



Analysis

The Global Approach to Migration and Mobility: the state of play

Marie Martin

GAMM has been promoted by the Commission as an "overarching framework of the EU external migration policy" but many member states remain sceptical of the value of dealing with migration issues at EU level. The approach has been much criticised for allowing member states to use migrants as disposable workers and for further restricting access to the EU.

In November 2011, the Global Approach to Migration and Mobility (GAMM) [1] was submitted by the European Commission to the European Parliament, the European Council, and the Committee of the Regions. It was formally adopted by the Council's Committee of Permanent Representatives (COREPER) in May 2012. However, the foundation of the revised European strategy on migration management seems to be problematic and the text has already been greatly criticised, even before its biennial implementation reports are published starting in June 2013. The GAMM has been widely denounced as a means for the EU to restrict access to its territory and for allowing Member States to use migrants as disposable workers.

The Global Approach to Migration and Mobility

In December 2005, the Commission published its Global Approach to Migration (GAM). [2] It aimed to present a comprehensive strategy to address irregular migration and human trafficking on the one hand, and to manage migration and asylum through cooperation with third countries (origin and transit) on the other. The Global Approach is based on existing regional fora for cooperation on migration such as the Barcelona process, the ACP-EU Migration Dialogue, the Budapest Process, the Rabat Process, the Prague Process or the Eastern Partnership. Cooperation with relevant EU agencies was also planned: Europol with respect to anti-trafficking strategy and FRONTEX regarding border management.

Activities were initially focused on Africa and the Mediterranean, which were identified as the main regions of origin of migrants in Europe. By linking up migration management and development policies, the Global Approach to Migration attempted to address "push factors" and alleviate migration pressure from these regions. The promotion of circular migration was recognised as a mutually beneficial strategy: not only did it serve the EU's economic interests (labour force), but it was also a means to avoid 'brain drain' and support development back in the country of origin.

The proposal developed the concept of "mobility packages" (a new form of circular migration for high skilled migrants) and further anchored the notion of a "more for more" approach: the more

third countries cooperate, the more advanced visa facilitation will be for their nationals. Mobility is thus officially conditioned upon cooperation on border control (FRONTEX) and the conclusion of a readmission agreement with the EU.

In the wake of this new migration strategy, mobility partnerships were signed with Moldova, Cape Verde, Armenia and Georgia. Readmission agreements were also signed and apply to third country nationals and stateless people who have transited through or originate from these countries. As expressed in early 2012 by the first secretary at the Permanent Representation of the Netherlands in the EU, Sander Luijsterburg: “We believe readmission and returns policy are key parts of migration policy. They help to win public support for other parts of migration policy.” [3]

Five years after the implementation of the Global Approach to Migration, the Commission submitted a revised strategy with an added component: mobility. The Commission explained that mobility “is a broader concept than migration” and signalled its intent to better manage circulation for foreign nationals who may want to visit the EU for short periods (students, visitors, businesspersons or family members).

Like the GAM, the GAMM emphasised migration and development so that, as stated in the May 2011 Communication on Migration, “migration to Europe is a choice rather than a necessity.” [4] Nevertheless, refugee protection and the external dimension of asylum were given more importance than in the previous Global Approach. The European Asylum Support Office is expected to play a significant role in this development, for example in the development of international protection mechanisms in third countries such as regional protection programmes and for the coordination of resettlement from third countries to Europe.

Scepticism from Member States and third countries

The implementation of the Global Approach greatly depends on Member States and their willingness to become involved in EU-based cooperation with specific third countries (Mobility Partnerships). The added value of EU-based cooperation on labour migration instead of bilaterally agreed schemes remains unclear to some Member States. Similar doubts exist regarding the question of resettlement. Some Member States wish to retain total sovereignty in deciding how many refugees should be resettled in their country, and where they come from.

In Written Evidence to the UK House of Lords, Lord Avebury (*) noted that the “EU has no competence over visa awards.” [5] Facilitation of mobility, even for short-term visitors, entirely depends on Member States. Moreover, Lord Avebury believes that the GAMM’s focus on labour migration may overshadow crucial components of mobility such as family reunion.

Interviews conducted in the framework of research by PhD candidate Natasja Reslow in 2010 and 2011 suggest that many EU countries were reluctant to deal with legal migration issues at EU level because they believe it to be an area of national sovereignty. Moreover, bilateral agreements already exist between EU states and third countries, limiting the use of mobility partnerships to a mechanism reinforcing border control and return procedures with third countries of interest. [6]

The new EU strategy conditions cooperation and visa facilitation for EU-friendly border controls and leaves little room for manoeuvre to countries which need to establish commercial relations with the EU (e.g. Georgia, Cape Verde). On the contrary, countries with which relations have existed for a long time and where labour migration bilateral agreements and readmission clauses have been

signed do not have any interest in being Mobility Partnership candidates. Reslow believes this may explain why negotiations failed with Senegal (which had signed many agreements with France).

Morocco is another example. The country has refused for years to sign a readmission agreement with the EU and presents itself as a heroic champion in the battle against the EU's externalisation of its border controls. In reality, Morocco is already cooperating with Italy, Germany, France, the Netherlands, Belgium and Spain on readmission [7], and has signed several labour migration agreements which serve its interests. In the case of both Senegal and Morocco, being part of a Mobility Partnership would lead to the conclusion of a readmission agreement with the EU and thus with all of its Member States, rather than just a few Member States on a bilateral basis.

While cooperation on border control and readmission are a prerequisite for visa facilitation to start, it is worth noting that Mobility Partnerships are not legally binding and are based on the voluntary participation of interested Member States. Although a Mobility Partnership was signed between Georgia and the EU in 2009, negotiations on visa liberalisation only started in June 2012 and it will probably take several years before the final agreement is signed. [8]

Cooperation does not seem to be in the interest of all third countries as incentives offered by the EU seem to be used as instruments to legitimise a strategy which remains EU-centred, as clearly stated by the EU in the 2011 Communication on Migration:

[The] External dimension could play a more important role in reaching out to third countries that should be seen as partners when it comes to addressing labour needs in the EU.

The lack of a rights-based approach

Mobility Partnerships and Common Approaches to Migration and Mobility have been the flagship measures of the Global Approach to Migration and the following GAMM. Although quite attractive on paper, this supposed "migrant-centred approach" was criticised by the European Council for Refugees in Exile (ECRE) as being too weak and for promoting the EU's interests (cooperation with third countries to stop irregular migration; mobility limited to high-skilled migration to meet labour shortages in Europe) without offering tangible integration prospects to third country nationals.

Integration was part of the 2005 Global Approach on Migration which covered "all areas of importance including labour and socio-economic, public health, cultural and political dimensions", "education of children from immigrant backgrounds" and "intercultural dialogue". Five years later, migrants tend to be perceived as temporary workers rather than full residents. The 2011 GAMM states the "urgent need to improve the effectiveness of policies aiming at integration of migrants into the labour market" where "[p]ortability of social and pension rights could also be a facilitator for mobility and circular migration."

Reduced to the labour market sphere, integration is nevertheless used as another justification for stricter border controls:

Without well-functioning border controls, lower levels of irregular migration and an effective return policy, it will not be possible for the EU to offer more opportunities for legal migration and mobility. The legitimacy of any policy framework relies on this. The well-being of migrants and successful integration largely depend on it.

Migrant and refugee rights organisations expressed concern at this assertion. In ECRE's view "the new approach is based on a migration control logic as much as the previous version of the Global Approach" where migrants simply "gain access to controlled mobility." The Migrant Rights Network (MRN) denounced it as a "law and order" strategy where cooperation with third countries served the purpose of creating stricter border controls and visa policies rather than the integration of migrants. Frequent reference to the ill-defined concept of "illegal migration", combined with compulsory cooperation on readmission by third countries in exchange for the mobility of some of their nationals, shows how EU-centred the whole strategy was and highlights "the flawed perspectives on which the EU states were basing their positions." [9] The exploitative logic at play in the low-skilled labour market is not addressed in the GAMM so that low-skilled migrants, and even high-skilled migrants in some cases, may still be at risk when they come to an EU country. They would be less likely to integrate effectively into the labour market and to claim their rights in the host EU state.

The MRN argues that stricter border controls do not help address irregular migration or human trafficking but instead reinforce the development of alternative strategies to circumvent the difficulty of entering the EU legally. Nor do regional protection programmes ensure protection for refugees and asylum-seekers in third countries. In contrast to the 2005 Global Approach to Migration, the GAMM aimed to present the EU as being "among the forerunners in promoting global responsibility-sharing based on the Geneva Convention and in close cooperation with UNHCR."

However, the reception of refugees and asylum-seekers depends to a large extent on a country's capacity to integrate vulnerable populations which, in the case of existing (e.g. Cape Verde, Moldova) and prospective partners (e.g. Tunisia, Ghana, Jordan, Egypt and Morocco) seems unrealistic. The development of regional protection programmes is likely to lead European authorities to deem these countries safe enough for refugees to stay there. However, development issues and the institutional instability many are facing suggest otherwise. Some "safe countries" are notorious for breaching their citizens' human rights and showing little regard for the rights of migrants and refugees.

Although better protection mechanisms in non-EU countries will always be welcome, the development of a ring of safe third countries should not block access to asylum in the European Union. Protection in the region of origin is promoted as the "preferred protection modality"; it is hoped that development in third countries will "enhance the chances for a sustainable durable solution, be it return, local integration or resettlement." Clearly, local integration is presented as a better solution despite the controversial literature on how durable such a solution may be in reality (the UNCHR 2012 annual report argues that many authorities in developing countries are quite reluctant to host refugee communities). [10]

As ECRE puts it: "the possibility to seek asylum in the region does not replace Member States' obligations to process applications and to grant refugee protection." NGOs are particularly concerned that the signing of readmission agreements results in some countries being incorrectly deemed "safe" and that refugees could face human rights violations upon return.

Despite the inclusion of a suspension clause in future readmission agreements (to be activated in the case of human rights violations in the country of return), concerns deepened following the 2011 evaluation of readmission agreements by the Commission which suggested that human rights

safeguards were not totally in place in the readmission procedure. [11] For example, the evaluation reports that:

Joint Readmission Committees have been formally established under each of the [then] 11 EURAs [EU readmission agreements], with the exception of Sri Lanka where the political situation and technical issues have so far prevented the organisation of a meeting.”
[emphasis added]

This means that there were no Joint Readmission Committee meetings between 2005 (when the agreement with Sri Lanka was signed) and 2011.

Although the evaluation recommended that post-return monitoring mechanisms are in place, the EU Danish Presidency noted, in a January 2012 document entitled EU strategy on readmission that:

Currently there is no assessment of whether provisions on the monitoring of the human rights situation of readmitted persons can be implemented in practice and have sufficiently added value to be included in future readmission agreements. [12]

In March 2012 a Commission officer (DG Home Affairs) recognised that there were certain “deficiencies” regarding human rights, adding that “we’re not hiding anything there.” (see [3])

Reaction from the Committee of the Regions

While the GAMM has been lauded as “as a contribution towards a more consistent, systematic and strategic policy framework for relations with third countries in the area of migration and mobility” [Council March 2012], the Committee of the Regions, to which the Commission’s communication was also addressed, adopted a more nuanced approach.

The Committee stands as “a political assembly of holders of a regional or local electoral mandate serving the cause of European integration” which aims to influence policy making by “promoting European democracy and citizenship and their values, and contribut[ing] towards the anchoring of fundamental rights and the protection of minorities.” [13]

Further to NGOs’ criticism, the Committee highlighted that:

Providing regular entry channels is a key instrument for combating irregular immigration and reducing the number of “overstayers”, as well as ensuring a degree of solidarity in relations with countries of origin of migratory flows. [14]

Stressing the importance of respect for human rights and of the principle of non-refoulement in border controls, the Committee emphasised a crucial aspect which the GAMM does not really take into account: addressing irregular migration cannot be limited to border controls, but should also be based “on effective legal entry opportunities which are also open to less-skilled workers.”

Although supportive of the inclusion of readmission agreements as part of the strategy, the Committee advocated their regular evaluation, especially as returnees who are not nationals of the country “could find themselves left in no-man’s-land, exacerbating the situation in transit countries and putting them at serious risk of human rights violations.”

The conclusions reached by the Committee echo the recommendations of the UN Rapporteur on the Human Rights of Migrants, François Crépeau, who, following his visit to Tunisia in June 2012, stated that:

A large majority of regional migration initiatives coming from the EU continue to be focused on issues of border control, and do not consider important issues such as the facilitation of regular migration channels.

Calling for a more “nuanced policy of migration cooperation”, he called for new strategies “which place at their core the respect, protection and promotion of the human rights of migrants.” [15]

(Please note that neither Members nor witnesses at the July 2012 inquiry at the House of Lords have had the opportunity to correct the record.*

Endnotes

[1] European Commission, Global Approach on Migration and Mobility, 18 November 2011, COM(2011)743 final

<http://eur-ex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0743:FIN:EN:PDF>

[2] Council of the EU, Global Approach to Migration: Priority Actions focusing on Africa and the Mediterranean, Council Conclusions, 17 December 2005, 15914/05

<http://www.statewatch.org/news/2005/dec/eu-summit-concl-dec-05.pdf>

[3] ‘EU Readmission Agreements: towards a more strategic EU approach that respects human rights?’ European Policy Centre, 21 March 2012

http://www.epc.eu/events_rep_details.php?cat_id=6&pub_id=1435

[4] European Commission, Communication on Migration, 4 May 2011,

<http://www.statewatch.org/news/2011/may/eu-com-migration-com-248-11.pdf>

[5] House of Lords, Inquiry on EU’s Global Approach to Migration and Mobility, Unrevised transcript of evidence taken before The Select Committee on the European Union Home Affairs, Health and Education (Sub-Committee F), 25 July 2012

<http://www.parliament.uk/documents/lords-committees/eu-sub-com-f/GAMM/ucEUSCF250712ev6.pdf>

[6] RESLOW, Natasja. The external dimension of EU Justice and Home Affairs: the role of third countries in EU migration policy, Paper prepared for the 6th ECPR General Conference, Reykjavik, 25-27 August 2011 <http://www.ecprnet.eu/MyECPR/proposals/reykjavik/uploads/papers/59.pdf>

[7] ‘Le Maroc, gendarme de l’Europe ? A quel prix ?’, La Vie Eco, 6 August 2012

<http://www.lavieeco.com/news/politique/le-maroc-gendarme-de-l-europe-a-quel-prix--22961.html>

[8] European Commission, The EU starts a visa liberalisation dialogue with Georgia, 6 June 2011, IP/12/561

<http://europa.eu/rapid/pressReleasesAction.do?reference=IP/12/561&type=HTML>

[9] House of Lords, Migration and Mobility Oral and Written evidence, European Union Committee – Home Affairs, Health and Education Sub-Committee, 15 June 2012

<http://www.parliament.uk/documents/lords-committees/eu-sub-com-f/GAMM/evidencevolumemgmm1.pdf>

[10] UNHCR, The 2012 State of the World's Refugees <http://www.unhcr.org/4fc5ceca9.html>

[11] European Commission, Evaluation of EU readmission agreements, 23 February 2011, COM(2011) 76 final

<http://www.statewatch.org/news/2011/mar/eu-com-readmission-agreements-evaluation-com-76-11.pdf>

[12] Council of the European Union, Operationalising the Council Conclusions of 9 – 10 June 2011 defining the European Union Strategy on Readmission, 25 January 2012, 5728/11

<http://www.statewatch.org/news/2012/feb/eu-council-operationising-readmission-5728-12.pdf>

[13] Committee of the Regions, Mission Statement

<http://cor.europa.eu/en/about/Pages/mission-statement.aspx>

[14] Committee of the Regions, Opinion on the Global Approach on Migration and Mobility, 96th plenary session, 18 and 19 July 2012

<http://www.statewatch.org/news/2012/jul/GAMM2012-%20July2012-CommitteeRegions-vendola%20-%20cdr%20-%20migration%20and%20mobility%20-%20eng.doc>

[15] Office of the UN High Commissioner of Human Rights, UN expert urges the EU to see beyond security and border control in its migration partnership with Tunisia

<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12232&LangID=E>

This article was first published in Statewatch journal volume 22 no 2/3, October 2012