WILL TAILOR-MADE MIGRATION DEALS HELP TO SOLVE THE EUROPEAN MIGRATION 'CRISIS'?

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ABSTRACT

When the refugee 'crisis' is referred to the focus is usually placed on large and uncontrollable flows of refugees coming to Europe. The real 'crisis', at least in terms of numbers, however clearly takes place somewhere else. In Lebanon 19% of the current population consists of Syrian refugees. In Europe this is only 0,06%. Apart from the fact that most people prefer to stay in neighboring countries Europe as a region is also deliberately keeping the numbers of refugees low by introducing more restrictive migration laws at their own borders, as well as across borders like for example the recent deal with Turkey where border control is externalized. In this chapter we argue that the refugee crisis is not about the inflow of refugees, but about Europe's internal sense of a crisis and that migration deals are not a satisfactory answer to the crisis. Looking back in time we see that there have been numerous examples of migration deals, partnerships, agreements but that up to now these deals have not been able to turn the tide and solve the migration 'crisis'. We argue that in order to find a sustainable solution more attention needs to be given to providing legal pathways to migration (instead of stopping migration). Instead of spending billions of Euros on border controls and Frontex ships, reception camps and detention centres, asylum procedures, deportations and reception centres etc. we call for an alternative approach: Investing in job creation infrastructure in 'hospitable places' via local authorities.

Introduction

Since the beginnings of 2015, the *European migrant crisis,* or the *European refugee crisis*, is at the top of policy agendas in the EU as well as in individual European countries. In this period, rising numbers of asylum seekers and migrants travelled across the Mediterranean Sea or overland through Southeast Europe to arrive in the European Union for finding a safer and better life. The top three nationalities of entrants of the over one million Mediterranean Sea arrivals between January 2015 and March 2016 were Syrian (47%), Afghan (21%) and Iraqi (9%), in addition to considerable numbers coming from various African countries.[1] In addition to problems related to how to deal with the inflow of thousands of migrants (mostly concentrating in Italy and Greece), the number of deaths at sea rose to record levels in April 2015, when more than 1200 people drowned in the Mediterranean sea after the sinking of their boats.[2]

One of the direct responses to tackle the refugee 'crisis' was the EU-Turkey deal which has formally come into effect on 20 March 2016. This 'deal' fits a wider trend in Europe of

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[1] (UNHCR 2017
[2] (Migration Policy Institute 2017).

externalizing migration policies and shifting responsibilities for migration control onto countries of origin and transit. In the context of the current 'crisis' in Europe and a hardening political climate we however observe that the EU Turkey Statement and the solution of offshoring and outsourcing responsibilities is explicitly presented as a way to *solve* the 'crisis'.

According to the EU Turkey Statement Turkey agreed to collaborate in a scheme enforcing that migrants arriving in Greece who did not apply for asylum or whose claim was rejected would be sent back to Turkey. With the deal, it was hoped people will be discouraged from making the dangerous journey by sea from Turkey to Greece. In return, Turkey would receive aid and political concessions like visa deregulation. From the beginning there has been much discussion about the 'success' of this EU-Turkey migration deal. Since the start of the scheme, the inflow of migrants and refugees has considerably decreased, but it is not clear whether this 'success' can be attributed to the EU-Turkey deal: according to the opponents, reduced inflows of migrants/refugees into the EU was (also) the consequence of the closure of the Balkan route, as well as the result of 'normal' seasonality and the ending of the migration life cycle (most people having left in the earlier period). In addition, opponents criticize the EU-Turkey deal for being illegal and immoral: In spite of human rights violations, Turkey is presented as a safe country and there is much discussion about the EU being responsible for people being detained in Turkey without access to asylum.[3]

There are also implementation problems: Greece and Turkey do not have the required capacity to host and 'process' large numbers of people, who in majority will be forced to return to their countries of origin. Along with the introduction of the EU-Turkey deal possibilities for people to get asylum are very much reduced and increasing numbers of people are forced to return. One week after the EU Turkey Statement was implemented Turkey signed a Readmission Agreement (that was long in the making) with Pakistan.

Also, the accompanying system to redistribute accepted refugees throughout the EU has largely failed, as member states have not met their promises. At the start of the EU Turkey Statement it was promised to resettle 72.000 refugees across EU Member States. However, so far (November 2017) less than 9.000 have been resettled under the EU Turkey Statement. At the borders of Europe – within and outside of the EU – large and heterogeneous groups of refugees/migrants are kept in overcrowded camps, often without legal support or even in detention.[4] In spite of these problems, however, at the political level, many see this approach –making migration deals with third countries– as a feasible way forward: the externalisation of the EU border – finding ways to keep illegal migrants out while simultaneously taking care of creating 'legal ways' is presented as the 'new' EU approach. After the 2015 Valetta Summit, the 2015 EU-Turkey joint action plan and the 2016 EU-Turkey statement, the European Commission proposed a *new migration partnership* framework which was endorsed by the European Council in June 2016. In the context of this framework, the EU will seek to make *tailor made partnerships* with key third countries of origin and transit. More concretely, by establishing 'migration compacts' with countries such as Jordan, Lebanon, Niger, Nigeria, Senegal, Mali, Ethiopia, Tunisia, Libya, Morocco, Algeria, Iran, Egypt, Afghanistan, Pakistan, and Bangladesh, the EU aims to solve the 'European migration crisis'. The partnerships are expected to contribute to saving lives at seas and in deserts; fighting trafficking and breaking smuggling networks; increasing returns, while

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[3]M.J. Alpes, S., Tunaboylu, O. Ulusoy, S. Hassan, 2017, *Post-deportation risks in Turkey: The EU-Turkey-Statement as a test case for the externalization of protection responsibilities*, EUI Policy Brief.
http://cadmus.eui.eu/handle/1814/49005
[4] Id.

enabling migrants and refugees to stay closer to home, and helping countries to addressing the root causes of migration.[5]

The EU thus aims to establish 'compacts' with third countries: political packages which encompass clear targets and joint commitments, including but not limited to the conclusion of formal agreements on readmission.[6] A 'win-win-win' situation is envisaged by combining different policy elements beyond migration, such as trade and development.[7] These new EU policies are very much in line with the 'UN global compact on migration' (New York 2016)[1] trying to arriving at a new and more integrated approach aiming at coordinated and structural cooperation with third countries – such a framework should contribute to safe – regular and orderly migration, also in line with the Sustainable Development Goals.

This chapter, based on research carried out in various countries in 2007 and 2017[2], aims to assess to what extent 'tailor made migration deals with third countries' will help to solve the European migration crisis. We will show that migration agreements are anything but new: since the 1990s, many bilateral migration agreements have been instituted between EU member states and countries of emigration or transit, with goals ranging from controlling migration (focusing on fighting irregular migration, readmission and repatriation); encouraging legal migration (by using migration quota, circular migration) and/or stimulating co-development.[8] More recently, the European Commission has become more active itself by signing EU Mobility Partnerships with various countries, with varying success. In order to be able to assess current policies, it is imperative to critically revisit earlier experiences and analyse the opportunities and limitations of different types of migration deals, partnerships and agreements. We show that in the course of time migration agreements have increasingly become focused on migration restriction and control, and that the externalization of the EU's migration control has intensified. The multilateral character of current deals, set within the current EU political landscape, makes implementation even more complex. We argue that in spite of spending billions of euros mainly on discouraging and controlling migration, migration deals have not been successful in turning the tide and solve the migration 'crisis'. In order to find a sustainable solution more attention needs to be given to providing legal pathways to migration (instead of stopping migration). Future deals should ensure that migrants move to the 'right places' and get a right 'to remain'.

Experiences With EU Migration Agreements Since The 1990s

The EU- Turkey deal and the *new migration partnership* framework, 2016 are in many respects not new: it is already since the 1990s – when migration flows towards Europe started to increase – that the EU, and the individual EU countries, became increasingly active establishing various bilateral and multilateral migration policies. The past two decades have seen the steady emergence of various bilateral and multilateral migration agreements between Europe and migrant sending countries in the global South, focusing on a variety of

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[5] EC Communication from the Commission to The European Parliament, the European Council, the Council and the European Investment Bank on establishing a new Partnership Framework with third countries under the European Agenda on Migration. Communication 7/6/2016. Strasbourg: EC, 2016.

[6] C. Bauloz, The EU Migration Partnership Framework: an External Solution to the Crisis? *EU Migration Law Blog, 31 January 2017. http://eumigrationlawblog.eu/the-eu-migration-partnership-framework-an-external-solution-to-the-crisis/*

[7] Id.

[8] Adepoju, A., F. van Noorloos & A. Zoomers, 'Europe's Migration Agreements with Migrant-Sending Countries in the Global South: A Critical Review', *International Migration*, Vol. 48, No. 3, 2009, pp. 42-75.

different goals: (a) Preventing and combating irregular labour migration (including admission procedures and arrangements for repatriation, social security, family reunification, integration and return); (b) expanding avenues for regular labour migration – while taking into consideration labour market needs and demographic trends, as well as principles of ethical recruitment; while also (c) enhancing the developmental impact (co-development) and tackling the 'root causes of migration'.

(a) Controlling migration: agreements aimed at curtailing and controlling irregular migration and the readmission of repatriated migrants

Reviewing the variety of EU migration agreements since the 1990s, the main aim was arguably controlling borders and repatriating irregular migrants. This is in line with general EU migration policies: tightening controls at its external borders (FRONTEX), while establishing bilateral and multilateral agreements with number of migrant-sending countries were (and still are) seen as top priorities.

In 2004, as a response to the arrival of a rapidly growing number of migrants and refugees from Africa, the EU created FRONTEX (the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union) which became the implementing agency of the EU common external border policy. In this same period, the EU started to sign agreements with countries such as Albania, Russia, Sri Lanka, Macao and Hong Kong aiming at controlling irregular migration and ensuring cooperation on the readmission of irregular migrants. In the course of time, individual EU member states also became increasingly active in signing their own readmission agreements. The EU and its member states (in the beginning in particular France, Italy and Spain) provided African and Mediterranean countries with substantial financial and personnel support in controlling borders, fighting human trafficking and strengthening their police and intelligence apparatus. For example, in response to increasing levels of irregular migration from Mauritania, Senegal and Cape Verde, the EU decided to intensify patrols in West African waters and increased police cooperation – in return for generous development aid packages to these countries.

Attempting to turn the tide of irregular migration, the EU proposed to increase cooperation with and to provide assistance to Morocco and Algeria and started to develop a comprehensive migration policy for the main countries of origin and transit in West Africa, and in sub-Saharan Africa as a whole.[9] From 2006, the dominant EU approach was pushing for re-admission agreements under which African countries would take back irregular migrants, in exchange for economic assistance. In the re-admission agreement with Morocco, the EU demanded Morocco to take back its own nationals, but also those from other countries who have transited through Morocco's territory to Europe. Similar agreements were made with other African countries.

In addition to this EU strategy, individual EU member states also tried to secure cooperation of Maghreb countries by establishing bilateral agreements aimed at curtailing irregular migration and ensuring the return and readmission of irregular migrants. Examples are the agreement between Tunisia and Italy (1998) for facilitating the readmission of irregular nationals and third-country citizens in transit; the agreement between Morocco and Spain (1999) for facilitating the readmission of Moroccan nationals as well as transit migrants; the

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[9] EC *Visit to Ceuta and Melilla: Report of Technical Mission to Morocco on Illegal Immigration*, 7–11 October 2005. Memo/05/380. Brussels: EU, 2005.

agreements between Libya and Italy (2003, 2004, 2005) for combating smuggling and providing sea-rescue operations, training and equipment of control personnel, identification centres for migrants, and detention camps to prevent sub-Saharan African migrants from crossing to Europe; and Nigeria's agreements with Ireland, UK, Italy, and Spain, mostly on combating trafficking, readmission of irregular migrants, exchange of information etc.[10]

Hence the variety of bilateral and multilateral agreements with countries of emigration and transit since the 1990s have been prime examples of the externalization of Europe's migration control[11] and securitization of migration policy.[12] These practices have given rise to four criticisms: 1) violation of migrants' human rights 2) ineffectiveness in controlling migration e.g. due to spatial substitution effects e.g. changes of migrants' routes 3) high informality and lack of transparency in negotiations and 4) unequal power relations leading to unbalanced and ineffective partnerships.

With regard to the first point, examples of human rights violations taking place in the Maghreb countries at the time were numerous (Directorate-General, 2006). European police and immigration services were sometimes blamed for collaborating with organizations that were mentioned as being responsible for torture, disappearance and political liquidations – and sacrificing human rights for the sake of stopping migration[3]. Hence irregular migrants 'in transit' often found themselves in highly vulnerable situations. In addition, there were frequent violations of the '*non-refoulement'* principle: in the EU external border agency FRONTEX's 'HERA' operations[4] in collaboration with Spain, Senegal, Mauritania and Cape Verde, one of the problems was the serious lack of adequate asylum screenings before returning would-be migrants to their origin countries.[13] A fairly large number of transit migrants caught in the Mediterranean came from countries where their lives were in danger,[14] but they did not get asylum. Hence as a consequence of such externalization policy, transit migrants and refugees have often become more vulnerable. This was witnessed in 2003 when Malta repatriated a large number of Eritrean refugees, which led to their imprisonment and torture.[15] Today we see similar things happening in Turkey and even in Greece where it is extremely difficult to get access to asylum.

With regard to the second point, spatial substitution effects and changing migration routes,[16] it is important to rethink the effectiveness of restrictive and securitized migration policies. The introduction of tougher rules regarding regular migrants' entry to and residence in Europe has, since the mid-1990s, inadvertently pushed irregular West African migrants to use complex routes to reach the Maghreb as a transit region, in order to enter Europe

[10] A. Adepoju, *Regional Migration Processes, Multilateral and Bilateral Migration Agreements in Sub-Saharan Africa*. IOM, Berne Initiative Policy Research Papers. Berne, International Organisation for Migration, 2004.

[11] C. Boswell, 'The 'external dimension'of EU immigration and asylum policy', *International Affairs,* No. 79, No. 3 2003, pp. 619-638; M. Samers, 'An emerging geopolitics of 'illegal' immigration in the European Union', *European Journal of Migration and Law*, 6*,* 2004, pp. 27-45.

[12] Bigo, D., 'Security and immigration: Toward a critique of the governmentality of unease', *Alternatives,* Vol. 27, No. 1, 2002, pp. 63-92.

[13] *ECRAN Weekly Updat*e, 3 November 2006.

[14] A. Betts and J. Milner, *The externalisation of EU asylum policy : the position of African states*. Working Paper No. 36. Oxford University: Centre on Migration, Policy and Society, 2006. https://www.compas.ox.ac.uk/2006/wp-2006-036-betts-milner_eu_asylum_policy_africa/

[15] Directorate-General for External Policies of the Union, *Analysis of the external dimension of the EU's asylum and migration policies*. Brussels: European Parliament, DGEPU, Directorate B, Policy Department, 2006. http://www.statewatch.org/news/2006/jul/eu-res-study-ext-imm.pdf

[16] H. De Haas, 'The determinants of international migration. Conceptualising policy, origin and destination effects', *University of Oxford International Migration Institute Working Paper 32,* April 2011; J. Schapendonk, *Turbulent Trajectories. Sub-Saharan African Migrants Heading North.* PhD thesis Radboud University Nijmegen, 2011. http://repository.ubn.ru.nl/bitstream/handle/2066/91326/91326.pdf

clandestinely.[17] It is without doubt that FRONTEX operations (and outsourcing the responsibility of stopping migrants to the Maghreb) has resulted in a south-ward shift of migration networks, and an intensification of migration industries.

Third, apart from the question of externalization of migration control, negotiations on bilateral and multilateral agreements often took place on initiative of the EC and with significant power play and unilateralism from the European side:[18] as Europe pushed for agreements with third countries in a non-participatory way (e.g. in the case of the EU Mobility Partnerships of 2008), the cost-benefit balance for these countries was often lost.[19] Problems with the readmission of third country nationals were, and still are, often a sensitive issue in migration agreements, but the EU's push for these issues has only increased (e.g. in case of the EU-Turkey deal). As a result of these imbalanced cost-benefit distributions, the implementation of these agreements proves less effective due to non-cooperation by third country governments in practice.

Finally, migration agreements have also been criticized for a lack of transparency and the high level of 'informality'. Negotiations between EU member states and African countries often took place behind closed doors, and there was often a preference for informal and flexible agreements, also for the sake of dealing with rapidly changing situations. Arrangements for repatriation and migration control (as well as incentives such as development aid and preferential entry quota) were often established outside formal agreements.[20] This meant not only that these arrangements were less transparent and controllable by parliaments, but that there were limited checks and balances with respect to human rights guarantees. Politically sensitive issues (such as financial clauses and collaborating institutions) were often arranged outside the formal agreement. Agreements often remained unpublished, allowing governments to collaborate with all kinds of institutions, such as local intelligence services and private security companies, without parliamentary control.

(b) Agreements to expand avenues for regular labour migration

Although most EU and bilateral migration agreements focused predominantly on migration control and readmission, there were also attempts to opening more channels for regular migration to the EU, which had long been out of fashion. During the 1970s, bilateral labour migration agreements, especially those directed towards low-skilled migrants, were frequently used by European states to satisfy their labour market needs (with guest workers coming from Spain, Italy, Turkey and Morocco). Nevertheless, following the 1980s-economic decline, increasing unemployment rates, and the later EU expansion, this guest workers

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[17] Adepoju, A., *The challenge of labour migration flows between West Africa and the Maghreb*, ILO Migration Research Papers, Geneva, International Labour Organisation, 2006; A. Adepoju, T. van Naerssen and A. Zoomers (eds.) *International migration and national development in sub-Saharan Africa. Viewpoints and policy initiatives in the countries of origin,* Afrika-Studiecentrum Series Vol.10. Leiden/ Boston: Brill publishers, 2008.

[18] R. Parkes, 'EU Mobility Partnerships: A model of policy coordination?' *European Journal of Migration and Law* 11*,* 2009, pp. 327-345.

[19] Reslow, N., 'The role of third countries in EU Migration Policy: the mobility partnerships', *European Journal of Migration and Law* 14*,* 2012b, pp. 393-415; M. Chou, and M. Gibert, 'The EU-Senegal mobility partnership: from launch to suspension and negotiation failure', *Journal of Contemporary European Research,* Vol. 8, No. 4, 2012, pp. 408-427.

[20] J. Cassarino, 'The 'new approach' to the readmission of illegal persons: operability versus transparency', *This Century Review*, 01–2007.
http://history.thiscenturysreview.com/The_New_Approach_to_the_Readmission_of.thenewapproach.0.html

programme came to an end, and afterwards most EU countries had reduced entry possibilities for low-skilled labour migrants from outside the EU.

To the extent that countries used bilateral migration agreements to attract labour migrants from other parts of the world, this was mainly reserved to a few countries (i.e., Spain, Italy and Portugal). Spain and Italy concluded agreements including labour migration with Eastern European, Maghreb, Asian and Latin American countries, but cooperation with sub-Saharan Africa was increasing in the 1990s and 2000s.

Spain has devised various labour quota systems to respond to shortages in the labour market, set up in the 1990s and 2000s.[21] Particularly around 2000 Spain's migration policy focused strongly on bilateral agreements with main sending countries, which combined legal labour migration quota with a renewed emphasis on controlling irregular migration (following the EU policy).[22] In addition to Ecuador, Colombia and the Dominican Republic, Spain signed bilateral agreements with Morocco, Nigeria, Poland, and Romania. In a reform of the quota system in 2002, Spanish government started to issue work permits only to nationals from countries with which bilateral agreements had been established, and only citizens living in these countries of origin could apply. Spain's general labour migration policy and the role of bilateral agreements therein fluctuated much in the 2000s in light of political fluctuations:[23] while labour migration quotas and work permits were never completely dropped, their influence and conditionality varied, and they were often combined with restrictive measures such as readmission agreements.[24] For example, given higher numbers of irregular migration from and through Senegal and Morocco, Spain concluded bilateral agreements with these countries in 2006 and 2007. Spain's primary interest was arguably the readmission of irregular migrants, but the agreements also included balanced measures on legal labour migration and development /technical aid to compensate.[25]

By the same time, the European Commission also showed a renewed interest in labour migration quotas[5]. From the mid 2000s there was much interest in migration and development, and in global partnerships on the topic. The EC has devised a number of policy instruments, external cooperation agreements and pilots that included some elements of legal labour migration, although readmission and restriction of migration were always key priorities, and avenues for visa facilitation and circular migration were very much restricted, especially for African third countries. For example, in 2007 the EU unveiled a pilot project for a new "guest worker" scheme for Africa – starting with Mali - which aimed to boost local economies, enhance the earnings of potential of migrants, and stop irregular migration. This flexible scheme was designed to coordinate job offers in the EU with job seekers in Africa, through setting up job centers for migrants. After that, in 2008 the EU Mobility Partnerships were presented by the Commission as a new instrument for managing migration flows with third countries. They are legally non-binding declarations meant for long-term dialogue and cooperation, and can include many different measures; the basic idea is an exchange between the third country's readmission of own citizens and third country nationals on the one hand, and opportunities for legal migration to the EU (through circular migration and/or

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[21] N. Ortega Pérez, *Spain: Forging an immigration policy*. Washington, Migration Policy Institute, 2003. http://www.migrationinformation.org/Profiles/display.cfm?ID=97

[22] Ortega Pérez 2003; A.Balch, *Managing Labour Migration in Europe: Ideas, Knowledge and Policy Change,* Manchester University Press, 2013.

[23] Balch 2013.

[24] Id.

[25] Balch 2013; Reslow 2012b.

visa facilitation) on the other.[26] The EC signed EU Mobility Partnerships with Moldova, Georgia, Armenia and Cape Verde, while negotiations with Senegal failed.[27]

European experiences with labour migration agreements leave no doubt that, although they may provide a certain number of migrants with an opportunity to migrate in a regular situation, it has not yet been sufficient to provide a solution for the problem of irregular migration.[28] Despite various Spanish labour migration projects with Eastern European and Latin American sending countries, regular labour migration still formed a relatively small part of the total flow of labour migrants to that country.[29] It has proven difficult to ban irregular migration – because irregular workers were and are such a vital part of the Spanish labour market and many employers have an interest maintaining low salary-levels.

For third countries however, legal migration opportunities are a key objective in negotiations about migration deals, and the absence of genuine and significant opportunities for legal migration can be a reason for non-cooperation. Senegal refused to sign the EU Mobility Partnership due to the excessive focus on restricting migration (e.g. taking back both their own nationals and third country nationals would mean enormous costs for Senegal) while they had little trust in the EU's vague promises of visa facilitation and legal migration opportunities for Senegalese migrants to the EU.[30] Interestingly, the availability of more balanced bilateral deals with France and Spain, which offered better labour market access opportunities, was also one of the reasons for Senegal to halt negotiations with the EC.[31] Hence competition between the EC and individual member states can be used as a negotiation tool for third countries, and the complexity of multilateral negotiations with the EC only complicates balanced and successful agreements.[32]

Conditionality of legal migration opportunities on cooperation in restricting migration is often criticized: preferential quota systems were often restricted to countries willing to cooperate on readmission and migration control. In case of lack of cooperation (such as Morocco in 2001), countries were "punished" by lowering the preferential quota.[33] However, such conditionality has become only stronger in recent deals.[34]

In addition, circularity and return of labour migrants were frequently highlighted as problems: whereas the EU and its member states attempted to base labour migration policies on the condition of circular migration (allegedly to prevent brain drain and allow for a higher development impact in the countries of origin, but also to reduce migration and the state's responsibilities for reproduction), migrants frequently did not return, for example

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[26] Reslow, 2012b

[27] Chou & Gibert 2012; Reslow 2012b.

[28] EC (European Commission) *Study on the links between legal and illegal migration*. Brussels: EU, 2004a. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Al33191c

[29] A. Serra, 'Current immigration debates in Europe: A publication of the European migration dialogue: Spain', *in* J. Niessen, Y. Schibel & C. Thompson (eds.) *Current immigration debates in Europe*. Brussels, Migration Policy Group, 2005. www.migpolgroup.com/wp-content/uploads/2005/09/141.EMD_Spain_2005.pdf

[30] Reslow, 2012b.

[31] Id.

[32] Chou and Gibert 2012, Parkes 2009.

[33] J. Chaloff, & F. Piperno, 'International migration and relations with third countries: Italy', *in* J. Niessen & Y. Schibel (eds.) *International migration and relations with third countries*. Brussels, Migration Policy Group, 2004. www.migpolgroup.com/wp-content/uploads/2016/10/144.Italy__InternationalMigrationandRelationswiththirdcountries_2004.pdf

[34] Bauloz 2017

because structural development in their countries of origin did not take place. While innovative measures were taken to secure or incentivize such return in circular migration deals, problems were not completely solved.

Interestingly, in terms of dealing with highly skilled migrants specifically, the bilateral or multilateral agreements were hardly used: in their policies of selecting and attracting such 'desired' highly skilled migrants, the EU and its member states often acted unilaterally, without consulting much with the countries of origin. This confirms the argument that migration policies have in general not become more restrictive, but rather more selective, with a clear line between 'undesired' and 'desired'.[35]

(c) Co-Development Agreements: The Incorporation of Development Aid In Migration Agreements

In the context of new migration partnerships, in addition to fighting irregular immigration (both on land and sea) and offering more avenues for regular migration, attention is given also to development aid and/or programmes aimed at 'dealing with the root causes of migration'. This was no different in the 1990s and 2000s: development aid was incorporated as a 'carrot' for cooperating governments to also accept the 'stick' approach of restricting migration.

The linking of migration control and development started in 2003 with the inclusion of a migration paragraph (including an obligation of readmission) in the Cotonou agreement between the EU and the ACP countries (Africa, the Caribbean and the Pacific). At the end of September 2006, the EU and Mali signed a migration control agreement in exchange for development aid. Under this agreement, the EU promised to grant Mali €426 million over the period from 2008 to 2013, with the funding going mainly into poverty reduction projects, which should help to better control migratory flows (see also the 2007 pilot project mentioned before). The EU's expectation was that economic growth, productive investment, support of the private development sector, and regional integration could substantially boost job creation in Mali and halt the flow of irregular migrants – and also strengthen efforts to fight the networks organising irregular migrations. Besides Mali and Senegal, Morocco and Mauritania also signed potentially lucrative agreements with the EU.

In addition, individual countries such as France and Spain[6] have offered development aid in exchange for the cooperation of (mainly African) countries of origin in the fight against irregular migration. France, in particular, has a long tradition of linking migration to development policy, known as "co-development". This means that official development aid is mainly allocated to the countries of origin of the main migration flows (often Francophone countries), and is also being instrumentally used to reduce irregular migration pressure.[36] This French model is strongly connected to specific migration systems and transnational networks of African migrants in France. Co-development policy is thus based on these social networks and existing development initiatives, and aims to use them instrumentally to counter irregular migration.[37] The policy is carried out mainly at local and regional

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[35] M. Czaika, & H. de Haas, 'The effects of immigration policies', *Population and Development Review,* Vol. 39, No. 3, 2013, pp.487–508.

[36] R. Magoni, 'International migration and relations with third countries: France', *in* J. Niessen & Y. Schibel (eds.) *International migration and relations with third countries: European and US approaches*, Brussels, Migration Policy Group, 2004. www.migpolgroup.com/wp-content/uploads/2016/10/144.France_InternationalMigrationandRelationswiththirdcountries_2004.pdf

[37] J. Aumüller, 'Migration control through *Codéveloppement*?' *in Migration and Political Intervention, Theories and Debates*. Berlin, Europäisches Migrationszentrum, 2004.

government levels, in collaboration with migrant organisations, although the new French migration law of 2006 aims to formalise it on a federal level.

As part of co-development policy, Mali and France established a 'Consultation on Migration', signed in December 2000, which involves an annual bilateral discussion at ministerial level, dealing with issues such as the integration of Malians in France; the co-management of migration flows to allow migrants to circulate, and cooperative development in core emigration localities in Mali to build infrastructure, stimulating job creation, and support education, health care and income generation.[38] Malians abroad are mobilised for their country's economic development; their skills are registered and the information is co-managed by a Franco-Malian committee. A contract with a local Malian bank guarantees loans to small businesses that require additional funding for expansion. The agreement aims at stimulating migrants to return voluntarily and become self-supporting. The funds previously used for forced repatriation from France to Mali were now used to encourage voluntary return in more humane circumstances, while also providing livelihood for the returnees, who were mostly unskilled migrants.

While the shift from restrictive measures to a more facilitating approach (offering development aid and tackling root causes of migration) may seem positive, caution is needed in evaluating these policies, as the increased link between development and migration policy may have harmful long-term effects. For example, conditionality comes back: making cooperation on migration a condition for gaining development funds could lead to an undesirable situation where the main countries of departure and transit of irregular migrants to Europe secure extra funds, while other – possibly poorer – countries without direct migration towards Europe are cut on development aid. In the new EU Migration Partnership Framework, conditionality is extremely clear.[39] This reflects recurrent issues with the intertwining of migration and development aid. France's co-development policy seems to have contributed to an allocation of development funds with a bias in favour of the main emigration countries instead of to the poorest countries; and the total budget spent on development is relatively low.[40] In 2003 the UK and Spain proposed to the EC to take punitive measures (mainly cutting donor money) against those countries that do not actively collaborate in the fight against irregular migration. However, other member states objected and a much watered-down version of the initial proposal was accepted instead.[41] In addition, Betts and Milner[42] show how general refugee funds – such as that of the UN High Commissioner for Refugees – were receiving less, because European countries were increasingly financing the refugee protection programmes of individual African countries. This not only hampers the effectiveness of refugee protection, but it also leads to competition between African countries for donor money. On the other hand, the link between migration and development aid can also have positive effects. In Spain, migration pressure in the 2000s put the whole African continent on the map, causing it to triple its development budget for Africa in two years, reaching €600 million in 2006.[43] Spain not only

http://www.emz-berlin.de/projekte_e/pj41_pdf/Aumueller_Code.pdf

[38] Adepoju, 2004; 2006.

[39] Bauloz 2017

[40] Magoni 2004

[41] D. Flynn, 'International migration and relations with third countries: the United Kingdom', *in* J. Niessen & Y. Schibel (eds.) *International migration and relations with third countries*. Brussels: Migration Policy Group, 2004, p.8
http://www.migpolgroup.com/multiattachments/2575/DocumentName/UKforeignrelationsfullreport.pdf

[42] Betts and Milner 2006.

[43] M. Moratinos, *Discurso del Ministro Español de Asuntos Exteriores y de Cooperación en la Conferencia Europa-África sobre Migración y Desarrollo*, Tripoli (22–11–2006), Madrid: Ministerio de Asuntos Exteriores, 2006a.
http://www.maec.es/es/MenuPpal/Actualidad/Declaraciones+y+discursos/Discurso+Ministro20061122.htm.

increased its budget for migrant-sending (transit) countries, but it was also supporting various regional and global fund.

Besides the possible conditionality problems, it is worrying that – under the cover of 'co-development'- increasing part of Europe's official development aid is spent on migration control. For example, the Netherlands spent official development funds on capacity building of the Ghanaian government, directly related to migration control.[44] The 2006 French-Senegalese bilateral agreement also provides an example of development money being spent on goals such as modernisation of the Senegalese police apparatus (aimed at controlling irregular migration) and information campaigns against irregular migration. The same goes for Spain's agreements with the Gambia and Guinea, in which the development paragraph included measures such as: capacity building of migration-related institutions, development of a national migration policy, information campaigns on migration and recruitment schemes. Additionally, various countries paid with development funds for programmes for humanitarian aid to repatriated migrants. The humanitarian consequences of the EU's migration policy are thus dealt with using official development aid.[45]

Finally, attacking 'root causes' in terms of economic development in the countries of origin has long been argued to be a flawed approach to reducing migration: as researchers have argued, economic development will only increase aspirations and emigration flows in emigration regions, at least for a certain period of time.[46]

Discussion: From Discouragement Policies to Opportunities for Regular Migration, Settlement and Job Creation

In conclusion, bilateral and multilateral agreements signed by the EU, or its individual member states, with migrant-sending and transit countries are not new: we can learn from experiences with such agreements since the 1990s. They have passed through various stages, and have covered various goals: controlling migration (focusing on fighting irregular migration, readmission and repatriation); encouraging legal migration (by using migration quota, circular migration) and/or stimulating co-development.[47] Often these goals are combined in one agreement: with the main goal being restricting and controlling (irregular) migration (the 'stick'), Europe provides some legal opportunities for labour migration and/or development aid as a 'carrot' to ensure cooperation. Since these earlier migration deals and given the current idea of a 'migration crisis', the externalization of the EU's migration control has only intensified: Europe's migration policy is largely carried out in transit and emigration countries.[48] While current agreements (and plans for new agreements) still maintain 'carrots' for transit and emigration countries, the restrictive aspect and the goal of limiting migration have become even more dominant. In the older agreements, the rights of refugees were not debatable, at least in theory; nowadays in the EU-Turkey deal even the regular entry opportunities for refugees to the EU are under discussion, and only limited

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[44] Dutch Ministry of Foreign Affairs, *Kamerbrief inzake derde rapportage migratie en ontwikkeling*, 2006. http://www.minbuza.nl/nl/actueel/brievenparlement,2006/08/Kamerbrief-inzake-derde-rapportage-migratie-en-ont.html

[45] A. Zoomers and G. Nijenhuis, 'Does Migration lead to development? Or is it contributing to a global divide?' *Societies* 2, 2012, pp.122-138 www.mdpi.com/journal/societies.

[46] see for example H. De Haas, 'Turning the Tide? Why Development Will Not Stop Migration', *Development and Change,* Vol. 38, No. 5, 2007, pp. 819–841.

[47] A. Adepoju, T. van Naerssen and A. Zoomers (eds.) *International migration and national development in sub-Saharan Africa. Viewpoints and policy initiatives in the countries of origin,* Afrika-Studiecentrum Series Vol.10. Leiden/ Boston: Brill publishers, 2008.

[48] Boswell 2003; Samers 2004.

numbers of accepted refugees are taken (and even in that process member states are not fulfilling their duties in terms of quotas). In this process, creating legal avenues for labour migrants is even further away – except for the highly skilled and other 'desired' migrants.

Part of the problem with the current EU-Turkey deal is in its implementation and the continuing unwillingness of EU member states to fulfil their promises of hosting refugees. A sustainable EU approach to migration management would need to move from shifting responsibilities through returns to third countries, towards fairly sharing protection responsibilities both within the EU and globally[49].

The multilateral character of current deals, set within the current EU political landscape, makes implementation even more complex as compared to the previous deals that were more often bilateral, and drafted during less complex political and economic times for the EU. As Parkes[50] argues on the EU Mobility Partnerships of 2008: "The bulk of the Partnerships relies upon commitments put forward by a coalition of willing EU Member States prepared to commit only limited resources and to migration questions of their choosing."[51] Very similar issues are now seen in a more pressing way with the EU-Turkey deal.

The present EU migration policy – in which the emphasis lies on guarding the external borders and concluding 'deals' with third countries (such as Turkey) to limit the influx, is claimed by some people as a success. This success is measured against the falling number of migrants coming in. In exchange for large sums, countries such as Libya, Niger, Chad etc. are to help in holding back and accommodating migrants. To the extent that refugees and migrants nevertheless succeed in entering the EU they are held in camps for 'screening', after which they are sent back or 'admitted and placed' via a 'top-down' procedure in one of the locations selected for the purpose. Looking at the outcomes, however, however, the present action plan for controlling migration is contributing to a worsening situation in many respects. The European migration deals are illegal and immoral in several respects. The plan does not offer a solution, but makes problems less visible and is itself the cause of problems. Thousands of migrants die annually during the hazardous crossing: the number of drowned persons still amounts to many thousands. Many become the victims of people traffickers who dump migrants in the sea or shut them up in trucks. With the sharpening of the policy and the raising of external borders migrants take ever more risks and are increasingly thrown back on people smugglers who help them to land in Europe for a large sum. While, on the one hand, investments are made in raising barriers to entry, on the other hand, NGOs are investing in a whole infrastructure to rescue migrants and refugees. At the spots where refugees and migrants want to enter, 'camps' spring up on the borders of Europe where they bivouac for a long time in degrading conditions until they see a possibility to 'escape'. It is sometimes not during the preceding period (through wars etc.) but precisely during this period of reception that people are traumatised. Irrespective of who they are or what is their background, people live in appalling conditions in a confined space with no prospects, often also in a hostile environment. People are 'sent back' after years of processing or settled without their consent in places where it is difficult to build up a normal existence. Not only migrants – but also 'locals' – want to have a say in their own lives. In the present system, however, no account at all is taken of the migrants' aspirations and preferences, or of the question of what contribution they can make. The same applies to the receiving side,

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[49] Alpes et al. 2017a
[50] Parkes 2009
[51] Parkes 2009, p.328.

where the local population is given insufficient say and granted insufficient time to become accustomed to newcomers.

Up to now, these migration deals have not been able to turn the tide – and solve the European migration crisis. European migration policies are wrongly focusing on irregular migration, readmission, and repatriation. Gigantic sums are spent on border controls and Frontex ships, reception camps and detention centres, asylum procedures, deportations and reception centres – not to mention rescuing people from the sea, despite the fact that the migrants continue 'to stream in'. According to Bauloz[52] "the EU Migration Partnership Framework is inherently at odds with the sustainable development goals which have been adopted by all EU Member States. Rather than pursuing sustainable development through, *inter alia*, the facilitation of orderly, safe, regular and responsible migration and mobility of people (target 10.7), the Migration Partnership Framework uses sustainable development as a leverage for stemming migration."

In order to find a solution for the European migration crisis and achieving the SDGs, we argue that, in the framework of the new migration policy, European funds should be used – not for the closure of borders or readmission procedures, but – instead- for the creation of a jobs plan from which both migrants and 'native groups' could benefit. Some of the funds could be invested in the development of employment and infrastructure *in Africa and Asia* (regions that have to contend with forced migration and/or regions that have to fulfil a function in the reception of refugees from neighboring countries), while ensuring at the same time that European investments will not lead to 'land grabbing'. The local population must be kept well informed and in good time and also have a say in the type of investments that are made (and the employment that is created). Instead of concluding big 'deals' with national governments that attach little value to human rights (such as Turkey, Chad etc.) in order to stop migration, it would be more useful to take a chance with local authorities (municipalities and provinces) who are interested in playing a role in the reception of migrants in dialogue with the population, in exchange for additional investments in employment and infrastructure.

The programme can also be directed at rural areas *within Europe* that suffer from population loss and ageing and are prepared to take in refugees and migrants. In countries such as Spain, Portugal, France and Greece (and also the Netherlands) many provinces and municipalities have to contend with depopulation and ageing. The attraction of migrants can help to turn the tide, but investments will need to be made. Certainly if the 'hosting' of migrants is accompanied by the receipt of a bonus in the form of investments in jobs, training facilities, a better infrastructure or a wider range of facilities, the willingness to host migrants and/or refugees will increase, and there will be better opportunities for integration. If the local population has a say and the arrival of migrants also offers clear advantages for them the prospects for integration will be much greater than in the present system where there is often a wide 'gap' between the decision makers (policy makers – politicians) and the civil population. Instead of punishing local authorities 'top down' when they fail to adhere to quotas imposed from above, a 'bottom up' policy, in which citizens and local authorities are rewarded for initiatives in which the expansion of employment and integration are combined, will probably be many times more successful. Local authorities – and local communities who want to welcome newcomers - should be rewarded with investments in jobs, facilities or infrastructure. All this will help EU migration policies to become more effective and humane, and also better in line with the SDG goal of 'leaving no one behind'.

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[52] Bauloz 2017.

Final Reflections

Discussions about tailor-made migration deals could help to solve the European Migration crisis are very much dominated by two questions: first, how can we control migration and prevent an inexhaustible stream of migrants and refugees finding its way from Africa and Asia to Europe? Secondly, how can we profit from migration or, in any event, avoid the influx of migrants being at the expense of our prosperity? Those in particular who see a direct relationship between migration, islamisation and terrorism believe that migration constitutes a threat to our society; others, who are more open to the admission of migrants try to show their economic value or appeal to moral obligations and migrants' rights. The large majority is probably somewhere in between these extremes.

Until now – migration partnerships aimed at controlling or stopping migration have not been able to solve the migration crisis. The manner in which migrants and refugees are dealt with is at odds with global sustainability objectives ('leaving no one behind') and criteria for 'good governance'. People are shut up for years at the gates of Europe with no prospect of a decent existence. The procedure is not transparent: a large corps of officials – assisted by translators – is engaged in screening people on the basis of hard criteria, but much of the work is done behind closed doors. The rights of migrants are determined by where they come from (what country) and little is asked about their qualifications, about their preferences, or where they could best thrive. Migrants – and deportees - are treated as playthings and when they finally arrive at the place of destination after years (in the most favourable cases) it is usually not the place of their first choice. Migrants and the host population must have a greater say. If they can have an influence on where they may live and work – and also if the local population can benefit from additional jobs and facilities - that can only further a successful integration. In brief: screen migrants and refugees not only for origin and status, but also take motivation and qualities into account and give people a say in determining their future. Stop shutting migrants up in camps for years, use the money for additional infrastructure and extra jobs, investments from which the host population will also profit. Ensure that migrants find their way to places and jobs where they can fully realise themselves.

It is striking that no-one has so far complained about the waste of money, while only limited results are being achieved. Gigantic sums are spent on border controls and Frontex ships, reception camps and detention centres, asylum procedures, deportations and reception centres – not to mention rescuing people from the sea, despite the fact that the migrants continue 'to stream in'. It is time for a fresh approach, giving priority to steering migration flows in the 'right direction' (instead of stopping migration) and providing legal ways for migration by investing the money in a jobs plan and new infrastructure: 97% of the world population does not wish to emigrate and prefers to stay where it is. Investment in additional employment and infrastructure in 'hospitable places' (via local authorities) appears to us to be a better way than concluding deals with governments of unsafe countries. We propose to use migration deals to ensure that people within and outside the EU 'have the right to remain' and that migrants are guided in the direction of places where they are welcome and are able to work towards the future.

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Endnotes

[1] The UN is currently organizing a 'global consultation' on different subtopics (e.g., asylum to human rights, root causes of migration, integration and reintegration, diasporas, remittances, readmission and smuggling, development aid and co-development).

[2] The article is based on fieldwork and internet research carried out in various places, first in 2007 and secondly in 2017. In 2007, we contacted relevant ministries, especially of Justice and Immigration of certain selected African countries with large emigrant populations, to solicit pertinent information (which was very difficult to obtain) on the bilateral agreements they have entered into with EU countries; held interviews with representatives of European embassies in Abuja, Nigeria as well as various African embassies in the Netherlands and Belgium; and collected additional information by approaching key informants working in advisory and research capacities on international migration. Finally we conducted an extensive search of policy documents (including parliamentary documents, regulations and laws), as well as newspaper articles, research articles and internet materials. In 2017 we carried out field research in Greece and Turkey, assessing the consequences of the EU-Turkey deal. Observations were done at refugee camps on Lesbos and Chios (Moria, Vial, Souda, Pikpa), 18 interviews were held with asylum seekers on the islands, and 22 phone interviews were done concerning 35 individuals who were repatriated from the Greek islands. The researchers also observed inter-agency and coordination meetings (4) and interviewed lawyers (3 Turkish, 5 Greek), practitioners working at international NGOs (4), representatives of UN and EU institutions (9) and civil servants working with the Greek police and local municipalities on both Chios and Lesbos (4). On top of that 17 interviews were held with Pakistani immigrants in Pakistan who were deported under the Deal and 11 Syrian families who were resettled to the Netherlands from Turkey under the Deal. We would like to acknowledge the valuable contributions by Jill Alpes, Orchun Ulosoy. Sevda Tunaboylu and S. Hasssan to data collection in the context of Greece, Turkey and Pakistan (see van Liempt et al forthcoming).

[3] A Gambian television broadcaster once accused Spain of collaborating with the infamous Gambian National Intelligence Agency (NIA) in its fight against irregular migration. The NIA has been severely

criticised due to accusations of systematic torture, disappearances and probable political liquidations (Afrol News, 22 November 2006).

[4] See: http://frontex.europa.eu/operations/archive-of-operations/oKWeXJ, accessed 29-10-2017.

[5] The EU's renewed interest from the 2000s in introducing bilateral and multilateral workers' schemes had to do with preventing irregular migration as well as meeting Europe's labour market needs, though the first objective has increased in importance. The process has been complex: in a climate where EU member states are generally reluctant to supranationalize migration policy to the EC, they have been particularly reluctant to relinquish competence over opportunities for legal migration. See: Reslow, N., 'Deciding on EU External Migration Policy: The Member States and the Mobility Partnerships', *European Integration*,Vol.34, No. 3, 2012a, pp. 223–239.

[6] In 2006, Spain offered the Gambia and Guinea each €5 million in direct development aid, in exchange for signing global migration agreements (involving readmission, migration control, labour migration, etc.).