 27 November 2014, the Committee of Permanent Representatives (COREPER) was invited to conduct a review of the working methods and mandates of the Council preparatory bodies. The ministers agreed on the relevance of

> improving coherence and coordination across the internal and external policies, in particular in order to address more effectively the current migration and security challenges. It was in particular felt that, to reach this objective, *further coherence and coordination are required between the EU institutional structures and working methods of the relevant committees and working parties* tasked with the strategic and operational implementation of the different actions in the field of home affairs and external affairs (Council 2015g) (Emphasis added).

The main goal would be to achieve better coordination and a global approach between home affairs and foreign relations working parties (Council, 2015c). The Trio Presidency (Italy, Latvia and Luxembourg) expressed their wish to work jointly to address

> existing overlaps and improve the efficiency of the decision making processes of SCIFA, High Level Working Group on Asylum and Migration (HLWG), CATS and JAIEX, especially concerning the interaction between external and internal dimensions of migration (Council 2015c, p.1).

The possibility of merging existing Council groups was even expressly mentioned. In the light of this, the Dutch Presidency, together with the Trio Presidency of that time, announced a set of follow up actions, with particular focus on improving the relations between SCIFA and the HLWG: First, in what concerns SCIFA and the HLWG, their meetings will take place "whenever possible" back-to-back; one SCIFA-HLWG joint meeting will take place under each Presidency; their agendas will be coordinated; their respective

Chair persons will attend their meetings; and discussions "will be organized with a view to elaborate common strategic priorities on the basis of coherent inputs from relevant EU bodies, offices and agencies.". Second, the practice will be evaluated during the Luxembourg Presidency (second half of 2015) and a possible revision of the "terms of reference" of SCIFA, HLWG, JAIEX and CATS will be considered by COREPER in a later phase (Council, 2015c).

The exact ways in which these new institutional configurations will be implemented and how these will influence the Council outputs and instruments in the EU external migration policy call for careful examination. Their implications for the kind of policy outputs will need to be carefully monitored.
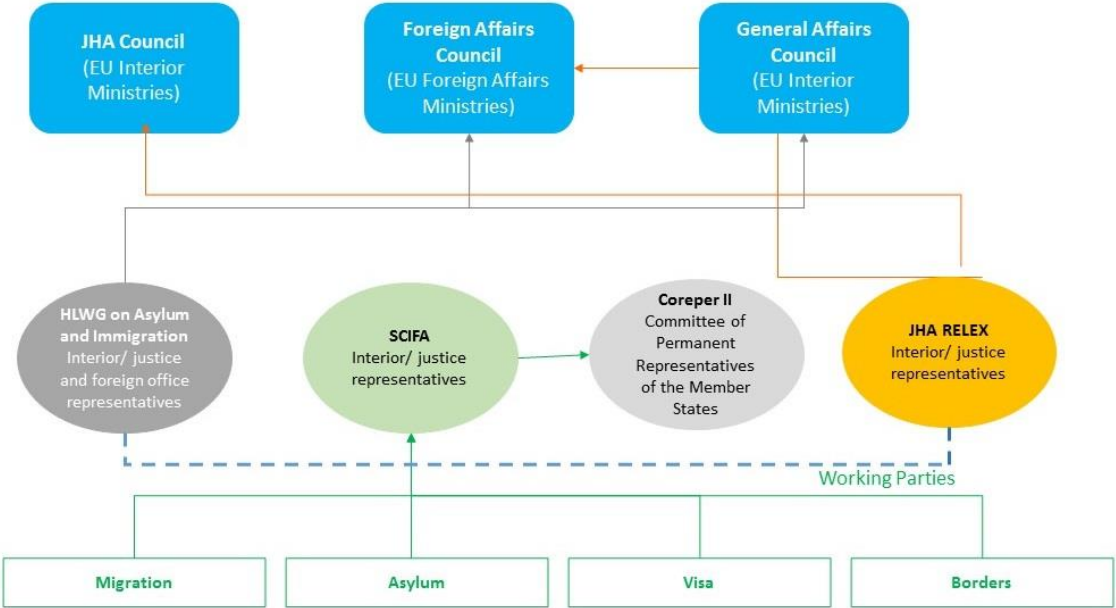

Figure 3: Council Actors and EU External Migration Policy

(Source: Carrera, den Hertog and Parkin, 2012)

5.2.4 The European Parliament

The external dimensions of EU migration policies have been said to be affected by a democratic deficit (Carrera and I Sagrera Hernandez, 2009). The entry into force of the Treaty of Lisbon has brought forward the European Parliament as a co-legislator (Carrera, Hernanz and Parkin, 2013), balancing the power of the Council of the European Union which previously retained a monopoly in the legislative decision making process.

In this new role, the European Parliament (EP) is now involved in the conclusion of international agreements as well as the adoption of legislation dealing with all migration components envisaged by the Treaties (ibid.). That notwithstanding, the European Parliament is not always fully and comprehensively involved in EU negotiations with third countries when it comes to the design and setting of priorities in international agreements, and its role continues to be mainly ad hoc (Carrera, Hernanz and Parkin, 2013).

Moreover, the fact that the EU external migration policy is developing through soft/policy instruments, such as Mobility Partnerships and Common Agendas on Migration and Mobility, side-lines the role of the Parliament and limits the democratic control and transparency of 'who' and 'what' goes abroad in this highly evolving and dynamic policy domain.

6. Conclusions

This section presents the main findings and conclusions of the report, set against the research questions guiding Work Package 3. It synthesizes the main implications stemming from the mapping of the instruments, actors and their priorities in EU external migration policy. It also advances research questions which will guide Task 3.2, in order to ensure the relevance of the research in light of the general and specific objectives of the EURA-NET Project.

The report has provided a detailed empirical account of the main legal instruments and policy tools, and the EU institutional actors behind them, comprising the external facets of EU migration policy under the GAMM and the European Migration Agenda. The following key findings can be especially highlighted on the basis of the research:

First, in relation to the instruments, the analysis shows a largely fragmented, heterogeneous and diverse setting of legal instruments and policy tools when the EU goes abroad. This setting constitutes a patchwork of instruments, venues and processes of cooperation between the EU and third countries. The legal nature of the instruments differs considerably from region to region and are often country-specific, which has direct negative implications concerning obstacles for proper monitoring of impact, democratic accountability and human rights compliance scrutiny. This is important with respects to the main research interests of the EURA-NET project, namely migration between Europe and Asia: figure 1 showed that particularly southern and eastern Asian countries are not targeted by EU external migration policies, especially as compared to the high number of policy instruments targeted at eastern European and North African countries. One notable explanation for this may be the absence of an overarching regional dialogue bringing together all EU and Asian countries. Such dialogues exist for other regions and sub-regions in the world.

Secondly, section 4 outlined the objectives and format of each of the legal and policy instruments, however further research is needed to determine what these instruments actually mean and what their functions really are in practice. Implementation of EU external migration policy has been understudied in the literature, and the second part of Work Package 3 will address this deficit by investigating how EU external migration policy functions and what the outcomes are in terms of mobility. More research is needed as regards what kind of cooperation is part in each of these instruments, the approach which predominates as regards the regulation of cross-border mobility (migration versus mobility), the actual outcomes their existence amounts to migratory movements, and the actual degree of use by EU member states (in contrast to existing bilateral frameworks of cooperation with those same countries), or whether they serve a more symbolic political function. Work Package 3 will investigate the actual functions of the EU external migration policy instruments and the exact ways in which mobility is framed and which EU setting of priorities (home affairs, development, trade, etc.) predominate with which countries.

This report has shown that EU external migration policy is framed predominantly in a Eurocentric and home affairs (security-focused) manner: the EU is not considered as a source country of emigration. Further research is needed to determine the extent to which the EU incorporates treatment of EU migrants into its cooperation with Asian countries.

In relation to the EU *institutional* actors, the report has assessed the main transformations brought by the new European Commission and European External Action Service (EEAS) into the external dimensions of EU migration policies. DG HOME of the Commission continues to be in driver seat when it comes to the implementation of the EU's external migration agenda, yet under very close coordination and political (top-down) monitoring from the President and First-Vice President of the Commission. The EEAS has

gained political weight in the setting of priorities, the coordination of Commission DGs with external dimension components, and the conduct of high level dialogues with third countries, with an increasing role for the EU Delegations on migration-related issues. The European Migration Agenda, which has somehow taken over the previous GAMM, constitutes a perfect illustration of these new EU institutional developments.

Surprisingly, these new developments have led to a reinforcement or reinvigoration of a home affairs/control-oriented security agenda, which takes us back to the original insecurity driven rationale of EU external migration policy, when the EU engages with third countries. This is illustrated by the current move (thirteen years backwards to the 2002 Seville European Council Conclusions) to apply a 'more-for-more' conditionality approach in EU external relations, so that third countries are obliged to accept EU policy transfer of its readmission and return/border controls and surveillance policies in exchange for external cooperation and development funding as well as a few legal opportunities for mobility.

Few significant changes have been so far identified when it comes to the role played by the Council and the European Parliament since the entry into force of the Lisbon Treaty. The Council continues to be driven by a predominantly national security-focused approach, not fully engrained into a wider foreign affairs, development and human rights agenda. Its current inter-institutional design and working arrangements still favour a Ministry of Interior and Justice-approach to migration-related outputs. The democratic accountability by the European Parliament continues to be by and large limited and sometimes completely circumvented, which remains a profound weakness at times of monitoring and scrutinizing the EU's cooperation with third countries.

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Appendix 1
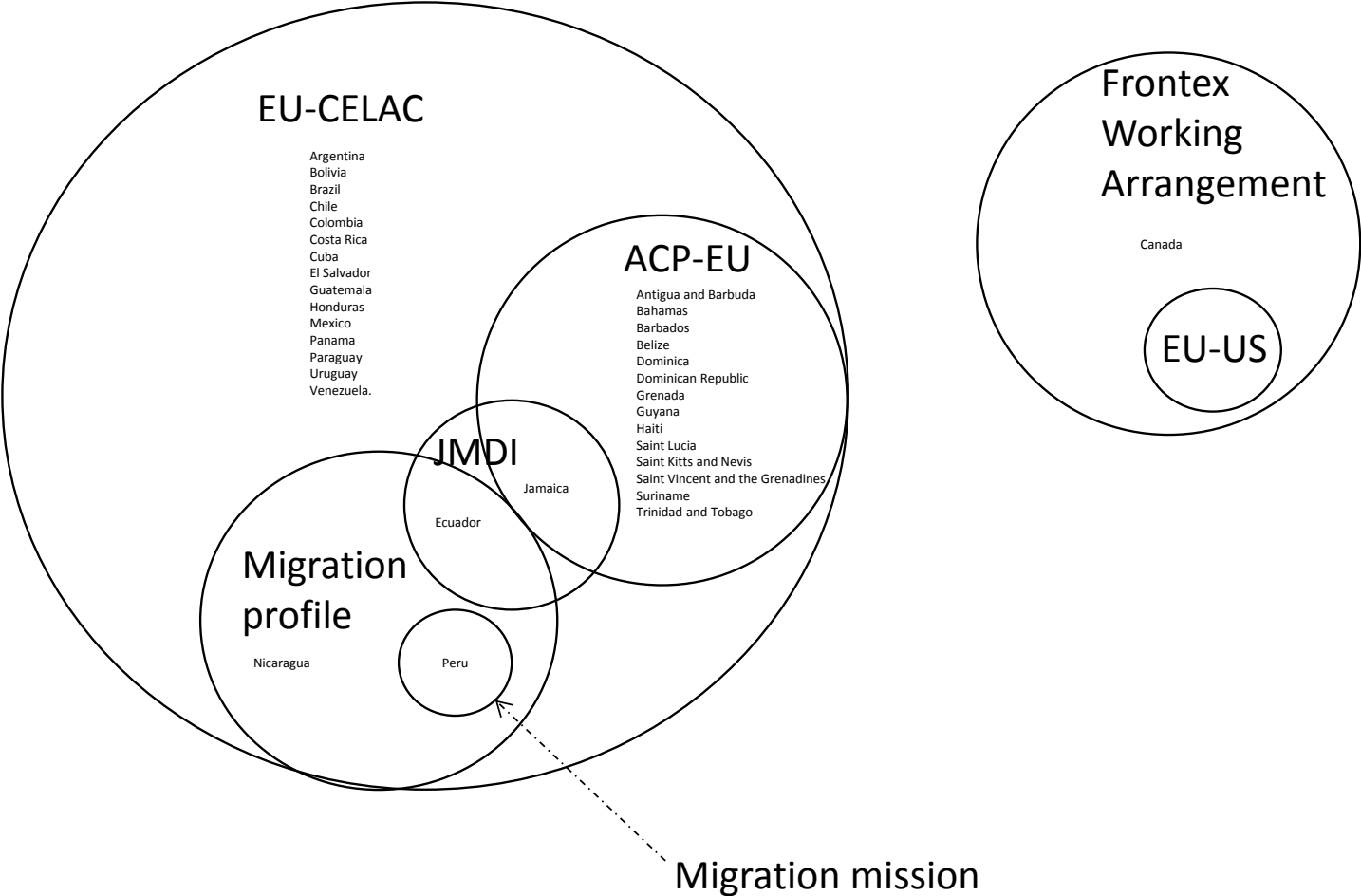
Figure 4: EU external migration policy in the Americas

Dialogue on Migration,
Mobility and Security

Frontex Working
Arrangement

Readmission and
visa facilitation

Rabat

MP

Association Agreement

Migration
profile

Morocco

Algeria
Egypt

Tunisia

Cape
Verde

Sudan

Libya

Benin
Democratic Republic of Congo
Ivory Coast
Mali
Niger

Nigeria

Cameroon
Ghana
Mauritania
Senegal

ENP

Burkina Faso
Chad
Congo
Gabon
Gambia
Guinea
Guinea-Bissau
Equatorial Guinea
Liberia
Sierra Leone
Togo

Central African Republic

ACP-EU

Ethiopia
Kenya
South Africa
Tanzania

Angola
Botswana
Burundi
Comoros
Djibouti
Eritrea
Lesotho
Madagascar
Malawi
Mauritius
Mozambique
Namibia
Rwanda
São Tomé and Príncipe
Seychelles
Somalia
Swaziland
Uganda
Zambia
Zimbabwe

CAMM

Africa-EU

South Sudan
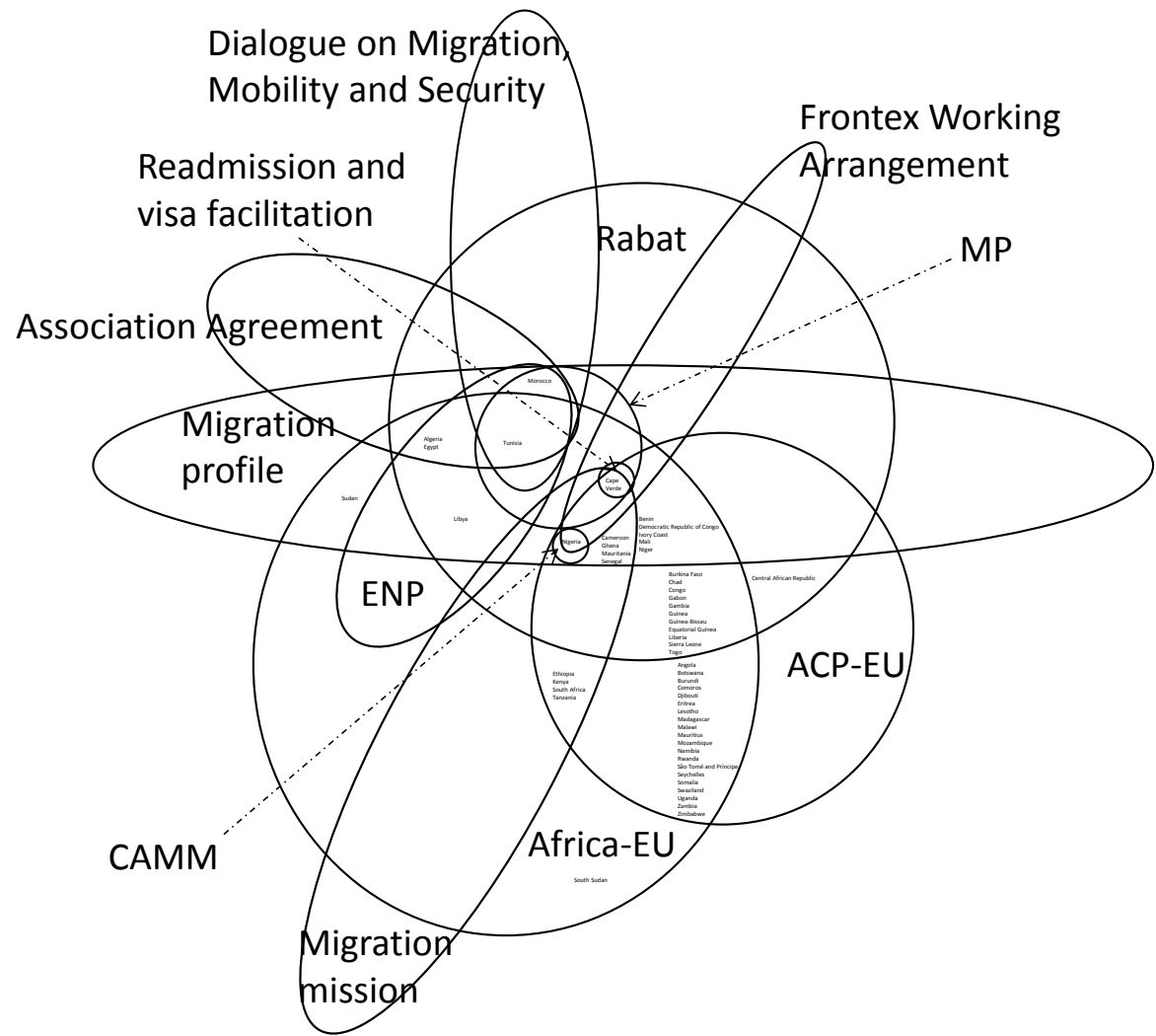
Migration
mission

Figure 5: EU external migration policy in Africa

Country / Instrument	Albania	Algeria	Armenia	Azerbaijan	Belarus	Bosnia and Herzegovina	Egypt	Georgia	Israel	Jordan	Kosovo	Lebanon
MP			X	X				X		X		
Readmission	X		X	X		X		X				
Visa facilitation	X		X	X		X		X				
Visa liberalisation								X			X	
Migration profile		X	X	X	X		X	X		X		X
Migration mission			X	X	X			X				
Dialogue on Migration, Mobility and Security										X		X
Frontex Working Arrangement	X		X	X	X	X		X				
Rabat		X					X					
Prague			X	X	X	X		X			X	
Budapest	X		X	X	X	X		X				
Africa-EU Dialogue		X					X					
Eastern Partnership			X	X	X			X				
Association Agreement		X					X	X	X	X		X
ENP		X	X	X	X		X	X	X	X		X
PCA			X	X				X				
Bilateral dialogue												
JMDI		X					X	X				

Instrument \ Country	Libya	Macedonia	Moldova	Montenegro	Morocco	Palestinian Territories	Russia	Serbia	Syria	Tunisia	Turkey	Ukraine
MP			X		X					X		
Readmission		X	X	X			X	X			X	X
Visa facilitation		X	X	X			X	X				X
Visa liberalisation			X				X				X	X
Migration profile	X		X		X	X	X	X	X	X	X	X
Migration mission												X
Dialogue on Migration, Mobility and Security					X					X		
Frontex Working Arrangement		X	X	X			X	X			X	X
Rabat	X				X					X		
Prague		X	X	X			X	X			X	X
Budapest		X	X	X			X	X			X	X
Africa-EU Dialogue	X									X		
Eastern Partnership			X									X
Association Agreement			X		X					X	X	X
ENP	X		X		X	X			X	X		X
PCA			X				X					X
Bilateral dialogue							X					
JMDI			X		X					X		

Table 3: EU external migration policy in the EU neighbourhood

Figure 6: EU external migration policy in Asia

ACP-EU

Cook Islands
Fiji
Kiribati
Marshall Islands
Micronesia
Nauru
Niue
Palau
Papua New Guinea
Samoa
Solomon Islands
Timor-Leste
Tonga
Tuvalu
Vanuatu
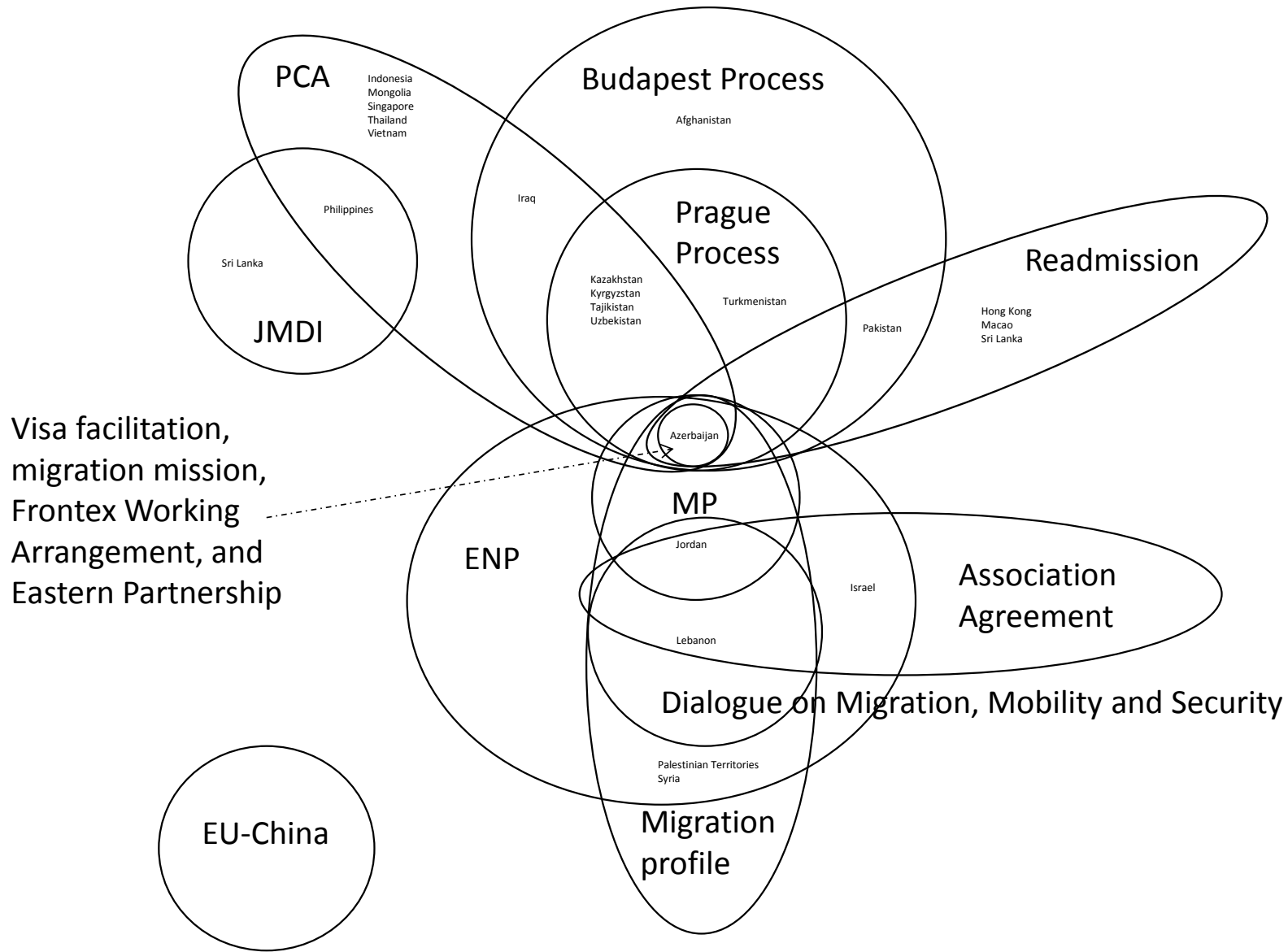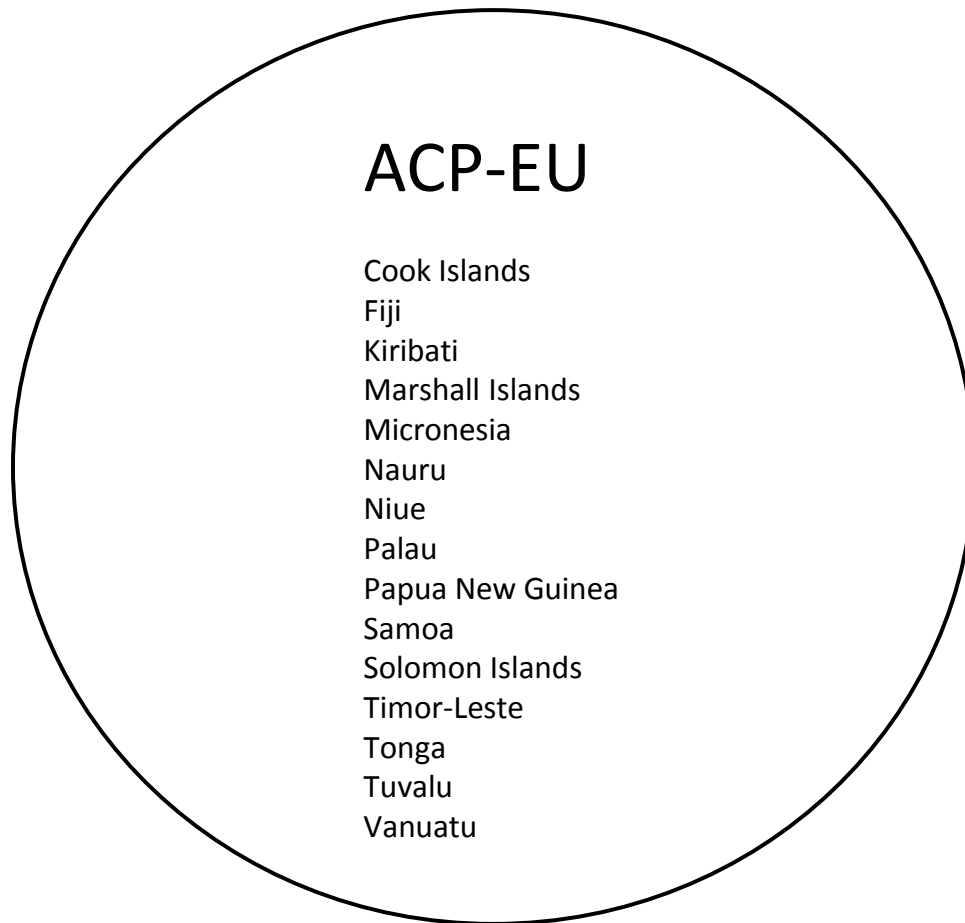
Figure 7: EU external migration policy in Oceania

Figure 8: Map of EU external migration policy in eastern and south-eastern Europe