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## Nobody move! Myths of the EU migration crisis

BY  
Roderick Parkes

### Chaillot Papers



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# NOBODY MOVE! MYTHS OF THE EU MIGRATION CRISIS

*Roderick Parkes*

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# Foreword

We all still remember the dramatic pictures – at sea and on land – from the migrant crisis that engulfed Europe in 2015-2016, and we are still confronted with the impact of those months on our politics and policies. By forcing EU leaders and officials, in particular, to act quickly and decisively in the face of a massive inflow of refugees and asylum-seekers fleeing conflict-ridden regions, the migrant crisis challenged a number of commonly traded assumptions and established practices that had long characterised the Union’s external action. As a result, the EU and its member states had to improvise and to try and test new, potentially messy approaches – as well as deal with their likely or unintended consequences.

In this *Chaillot Paper*, Roderick Parkes provides three things at the same time:

- An insightful and well-documented overview and analysis of the crisis itself, and the EU’s responses;
- An enlightening critical review (and comparison) of the ways in which external experts and internal practitioners looked at the crisis, its drivers and its policy ramifications;
- A first balanced assessment of the effects of the decisions taken (or not) to date and their overall impact on both EU policymaking in general and the EU’s external action in particular.

In doing so, he provides the first comprehensive reconstruction of the frantic processes and steps that shaped the Union’s crisis response in 2015-2016 and beyond, as well as an evidence-based and compelling narrative about the ‘making’ of the new common approach adopted since then.

For the EUISS, situated as it is at the juncture between the world of external experts and that of EU policymakers, this represents a remarkable contribution to a debate that is set to continue in the years to come.

*Antonio Missiroli*  
*Paris, November 2017*



# Introduction

Did the EU break down one too many foreign policy silos, flout one too many international taboos, in its handling of the migration crisis? European diplomats usually say they do their best work when they are dismantling the EU's paper walls and finding new ways to make the EU's power felt. Comprehensive; coordinated; complementary – these key words embody the EU's guiding principles when operating abroad. But migration is a sensitive policy field, migrants are vulnerable individuals, and migration cooperation can be a matter of utmost delicacy. So did the centralisation of policy go too far this time?

On this subject, migration policymakers and experts have clear ideas, which are poles apart. Policymakers argue that they needed to mobilise all available means to deliver an effective response to the migration challenge. Experts believe the EU abused its international influence to shift the burden abroad.

This *Chaillot Paper* contextualises the EU's migration diplomacy, taking a sympathetic look at the dilemmas facing policymakers. It identifies nine important shifts in European foreign policy that took place during the migration crisis, offering an explanation of why each occurred and arguing that they could amount to a sustainable strategy.

## Creating diplomatic heft

Once EU leaders agreed that migration control was their overriding priority, European diplomats were able to start behaving differently. The European Union has a reputation on the world stage as a bureaucratic and somewhat disjointed player. It is not exactly known for twisting arms. At best, it ranks as a 'market power' – wealthy, fond of defining new norms, but ultimately not a real global heavyweight. In response to the burgeoning migration crisis, however, the EU now deployed an arsenal of billions of euros in aid and a small army of technical experts, migration liaison officers and crisis-management personnel – and marshalled them with the velvet glove of diplomacy. For once, the EU was coordinating all available tools, and was making clear that it expected something in return for its spending, in Turkey, in the Middle East and in Africa.

And why not? This was an emergency. More than 150,000 migrants crossed the Central Mediterranean to Italy in 2014, mainly from the Horn and West Africa; and

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even these numbers were eclipsed in 2015 when Syrian refugees found a new path to Europe through Turkey. European diplomats were surely right to remind partners of their obligations under international law and to help them get their own borders under control; they were surely right to accelerate long-overdue aid reforms to get 'more bang for the EU's buck' and to deal with international problems that they had previously shied away from.

During this period, one third of the world's 60 million displaced persons were sheltering in the EU's near abroad, often in hostile conditions. And as many as 60 million more were predicted to begin moving northwards towards Europe in the coming five years, as they abandoned Africa's new deserts. So surely the EU was justified in sending envoys to partner governments in Africa, the Middle East and Asia to explain the implications should they refuse to control irregular migrant flows, host refugees or repatriate their own citizens.

In short, many of the legal and conceptual constraints on EU power had probably been ripe for dismantling, and the migration crisis acted as a catalyst in this regard. And yet, there are good reasons why the EU created policy silos in the first place.

The EU is normally careful to tailor its foreign policies according to geography. It unleashes its full economic power only on nearby Turkey and the Western Balkans: they are (in theory at least) due to join the Union one day as members, and the EU expects them to emulate its policies. The EU exerts lighter influence on a long arc of neighbours from Belarus to Morocco: these countries are bound to the EU as much by geographic accident as political choice, and they have tricky neighbours of their own to handle. And the EU's policies towards an outer swathe of fragile states in Africa, Asia and Latin America are largely confined to classic development work. But in 2015, the EU began exercising upon distant Ethiopia or Niger the kind of leverage it normally uses only in nearby Serbia or Turkey, with repercussions all along migration routes.

That year, the EU also began drawing its crisis management and humanitarian aid policies into overtly migration-related tasks. These tools are, in their own particular ways, designed to be needs-based. They work best when they are insulated from the EU's immediate geographic and political interests and when they are allowed to respond to demand anywhere in the world – addressing emergency conditions on the ground in crisis zones in South Asia or stepping into gaps around warzones in Africa left by international peacekeeping bodies like the United Nations. If the EU were to use such policies in pursuit of a goal as apparently self-interested as controlling the flows of migrants to Europe, it would risk politicising the presence abroad of European humanitarian workers, civilian experts, and soldiers.

Still, officials in Brussels argue that they had little choice about whether to resort to all available tools to stem the flow of migrants and reassert order. After all, the migrants themselves were no respecters of the EU's careful administrative demarcations. Migrants were moving fast out of parts of the world covered by EU development policy, through zones covered by the neighbourhood policy, into areas

covered by enlargement policy, and then into the EU itself. Moreover, the sheer scale of the migration flows showed that security and humanitarian situations were no longer just isolated emergencies confined to a few crisis hotspots. The EU needed to change the way it used its toolkits.

So the real issue for the EU was not *whether* to combine policies, but *how*. Could the EU inject its usual development spending in Jordan with a large dose of humanitarian aid to encourage Syrian refugees to stay there? Could the EU transplant the kind of political levers it uses in nearby enlargement candidate countries like Serbia (where there is still a sense of a shared future with the EU) and start applying them in far-off Eritrea (where the main goal would be to keep Eritreans away)? What about establishing a ‘migration crisis-management mission’ in the former Yugoslav Republic of Macedonia, where the EU’s military deployment might be welcomed by a government which is reluctant to manage migration but keen for reassurance that it will be protected from the Russian threat?

## Making myths about the EU crisis

European decision-makers asked academics for guidance. But, for the most part, experts maintained a strict critical distance. They did not wish to be party to policies which seemed destined to be defensive and restrictive. Already in the 1990s, migration experts had diagnosed a ‘fortress mentality’ in Brussels: the EU is always more interested in building walls and migration controls, they said, than in good migration cooperation. As the crisis began they were quite sure member states would use the bloc’s international clout to erect new obstacles to migration. They therefore played a role which one describes as akin to that of the ‘Delphic Oracle’ – to deliver pithy warnings at a critical distance from the fortress.

Today, that scepticism seems justified. The migration crisis was a kind of character test for the EU – a test of its capacity to lead in the field of refugee reception, to seize the economic opportunities of immigration and to share the burden borne by Turkey, Lebanon or Kenya by resettling refugees. And the EU failed the test, on all counts. It fell back on the black arts experts have long criticised – ‘securitisation’, ‘externalisation’ and ‘burden-shifting’. It portrayed migrants as a security threat and deployed the military to stem the flows; it used its neighbourhood policy and humanitarian aid to turn Turkey, Jordan and Lebanon into giant migration buffers; it leveraged its development spending to force source governments in Africa and elsewhere to keep their citizens at home; and it played a divisive role on the world stage, causing refugee standards to tumble. Experts had predicted all of these failures.

Policymakers tell a different story, however, one in which academics behaved more like Cassandras than as a Delphic Oracle. In this alternative version of events, academics, by choosing to make gloomy pronouncements from the sidelines and withhold their cooperation, all but ensured that their preconceptions about Fortress Europe became

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self-fulfilling. Every question European leaders asked about migration, every initiative they announced, seemed to be met with a roll of academic eyes. Policymakers today complain that they were largely forced to muddle through on their own and without the usual constructive input from experts, and so of course mistakes were made.

President Donald Tusk expressed some of this frustration when he stated that:

[we] must end at once this completely unnecessary argument between the proponents of protecting external borders and the advocates of solidarity and openness [...] What we need is a rational hybrid of both ways of thinking. We cannot pretend any longer that the great tide of migrants is something that we want [...] our openness is not our conscious choice, but a proof of our weakness.<sup>1</sup>

His wish for reconciliation has not been fulfilled, however. Two years on, experts remain largely estranged from policymakers: both sides continue to believe that their position is inherently liberal, and that the other's is wholly inimical.

European leaders believe that their firm response to the crisis saved liberalism in Europe. Their goal could not be to passively absorb endless flows of people. If they were to re-establish the rule of law in Europe and fend off the populists, they needed to prove to voters that they were capable of effective action – they needed to show that the EU could restrict the flows. This higher cause of saving liberalism in Europe in turn justified some hard-nosed international deal-making with countries from Serbia to Morocco.

Few migration experts consider this a convincing argument. The EU's first priority, they say, should have been to establish a robust European asylum system. Had the EU reassured itself that it could absorb the flows of people, this would have permitted it to make enlightened deals with partners abroad. The EU instead focused on protecting its brittle immigration and borders system. It was forced to make dirty deals with countries ranging from Sudan to an increasingly authoritarian Turkey.

## Sympathy for the devil?

The criticism is pervasive and persuasive. EU policies such as the 2016 migration deal with Turkey do seem to be the outcome of a fortress mentality. And yet, anyone who witnessed at close quarters European decision-making during those frantic early months knows that the EU's foreign policies were anything but preordained. This was a time of radical experimentation. Furthermore, many of the changes which policymakers instigated were guided by liberal ideas. EU leaders genuinely believed that their efforts to build borders in the Middle East and control migration flows in Africa were not just necessary to save liberalism at home; they could actively spread liberalism abroad too.

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1. 'Speech by President Donald Tusk at the EPP Congress in Madrid', Council of the EU, 22 October 2015.

This clearly did not prevent the EU from adopting some fortress-like buffering policies of precisely the kind criticised by experts. Yet, these policies were in fact cocktails made up of liberal ingredients, albeit rather messily mixed.

Two examples are set out below:

1. In **North Africa**, the EU is today criticised for creating a migration buffer. Its current policy there – trying to build up coastguard patrols in Libya, Egypt and Tunisia – fits the image of Fortress Europe. But, for years, the focus of the EU’s Southern Neighbourhood Policy has in fact been to try to trigger economic and political reforms in places like Tunisia and Morocco. It is true that this did not always work according to plan, and a recent policy review had placed greater emphasis on political stability than on liberalisation. Still, when the migration crisis broke out, EU officials saw it as a reason to redouble their efforts. They had already helped transform these countries from migrant-producers to countries of transit and destination, and their long-term reform efforts were clearly important to resolving the crisis.

Their long-term liberal approach, however, was not really compatible with the more political approach promoted by European diplomats. Diplomats were keen for quick results. And their ambitions stretched far out beyond the coastal states of North Africa, tracing a web of migration routes back into Africa. Their approach, too, was liberal: their plan included pressing source countries like Nigeria and Côte d’Ivoire to take better care of their migrant citizens in northern Africa so that these people were not pushed on across the Mediterranean, getting Gulf countries like Saudi Arabia to properly open up to workers from the Horn, and quickly re-establishing Libya as an African labour market hub in cooperation with Chad and Niger.

The EU’s buffering policy is partly a result of trying to combine these two liberal approaches. The EU had focused its foreign policy for years on a narrow band of North African states. As a consequence, it now lacked the good will and formats necessary to manage new relationships – with the Gulf States, or up along the West African transit route from Nigeria. So EU leaders had little choice but to squeeze their ambitious fixes into the countries of the Neighbourhood Policy, countries like Tunisia or Morocco. The result was that the EU tried to turn its North African neighbours into a kind of safety ring. But the goal was liberal, and the EU has subsequently mitigated this buffering policy, reaching out to the neighbours of its neighbours as it searches for a sustainable approach.

2. It is a similar story across the **Sahel region of Africa** where the EU has been criticised for using a new development Trust Fund to control borders and crack down on migrant networks. For decades, the EU has enjoyed a reputation in that part of the world for its liberal development policy, a reputation which was hard won by insulating its spending from its narrow diplomatic interests. True, things have not always gone smoothly, and the budget was squeezed somewhat back in 2014. Still, the migration crisis gave European development officials a reason to redouble their efforts, and they advocated the launch of the Trust Fund for Africa as a way of unlocking euros for job creation and to facilitate a more coherent focus on whole African regions.

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But the trust fund is an unusual aid format: it loosens the strict programming rules which are the hallmark of the EU's development cooperation, giving the EU greater scope to impose its priorities on recipients. In early 2016, European diplomats signalled that they might well take advantage of this loophole and use the €1.8 billion Trust Fund as a vehicle to pursue their priorities in Africa – they would upload bilateral border control issues to the new regional format. Some foreign ministers even suggested attaching border-related conditionality to Trust Fund spending. This broke all sorts of taboos. And yet, these pronouncements were in fact mainly aimed at a Brussels audience – they were warning shots directed at European development specialists and were not really carried through.

It is important to know some background here. Development officials had recently tightened the EU's bilateral programming rules: each development partnership with an African government would now focus on just a handful of objectives, to be agreed jointly by recipient and donor. Officials hoped this would further improve the efficiency of their work in Africa, thus insulating them from political pressures in Brussels. But in some ways it had the opposite effect. The change allowed African countries to block EU priorities, even when these were conducive to development. And European diplomats did indeed view border management in just this way – as good for state-building and managing trade flows. So the taboo-busting debate about the Trust Fund was in fact driven by the EU's high programming standards and the question whether these might have negative unintended consequences for Africa's economic and political development.

Academics delivered many accurate warnings about the direction of the Trust Funds and neighbourhood policy. Most subsequently proved justified. But decision-makers could not always take heed. Experts were simply too indiscriminate in their warnings: they believed that the EU should act abroad only after it had reformed its domestic asylum policies. Policymakers believed the opposite – they wanted to measure the EU's power to manage the flows abroad so they could gauge the need for internal reform. Moreover, they felt increasingly emboldened to take risks: if everything is taboo, explains one member state official, then almost nothing is taboo.<sup>2</sup>

The EU-Turkey deal was a pivotal point in the EU's response. The deal marks the point when European leaders really found the confidence to start operating abroad. It also marks the point when they began operating without expert guidance.

Migration experts had been hostile to the idea of the deal. Even at an early stage in the talks, they had made up their minds to criticise the whole undertaking. In spring 2016, when the EU finally concluded talks with Ankara to hold back the flow of refugees, leaders argued that it was in line with international law and with

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2. Interview with national official, Vienna, 6 December 2016.

Turkey's interest in getting its borders under control. Experts disagreed: not only was this agreement beyond the pale, they also predicted that it would fail to meet even its narrow aims. At most, they said, the deal would serve to deflect migration flows back through Libya and the Central Mediterranean.<sup>3</sup>

A flurry of situational data from European border authorities quickly reassured European leaders and showed that the deal had in fact met its aims: the numbers of people making the dangerous Aegean crossing had dipped and there had been no immediate deflection. Many experts, however, continued to insist that the deal had failed and that Syrian refugees were now coming through Libya. It is hard to express how much of an effect this had on policymakers. They were extremely nervous about the deal with Ankara, and had been keen to gain the guidance and even the approval of experts. But now they resolutely followed their own path.

This has left a bitter legacy: European policymakers today lack expert guidance for the important task of working out which of their policy reforms were good and made sense, and which should be rejected. Today's polarised situation reminds observers of an earlier period in Western foreign policymaking – one described by the author Roland Paris in his 2010 analysis 'Saving liberal peacebuilding'.<sup>4</sup>

## Aim and structure of this Chailot Paper

Roland Paris describes the period in Washington after 2001 when the terrorist attacks had delivered a seismic shock to the US and its picture of its place in the world, splintering Washington's fragile liberal consensus. Foreign policy elites – decision-makers and academics – had clashed over the response, each believing they held the liberal high ground. This was a period when academics viewed the terrorist attacks, and the subsequent failure of the Iraq and Afghan military campaigns, as an indictment of Western interventions. Indeed they grew so mistrustful of overseas action that they saw it as motivated only by hubris, neo-colonialism and *realpolitik*. Policymakers were left without good guidance as they tried to adapt their foreign policies to an international environment where disengagement was simply not an option.

Paris was specifically interested in reviving Western peacebuilding efforts. But there are parallels to the recent period in Europe, when the influx of refugees and migrants delivered a comparable shock in Brussels. He argued that the West would only improve its peacebuilding efforts if there was greater mutual understanding between experts and decision-makers: 'if many of the "alternative" strategies [proposed by academics] are themselves based in liberal principles, it follows that much of the

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3. Rosa Balfour, 'Making the best of a bad EU-Turkey deal', 'Transatlantic Take', German Marshall Fund, 3 May 2016; Sarah Wolff, 'The new European Border and Coast Guard – much ado about nothing?', Clingendael 'Europe Forum', 31 October 2016.

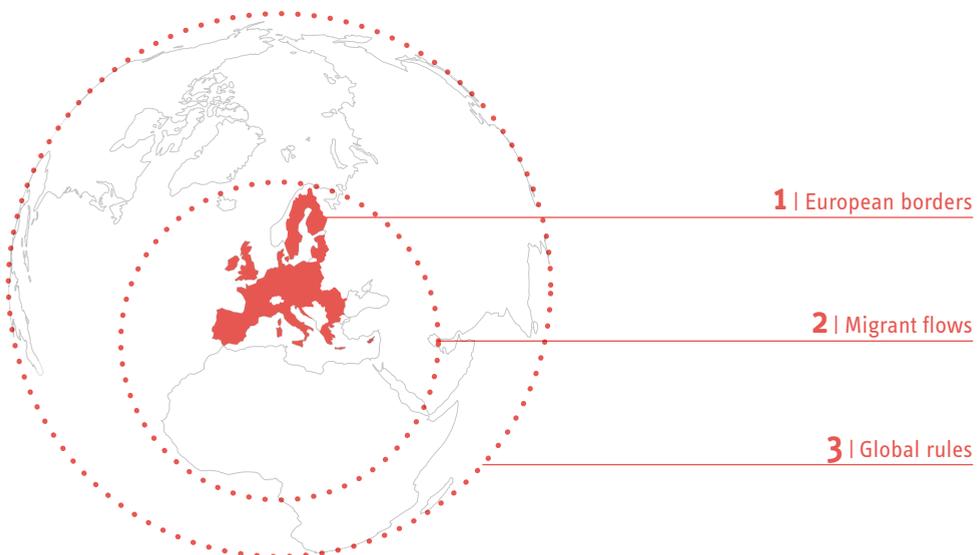
4. Roland Paris, 'Saving liberal peacebuilding', *Review of International Studies*, vol. 36, no. 2, April 2010.

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critical literature is actually espousing variations within, rather than alternatives to, liberal peacebuilding'.<sup>5</sup> Experts, he argued, need to avoid a 'hyper-critical' approach, and show sympathy for the dilemmas facing policymakers. This remedy could usefully be applied to Europe.

This *Chaillot Paper* takes up the challenge. It contextualises the dilemmas facing Europe's policymakers as the migration crisis developed. EU leaders were forced to watch as their traditional strategy on migration management was swept away. Their aim since the 1990s had been to progressively expand the EU's influence to ever greater arcs of neighbouring states, undertaking deep reforms there before lifting border controls to them. The EU's enlargement, neighbourhood and development policies played a key part in this effort to manage borders and address the root causes of irregular migration. Over the course of two decades, the EU's influence – and many of its most vital border controls – shifted ever further outwards, to one layer of countries at a time.

From around 2012, however, the EU's international influence seemed to gradually contract, and leaders found themselves with little alternative but to make deals with the EU's neighbours, to persuade them to act as buffers and to sever migrant-transit routes. In 2015, when the migration crisis hit, the EU's whole strategy of gradual international expansion required a rethink. To address the flows properly, the EU found that it would need to trigger quick reforms in distant and unstable sending countries like Eritrea or Nigeria where its historic engagement was quite limited, while also giving its long-standing approach to nearby states like Turkey or Morocco a much sharper diplomatic edge. The EU faced a choice: make these updates or risk turning its neighbours into permanent buffer states.



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5. Ibid, p.339.

The EU chose the first option. It now had to find ways to reform everything from its cooperation with the states which hug its land border to its diplomacy at the highest level in New York.

This *Chaillot Paper* highlights nine major migration problems, and the nine sets of reforms which followed. These problems were:

1. **Lack of readiness:** the start of the migration crisis can be dated to spring 2015 when the EU was caught off-guard by Syrian refugees crossing from nearby transit states like Turkey. The EU's first response was the obvious one, and the one advocated by experts: to create migration early-warning systems. The transit flows had become unpredictable, and the EU needed to react quicker to future influxes. But this proved a mission impossible. The EU is simply not built to be reactive. Rather, the EU needed to rethink the way it projected power in nearby transit countries, combining its transformative Enlargement/Neighbourhood policies with sharper diplomacy.
2. **Sustained pressures at the EU border:** by the end of 2015, European officials accepted expert advice that the massive flows from Africa and the Middle East were the 'new normal'. The EU began to divert spare hardware to the EU's borders to absorb the permanent new pressure. In fact, this made the problem worse, because it drew the EU's internal and external security toolboxes away from the drivers of migration. These drivers were the conflicts outside the EU and the weak border standards inside. EU diplomats needed to find new ways to deploy internal security agencies like Frontex, and external security crisis-management missions.
3. **Mixed migration flows:** the refugee flows comprised economic migrants and even some criminals. The EU's initial response to these 'mixed flows' was to create administrative hotspots in Greece and Italy; these brought together Europol, Frontex and the European Asylum Office in a bid to sift the flows and, where possible, to funnel refugees into the EU's labour market. In fact, the complex three-way mix of migrant flows required action at source, in the Middle East and Africa. The EU needed to break down silos between its humanitarian, development and security policies there.
4. **Flows through the neighbourhood:** Libya was now the major transit country for migrant flows to Europe. The EU's first response had been to try to build up the Libyan Coastguard, but this confirmed a structural weakness in its approach to its neighbours: it was simply too EU-centric. Experts therefore cautioned that the EU should keep its own interests in check and confine itself to a humanitarian role around this lawless country. In fact border and migration cooperation was exactly what was required, but the EU was doing it wrong. The EU needed to work with West African countries, and to take a hard line on outside powers exploiting the smugglers and militias for their own economic and geopolitical interests.
5. **Economic development gone wrong:** migrants were coming from Nigeria and Côte d'Ivoire – countries which rank as 'development stars'. The EU's reaction was to increase development aid there, putting money into job creation schemes and demanding cooperation on borders and repatriation. It soon became clear that development policy

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offers too small a toolbox to sway political elites in these large growing economies. If the EU wanted to resolve the irregular flows from West Africa, it needed a far broader diplomatic package comprising trade, investment, fisheries – and a readiness to name and shame those source countries which refused to help their citizens.

6. **Authoritarian source countries:** migrants were also coming from underdeveloped, isolated and repressive East African states like Eritrea – countries with which the EU had only limited development relations. The EU was disinclined to get involved at source. But the EU's principled disengagement left it reliant instead on buffer states like Egypt, Ethiopia or Sudan. The EU therefore needed to hone and sharpen its development policy in such a way that it could cooperate on job creation and economic reform in places like Eritrea, without compromising on its underlying principles.
7. **The weakness of the European model:** early in the crisis, the EU had faced up to the fact that its internal refugee rules had broken down. When the UN took on an operational role in the EU, this damaged whatever status the EU enjoyed as a global standard-setter. But witnessing the UN operate up close, and make mistakes, the EU gained greater confidence to adapt its own asylum and immigration regulations to new realities. It now used the technical exchange mechanisms which it originally created to spread its standards abroad in order to learn how third countries were coping with migration and to advocate more realistic standards.
8. **The challenge of the Global South:** as preparations for the September 2016 UN summit on migration got underway, the EU feared that it would no longer be able to resist demands to open itself up to large-scale immigration from poorer economies. This had been a long-standing demand of emerging economies which wanted to gain access to rich labour markets. As the debate in New York unrolled, however, the EU realised that it in fact had new global allies. The old dividing line between rich and poor economies had softened, and the interests of countries like Morocco and Mexico were in fact quite similar to those of the US or the EU.
9. **Inter-regional competition:** following the UN summit, governments worldwide began discussions on a new global migration compact. At first, the EU member states were criticised for clubbing together to play divide and rule in spots like Africa. They were indeed promoting a narrow border-control agenda, rather than helping other regions create free movement regimes of their own. The EU began helping regions in Africa to embrace free movement. But it learnt that this could only be achieved by playing a kind of divide and rule between regional blocs themselves, helping those which cooperated and sidelining those which did not.

The nine reforms introduced to address these issues do not mark an end to the crisis, and governments in the EU remain nervous about the next influx. Flows of West Africans and North Africans have recently grown, with as many as 1,600 weekly arrivals on the Western Mediterranean/Atlantic Route. Weekly arrivals from Turkey to Greece are as high as 1,000 (which, incidentally, is roughly equivalent to the number

of migrants prevented from departure by the Turkish authorities). And, although no weekly arrivals are currently being registered through the Central Mediterranean, concerns persist that the EU's border policies in Niger and Libya could destabilise these fragile countries, storing up migration problems along that route.

A migration crisis is not, therefore, the best midwife for sustainable political reforms. But it can be a good means to identify underlying global changes and challenges: migration is always just a symptom of bigger international shifts, and the migration crisis has forensically shown where the weaknesses lie in the EU's existing foreign policy toolbox. So the real question is whether the nine reforms offer the beginnings of a response to those bigger shifts.



*SECTION 1*

**Before the crisis**



# Understanding the EU's migration diplomacy

First the bad news. In a few short months in 2015 and 2016, the EU is said to have done permanent damage to its international standing. In the eyes of many commentators, the EU's response to the migration crisis confirmed its reputation for having a fortress mentality and showed it could not be trusted even to uphold its own rules and values.

Nearly 1.4 million applications for international protection were made in the EU in 2015, many by people from places like Syria where there could be no doubt about their motives for fleeing. Europeans clearly had a humanitarian obligation to welcome them. Furthermore, 74% of the arrivals were male and 82% were below 35 years of age. These young men are the easiest cohort of migrants to integrate into the labour market. Given the EU's own ageing workforce, they could have met labour-market demand in many a member state. Europeans clearly had an economic opportunity here, too. But, on both counts, the EU failed to live up to expectations.

Worse: the EU appeared to disregard its own rules. Member states have spent the last two decades creating a system seemingly designed to absorb just such a refugee influx and get foreign workers into the labour market. They had just put the finishing touches to a Common European Asylum System (CEAS), an agreed set of procedures on how they should receive asylum-seekers and process claims. They had also set up a common immigration policy, which harmonised the treatment of highly-qualified migrants (or 'Blue Card' migrants) as well as seasonal workers, researchers, and 'intra-corporate transferees' (that is, employees transferred to the EU branch of their multinational firm). But, when these rules were put to the test, they collapsed almost immediately.

In the eyes of its critics, the EU's response to the crisis was instead characterised by improvisation and defensiveness. Instead of pulling together as the CEAS allowed, EU states argued over which of them was responsible for handling asylum claims under the so-called Dublin mechanism, before simply transforming Turkey, Lebanon or Libya into giant buffer states. Academics were damning in their judgment. They argued that 'half a million refugees per year would allow [a big member state like Germany] to compensate for its demographic deficit'; they pointed out that 'closing

borders to migration means losing a big opportunity [so] EU policies today seem short-sighted and driven by national electoral pressures’; and they came to the conclusion that ‘no one is born racist but everyone can become racist when they are continuously bombarded by the negative effects of migration and diversity.’<sup>6</sup>

In other words, if EU decision-makers and governments so flagrantly acted against labour market and demographic interests, not to mention ignoring their own higher rules and values, then surely they were (at best) irrational and (at worst) actively prejudiced against migrants.

## **The EU asylum system is more limited than it appears**

Such criticism is misplaced. But the EU probably invites it.

When the EU came up with the name ‘Common European Asylum System’, it seemed to be suggesting that its member states shared the political will, and a system big enough, to absorb a big influx of refugees. The name suggests that the EU has replicated on a continental scale the usual domestic asylum setup in place in each member state. In reality, the CEAS is more limited in scope. It still lacks the kind of centralised adjudication and relocation mechanisms of a proper federal asylum system. And this is because the CEAS is a strange beast. It in fact pursues a different set of aims than most national asylum systems. The CEAS was designed as a corollary of the Schengen Area. That means that it is at heart a set of regulations designed to make Europe’s internal market function smoothly – it is a safeguard for the EU’s sprawling transport and freight network.

Schengen is one of the best-known aspects of European integration – but also one of the most misunderstood. Schengen is the EU’s passport-free travel area, which – yes – has created channels for refugees and foreign workers to cross through its 26 member states with surprising ease. But Schengen was not created with these categories of people in mind: it did not reflect a common humanitarian vision or a shared labour market agenda. Indeed, it is possible to question how much Schengen was created with *any* people in mind. True, an estimated 1.7 million EU citizens do now commute daily to another state in large part thanks to the passport-free travel area. But at heart, Schengen is ‘a grand European project, for lorries’.<sup>7</sup>

Much of the original pressure to lighten passport controls came from a desire to ensure that traffic across Europe remained as fluid as possible. This would end the tit-for-tat border delays which erupted between various EU members in the 1980s and would help get freight across borders even faster. Only when they met to officially

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6. Anna di Bartolomeo, ‘The migration crisis: issue or opportunity?’, *Euromesco Policy Brief* 62, 11 April 2016.

7. Roundtable discussion with academics and practitioners, Budapest, 26 October 2016.

launch the project in 1985 did Europe's leaders play up the idea that this passport-free travel area, which had obvious benefits only for long-distance lorry-drivers, tourists and businesspeople, could also be the undergirding for a European labour market. And not until 15 years later did they present Schengen as the core of a 'European Area of Freedom, Security and Justice', based on shared values.

As a consequence, the national ministers who normally deal with humanitarian, labour market and internal security matters were not properly involved in the high-level political meetings which spawned Schengen. Home affairs and justice officials have therefore spent the last three decades scrambling to catch up, cooperating on the many practical problems created by the lifting of borders. And one of their creations was the CEAS. The CEAS deals with the narrow and specific problem of 'asylum shopping' – the phenomenon of asylum-seekers entering the Schengen Area and seeking out the member state with the most favourable asylum regulations. The CEAS began harmonising national asylum standards so that the member states with the highest asylum standards could safely keep their borders open and the internal market could go on functioning.

### **Box 1: The EU and the 'asylum shoppers'**

Thanks to the lightening of border controls, an asylum-seeker who gains entry to one Schengen member can effectively access the whole of Schengenland. In the absence of countervailing policy measures, asylum-seekers would therefore be free to 'shop around' for the national asylum regime which offers the best berth – the one where there are the highest chances of being recognised as a refugee or of gaining work and welfare payments. If this occurred, it would create pressure on member governments with generous asylum standards to close their borders.

'Asylum shopping' is an unpleasant term – just the sort of label which interior ministries liked to come up with in the 1990s, when most asylum-seekers were considered 'bogus'. Still, it describes a real phenomenon. Just prior to the migration crisis, for example, one Schengen state was reportedly surprised to record a 30% month-on-month drop in asylum applications from Eritreans. The reason, it turns out, was that officials from this member state had recently made a tentative visit to the Horn of Africa to explore conditions for repatriating migrants. News of this visit had spread, and Eritrean refugees were altering their behaviour accordingly.

The CEAS therefore has a narrow but clear purpose. It harmonises such matters as asylum-seekers' right to work, in order to dis-incentivise asylum shopping. The CEAS is not centrally interested in such considerations as Europe's demography, welfare costs or restoring refugees' dignity. It is about making sure member states can keep their borders open for trade. But, in its own way, it makes a contribution to humanitarian standards in Europe. European governments experiencing high numbers of asylum applications have an incentive to undercut each other's standards and nudge migrants on to more attractive states. The CEAS is designed to prevent this, and to encourage high regulatory standards.

## EU members share few immigration interests

Experts are well aware of the CEAS's limitations. In fact, they criticise the CEAS precisely because of its strange pedigree: they believe that the Schengen project – for all its benefits to EU citizens, lorry drivers or tourists – has prevented the EU from nurturing a more rational vision of how to treat asylum-seekers and migrant workers.

As such, academics are imagining a kind of counter-factual situation, in which Schengen does not exist and European governments are able to transcend fears about uncontrolled immigration: usually, policymaking in Brussels is cushioned from populist electoral pressures, they would say, and EU leaders can draw on their considerable combined resources to address shared challenges in a more or less enlightened way. In the asylum and immigration field, however, the EU was precluded from doing so because it needed to tend to the Schengen project, and its vulnerabilities. This tipped the EU towards creating protectionist mechanisms like the CEAS.

Yet this counter-factual thinking about the EU's 'true' asylum and immigration interests does not entirely stand up. Even if Schengen had not been created, there is little reason to believe that the member states would have followed a radically different path on immigration and asylum – and surely not the enlightened humanitarian or labour-market path prescribed by many academics.

For one thing, even without Schengen, member states would have been obliged to focus their migration cooperation on narrow regulatory risks like 'asylum shopping' rather than on a higher set of values such as refugee reception. The EU is at heart a giant market – market integration drives European integration as well as giving the EU much of its international power. That is why, even before Schengen was created, European governments were beginning to work together on the things that threaten the smooth running of the goods market. Back in the 1970s, they had all these things on the agenda – cross-border threats like fraud and forgery, football hooliganism and hot pursuits of fugitive criminals, people-smuggling and 'asylum shopping'.

If the big-bang decision to lift internal passport controls did anything, it was to accelerate cooperation on these policies, sometimes too much. Prior to the Schengen initiative low-key home-affairs working groups had been quietly cohering across Europe, groups like the TREVI Forum which had been working to build a European home affairs regime without much fanfare. When European leaders expressed their intention to lift passport controls, these working groups were swept aside and home affairs officials were forced to focus on only the biggest problems. This left gaps on mundane tasks like finding a common system for transliterating Arabic names into national immigration records. These gaps became glaringly apparent during the Syrian refugee crisis in 2015.

For another thing, if there was no Schengen, member states would probably have little reason to cooperate on attracting labour immigration: their labour market

interests are simply too different. Despite the introduction of European monetary union and initiatives such as the European Employment Strategy, the European labour market has been far slower to cohere than the market in goods. In fact, the EU presides over 28 quite separate labour markets, as became clear during the financial crisis which preceded the migration crisis.

During the financial crisis, labour mobility in the EU actually fell – despite the pressure on EU citizens to move countries in search of a job. Whereas in the US as many as 2.7% of citizens move between its federal states each year, just 0.2% of the total EU population move member state. Of course, the fact that EU citizens do not migrate does mean that the EU as a whole requires non-European labour. But that does not mean that the member states share the same specifications: each government seeks different kinds of migrant worker. This is why, under EU treaty law, each member has enshrined the right to decide for itself how many non-EU citizens may enter its territory in search of work. The member states do not cooperate on the overall immigration numbers – only on the treatment meted out to migrants who enter the bloc.

This is not to deny that all member states do face the same big demographic problem. The European workforce comprises 230 million people; it is getting older and shrinking by as much as 0.4% each year. This is a serious problem for the European welfare model: back in 2002, the member states boasted 4.2 people of working age for every person over 65, but by 2016 the number had fallen to just 3.4. Nevertheless, most member governments would probably view immigration as a rather old-fashioned response to demographic ageing. The world is undergoing a new Industrial Revolution entailing a digitalisation of manufacturing technology, Artificial Intelligence and automation of white-collar jobs – phenomena which may consign the welfare state itself to history. These problems will not be solved simply by getting young refugees into work quickly.

## **The EU does have a positive migration agenda**

And so to the good news, if it can be considered good: the EU is not being given a fair trial by most migration experts.

The EU, precisely because it is this big market power, has the scope to formulate and realise its migration interests in a grand, positive style. It does not view absorbing influxes of refugees or attracting large numbers of migrant workers as a worthy end in itself. Its aims are more outward-looking and transformative: the EU wants to influence the very drivers of displacement and redefine the character of international migration itself. True, this ambitious foreign policy approach has lately run into

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very serious challenges – indeed, it was always driven by an acute awareness of Schengen’s vulnerabilities. But the EU surely deserves to be judged on these, its own terms, rather than according to a labour-market or demographic agenda which it has never really pursued.

Take its approach to forced migration flows: the EU expresses its commitment to refugee reception in Europe by trying to put an end to it. This is not about building up the walls of Fortress Europe so that its close neighbours are forced to host more refugees. It is about alleviating the root causes of involuntary migration. True, the EU has encouraged nearby transit states like Serbia and Albania to improve their asylum systems so that it receives fewer refugees. But it has also pushed them to undertake far broader political and economic reforms. In Turkey and the Western Balkans, the EU dedicated around €500 million of its overall €11 billion 2007-2013 Enlargement budget to build up asylum and home affairs capacities there. But the remaining €10.5 billion went on broader reforms, to help ensure that these countries never again produce large numbers of refugees.

The EU’s thinking here is directly moulded by its market power. Back in the 1990s and 2000s, there were strong reasons for EU members to put up the walls of Fortress Europe and to walk away from their commitment to receive asylum-seekers. Globalisation was creating worrying new opportunities for irregular migrants to travel and make unfounded asylum claims here. Many European politicians viewed as unsustainable the refugee commitments which had taken shape during the Cold War, and they made radical reform proposals, including one 2004 blueprint to all but abolish refugee reception in Europe and create asylum-processing camps abroad. But the EU stuck with its obligations: globalisation gave it new scope to intervene abroad, and the EU gambled that it could harness the global economy to reduce asylum flows by tackling their root causes.

The EU’s goal with regard to labour migration is, again, nothing short of putting an end to it. This does not mean that the EU wants a policy of ‘zero immigration’ or to turn itself into a closed fortress. The EU wants to stop receiving *migrants*, in the sense of people making once-in-a-lifetime movements to escape harsh living conditions in their homelands. It wants to replace this with an altogether more modern phenomenon, *mobility* – it wants to receive workers who move voluntarily into the EU, pick up new skills and experiences, and keep moving afterwards. The EU aims to treat international labour in much the same way as it does goods or money, seeking migrants’ frictionless movement into the EU and even across it. These workers, because they leave the EU again, will not require long-term integration or pose welfare costs. They will not exploit the vulnerabilities of the Schengen Area, slipping between member states in a bid to avoid detection and repatriation.

Look again at the categories of migrant worker the EU member states want to attract – the highly-qualified ‘Blue Card’ professionals, the seasonal agricultural workers, the students and researchers, the employees transferred between multi-national corporations – and it is clear they have something in common: these are all highly

mobile categories of worker. They will enter the EU, and they will probably leave again. But migrants will only live up to this ideal of 'free movers' if they are not trapped in Europe by the disparity in living conditions in their country of origin. This provides a glimpse of the scale of the EU's international ambitions: given that EU member states cannot source their labour needs solely from other wealthy economies, the EU must improve living conditions in poor and unstable source countries. If an EU member state allows in a migrant from, say, Ukraine to perform seasonal work it must be persuaded that he or she will leave again.

Here, again, the EU's market power is at work. The EU, by means of its development, neighbourhood and enlargement policies, tries to mitigate the economic problems in Africa, Asia and Eastern Europe: it is seeking to reduce the overall 'supply' of migrants there. In migrant-sending countries like Morocco, the European Training Foundation, an EU agency, tries to improve vocational training: the EU is trying to define 'production standards' there (to continue the market analogy) so that the people who do move have the right skills and qualifications. The EU aims, too, to create international 'value chains' along migrant transit routes: the EU is helping governments club together and benefit from the way migrants move from country to country and accrue skills and experience. By such means, the EU is trying to take the political sting out of migrants' entry to the single market as well as depoliticising their transit across nearby states like Turkey.

## The EU focuses on the root causes of migration

Migration experts are understandably sceptical about whether the EU lives up to its rhetoric. Follow the money, the critics say. And the EU has indeed been putting very little of its budget into programmes specifically designed to manage the economic and political drivers of migration abroad. By contrast, it has spent rather a lot on building the walls of 'Fortress Europe'.

In 2014, for instance, the Union earmarked just €45 million per year for 'development and migration management' under Heading 4 of its multiannual budget, which covers foreign policy. By contrast, it earmarked €1.5 billion under Heading 3 which covers home affairs – 33% going to asylum and immigrant-integration policies, 25% going to agencies like Frontex, and a sizeable 41% to irregular migration, visas and crime. This basic allocation of funds between Headings 3 and 4 hardly suggests a genuine commitment to tackle the drivers of migration abroad.

But this is not the full picture. The sums allocated to protecting Schengen may sound large, but Heading 3 as a whole in fact amounted to around 1% of the EU's total budget. That makes it far smaller than Heading 4, when that too is taken as a whole. And Heading 4, 'Global Europe', should indeed be taken as a whole here, because so much of it has gone on tackling the broader crises, conflicts and economic problems which can drive migration. In 2014, the EU earmarked €1 billion for

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humanitarian aid, €2 billion for the Development Cooperation Instrument (DCI), and €2 billion for reforming the Neighbourhood. And this is not to mention the €30 billion committed to Africa's development over a six-year period, under the European Development Fund (EDF).

This perhaps explains why only €45 million was earmarked for a specific goal like 'development and migration management': when so much of the EU's funding anyway goes on the drivers of migration, it would perhaps be odd to create specialised programmes. That said, numerous small dedicated migration and asylum programmes do thread their way throughout the 'Global Europe' Heading. And a big chunk of Heading 3 also goes towards tasks such as helping Frontex operate abroad. In the decade before the start of the migration crisis, the portfolio of EU projects specifically dedicated to international migration cooperation was estimated to have exceeded €1 billion and comprised more than 400 projects. Migration management formed an integral part of the EU's international development cooperation, external policy, neighbourhood policy and humanitarian aid.

The EU's motivation in addressing the drivers of migration and building up border controls may not be altruistic, moreover, but the member states have at least taken an enlightened approach to the way they pursue these tasks. They have, for example, tended to insulate their development policies in Africa from their political interests: rather than introducing border-related conditionality to their spending or channelling their humanitarian work towards major migrant-source countries, they have generally trusted in these policies to reduce migration almost naturally. The Cotonou Agreement which defines the overall framework of cooperation with Sub-Saharan African countries contains a clause on migration and the repatriation of irregular migrants, but the EU has generally tried to take a disinterested approach to migration.

That, incidentally, is one reason why European development programmes received such a radical shakeup during the migration crisis. European governments had always assumed that, as economic development took hold, and the world grew richer, people would simply cease migrating in large numbers. But, today, 'development stars' like Nigeria are among the top migrant-sending countries to the EU; and many asylum-seekers are coming from some of the largest recipients of development aid – places like Afghanistan where the US's largest single development contract is USD 9.5 billion, and critics can point to clear indicators that this has fuelled corruption.

Today, development experts complain that politicians have unrealistic expectations about their ability to reduce migration; but they also concede that, had they come clean earlier about the complexity of reducing migration, they would have almost certainly faced budgetary cuts and political interference.<sup>8</sup>

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8. Interview with EU official, Brussels, 27 February 2017.

## Border control can be liberal

Communication has clearly been a problem: the EU has not been very good at articulating its migration and border aims. Seldom do European diplomats elaborate on why immigration and border cooperation are so important to the EU, besides pointing to the need to protect Schengen. This invites unfavourable comparison with other major powers, like the US, which have traditionally been able to articulate a more positive and open global vision. The EU's reticence also fuels the widespread suspicion that the EU is inward-looking and petty-minded – that it suffers from a fortress mentality. But, in many ways, this really is just a problem of communication: the priority the EU gives to migration in its foreign policy is in fact not unusual or necessarily illiberal. Border control has quietly sat at the heart of the West's liberal grand strategy for nearly six decades.

The EU tends to couch the case in favour of border control in the following, rather technocratic terms: globalisation can only unleash its benefits if developing countries master basic tasks such as customs control. Borders matter, even in the modern era. They are each country's point of contact to the global economy. As tariffs have diminished worldwide, other barriers to trade have gained importance – everything from transport costs to physical border infrastructure. If these non-tariff barriers were added to goods in the form of a tax, it would inflate the cost price by 170%. 21% of this would be related to transportation (including 9% for time in transit and customs, as fresh goods rot). 44% would be down to border-related barriers.

This kind of cost-benefit business case is fine, but also a little technocratic. The EU's borders regulator, Frontex, expounds these arguments when it tries to export the EU's model of 'integrated border management' to other countries, and to help them coordinate their border police and their customs services. The World Bank makes this business case when promoting its model of 'coordinated border management', its 'all-of-government approach' to managing borders. Experts from the Organisation for Security Cooperation in Europe (OSCE) make the case when they are evangelising for their model of 'comprehensive border management'. But borders are geopolitical, and this business case rather underplays the transformative potential of good border control in world affairs.

In the opening section of this paper, it was argued that European leaders seem to view migration and border policies as conducive to the spread of liberalism abroad. If that is so then it is because border and migration control has played an elemental role in the West's attempts to spread liberal order for decades.

In Washington, back in the 1950s, strategists first formulated the twin goals which would guide globalisation, namely to create market economies and to build liberal nation states. These twin goals were not only compatible with one another, the strategists believed, but would be mutually reinforcing: if the liberal economy spread

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worldwide then so too would liberal political institutions. However, this positive dynamic could be guaranteed only if borders and migration were tightly controlled. Without strict border policies, a global free market would rampage out of control and undermine nation-building.

The strategists' gambit was as follows: rich Western economies would begin liberalising trade relations to the rest of the world, in a bid to create manufacturing jobs in poorer countries; these poor countries would then liberalise capital flows, so that inward investment could turn the low-skilled manufacturing jobs into high-skilled professional jobs; the manufacturing classes in these developing countries would become middle-classes, and would demand a say in how their country was run; in consequence, they would build political institutions and give root to democracy. A liberal global economy would thus encourage liberal nation-building. But this positive dynamic would only function if migration was tightly controlled.

That is because, if workers from poor economies moved abroad before they had completed the task of building political institutions at home, then democracy would not take hold in the developing world. And, if the West was subsequently swamped with low-skilled foreign labour, then it too would fall prey to chaos and populism and would lose its ability to project liberal order. This is the reason why wealthy Western economies have tended to treat migration liberalisation with extreme caution and viewed it as the last step in a long process of trade, investment and development cooperation. And it is why they have tended to place such heavy focus on borders: border management is the key to successful nation-building, and facilitates the 'right' kinds of global economic flows.

Such thinking is contested, nowadays. But it has progressive roots. When this strategy was first formulated, it was against a background of de-colonisation. The priority was building nations in newly-independent territories. International migration was still largely associated with the European colonisers of previous centuries. At the time, it seemed more progressive to liberalise trade and investment flows than migration.

Six decades on, much has changed. Still, it remains the case that the EU is really no different from other Western powers in the importance it gives to border control. What has set the EU apart, however, is its Schengen Area and the unique toolbox this provides the EU for combining international development with border cooperation.

## **Schengen: the blueprint for the EU's strategy**

Schengen's most notable contribution is also its most widely misunderstood: Schengen has prevented Europe from turning itself into a fortress. EU members, had they not created Schengen, might well have hidden themselves, and the internal market, behind many layers of controls. But by creating Schengen, isolationism was not an option: as soon as Schengen states did away with the borders which separated them, they increased their reliance on their common external border. This border is

shared with non-members. Russia shares the land border to Finland, and Turkey the border to Greece; Morocco directly borders Spain, and Libya is separated from Italy's southern border only by a stretch of international waters. Indeed, the EU shares a border with almost every state worldwide, given that the member states have such extensive international air links.

The EU cannot resort to 'burden-shifting' when it comes to international migration and refugee flows. Schengen's founding fathers planted the seed of fair international cooperation early, and they planted it deep. Schengen was conceived by just a handful of the EU's members – France, Germany, Belgium, the Netherlands and Luxembourg. By going it alone in this way, and bypassing a more inclusive plan from the European Commission, the gang of five risked creating a lucrative sub-market of their own, a stretch of the EU single market which goods and people could cross faster and more cheaply. The five states were thus at pains to work with non-members and, today, this spirit applies to the relationship between the EU and its neighbours. The EU has created a cooperative system which reaches far into Africa and Central Asia – a system of mutual border controls, data-exchange rules and shared migration procedures.

How to keep Schengen's outer border tightly controlled, but also soft and open? Schengen members have lifted short-stay visa requirements for citizens of Western Balkan states; this keeps the EU's south-eastern border open, but it also serves as leverage to encourage governments of the region to improve their migration and customs standards. Similarly, coalitions of willing EU members have clubbed together to create 'Mobility Partnerships' with states from Cape Verde to Georgia, pledging migration quotas and easing short-stay visa restrictions in return for migration cooperation and border reform. The EU has also used the prospect of enlarging Schengen in a bid to entice nearby states to help guard its outer borders: in return for faithful cooperation with the EU, states like Turkey may one day join the passport-free travel zone and share in a free-movement system which reduces trade costs by anywhere between 0.4% to 1.6%.

As with the EU's enlargement policy more generally, there is an element of power politics involved. The Schengen members expect nearby states like Turkey to adopt border, asylum and immigration policies defined in Brussels. These states are accustomed to this kind of treatment by the EU: if they wish to join the EU, they must take on a predefined legal *acquis* in all sorts of policy areas. But, in the field of border management, this can create a sense of unfairness: each time Schengen enlarges, countries with little experience of managing migration can find themselves taking on a demanding new role. They find themselves guarding the outer border of Schengen which brings them a wealth of practical experience, and very limited means to change the rules. As Schengen enlargement has slowed, moreover, non-members like Turkey have begun to wonder whether Europe's borders are now set in stone and in consequence they will bear a permanent burden.

The EU is aware of this situation. It pays for its neighbours to improve their border capacities and cooperates with them to prevent Schengen's outer border from creating a permanent new 'Iron Curtain' separating – say – Kaliningrad from the

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rest of Russia or Ukraine from Poland. But some third countries nevertheless try to turn the tables on the EU, playing their own power politics. A migrant-transit country like Turkey can refuse to align its asylum and home affairs standards with the EU's, and simply allow Syrians or Ethiopians to move on towards more attractive destination countries in Europe. That is why the EU puts such emphasis on returns and repatriation agreements with third countries. Returns agreements are often criticised as an example of burden-shifting by the EU. But they are an important lever to prevent countries from undercutting European standards.

Here too, Schengen members are simply applying to the outside world the approach which they developed for use among themselves. The so-called Dublin Regulation serves as the relevant returns mechanism inside Schengenland. It stipulates that the member which permitted an asylum-seeker to enter the Schengen Area is, with a few exceptions, in charge of processing the claim. This inevitably places a burden on the eastern or southern members which guard Schengen's outer border, but the Dublin Regulation was not designed as a burden-shifting tool. The Regulation was not meant to be applied religiously, but rather used as a lever to ensure standards in new members and to dissuade them from simply allowing refugees from transiting their territory. The same is true of the returns agreements which the EU seals with third countries like Ukraine – these remove the incentive for transit countries to undercut EU asylum and border standards.

Or this, at least, has been the theory – one in which the EU acts as a beacon of liberal influence in the world.

## **The prelude to the 2015 crisis**

How does the EU picture itself in the world? Every international organisation has its own mental map. Take the OSCE, a body which has been increasingly involved in migration issues: its staff mentally split the world into three zones. The OSCE's founding act gave it three 'baskets' of tasks. It tasked the OSCE with combining cooperation in the fields of hard security, of economic affairs and of the 'human dimension' (a synonym for human rights). But these baskets have become untethered from each other, and the tasks are now provided respectively by NATO, the EU and by the Council of Europe. OSCE officials thus tend to mentally split the world up into a kind of Venn Diagram, mapping these three rival bodies with their overlapping memberships. Their approach to migration and border management has involved thinking of ways to bring the baskets back together, under an OSCE umbrella. That is their mental map.

The EU's vision of its place in the world is more assertive. Its mental map is one of 'concentric circles': diplomats envision the EU/Schengen at the centre of the world, radiating out economic and political influence to ever further rings of countries. This is reflected in the key geographic demarcations given to EU foreign policy – 'enlargement policy' towards the nearby Western Balkans and Turkey, 'neighbourhood

policy' towards a further arc of neighbours stretching from Belarus to Morocco, and development policy with an outer arc of countries designated as 'the African-Caribbean-Pacific region'. These geographic terms created in Brussels have, moreover, left a physical imprint on the world outside: as the EU used these policies to expand its influence outwards, it pursued deep reforms in ever greater rings of countries, before lifting borders to them and shifting controls even further out. Many of the EU's border controls are in effect situated abroad.

Yet, the EU's elaborate toolbox for stimulating political reforms abroad, and transplanting its immigration and asylum rules to these countries, was a little disjointed. In the words of one official, the toolbox was 'a bit of a Frankenstein'. Its bulk comprised the transformative policies by which the EU stimulates economic development and governance standards (depending on the part of the world, enlargement, neighbourhood or development policies). The EU's crisis-management and humanitarian arms operated somewhat independently, but often served to address the conflicts which were causing people to migrate. And much of the body was messily sewn together by home affairs agencies like Frontex which were meant to provide a degree of coordination between the various activities. There had been no real diplomatic head to steer it.

In the run-up to the crisis, the gaps and seams in this body were increasingly clear to see, and there were serious concerns about its effectiveness. The EU had been forced to insert discrete buffers across its near abroad to block irregular migration flows which it simply could not deal with by its usual transformative means.

Historically, there have been at least four major irregular migration routes into the EU. Many of them cut all the way across the EU's careful geographic demarcations – emanating from the African-Caribbean-Pacific region, crossing the neighbourhood, and flowing into the EU through the enlargement candidates like Turkey. As such, they vividly reveal the limitations of the EU's strategy of gradual outward expansion. In the run-up to the migration crisis, each of these four flows had been messily blockaded: Morocco, in close cooperation with Spain, was blocking the flow of West Africans into Europe's Iberian Peninsula; Saudi Arabia and Israel had constructed fences which served to hold back the flow of migrants from the Horn of Africa up through Turkey; returns deals between the EU and the Western Balkans had more or less severed the flow of Serbians and Albanians to Germany and Sweden; and Ukraine was blocking migration from the East.

But the migration buffers were crumbling faster than they could be constructed. In 2011 Gaddafi had been ousted, and Libya became increasingly unable to control its borders. The flows from both West Africa and the Horn now diverted through Libya and the Central Mediterranean. The situation in Syria had also begun to deteriorate, causing massive refugee flows inside the old perimeter fence provided by Israel and Saudi Arabia. Syrian refugees now came flooding through Turkey and into Greece,

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where they linked up to the old Albanian and Serbian smuggling networks that stretched into Germany and Sweden. Meanwhile, the fighting in Eastern Ukraine caused flows of Ukrainians into Poland and led to concerns about Kiev's ability to manage its borders.

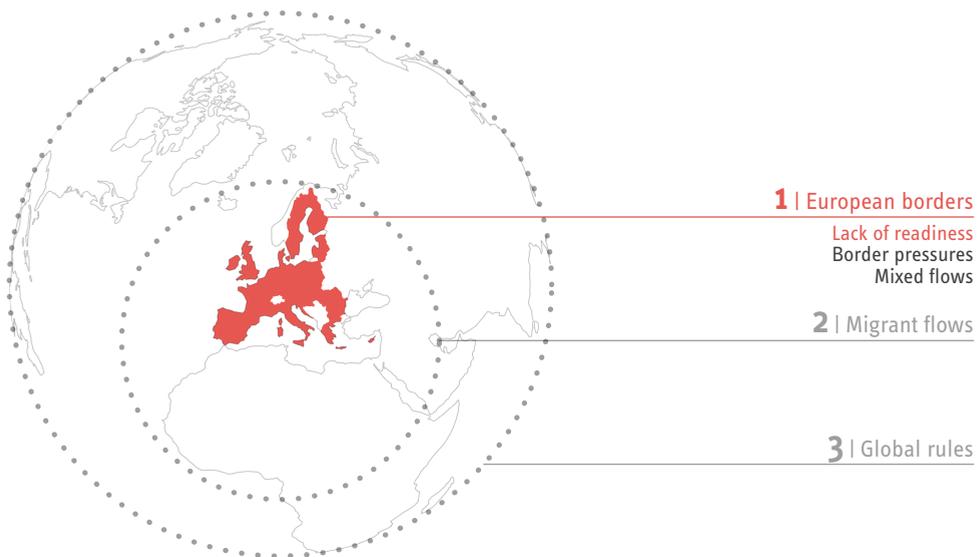
By the beginning of 2015, the EU's old mental image of 'concentric circles' was replaced by the far more vivid image of a 'plasma globe': the EU still seemed to picture itself at the centre of the world map but now, instead of radiating out waves of order, it was attracting irregular inflows of people, connecting it directly to distant trouble-spots like Eritrea. This had an electrifying effect on European foreign policy, providing Frankenstein with a jolt.

*SECTION 2*

**During the crisis: nine  
dilemmas for migration  
diplomacy**



# 1. Lack of readiness: projecting power to project migrant numbers



## 1. How did this problem manifest itself?

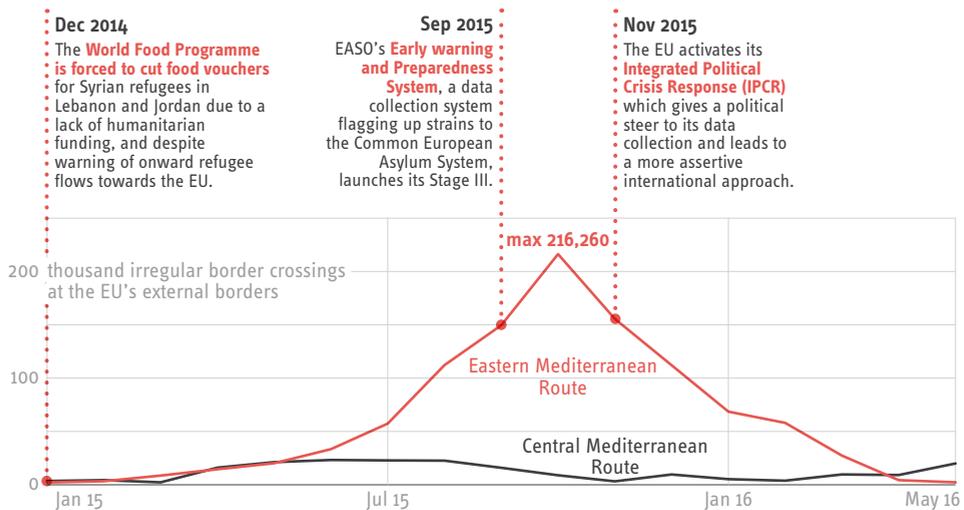
In November 2015, European leaders met their African counterparts in Valletta, Malta. The two-day summit between the European Union and African Union, months in the making, had been designed as a diplomatic set-piece – a sign of the EU’s determination to manage migration flows across the Central Mediterranean and prevent such tragedies as the 2013 Lampedusa migrant drownings. EU leaders duly pledged €1.8 billion to deal with the root causes of migration in Africa, and then rapidly adjourned to another room: they needed to get to grips with a far more pressing problem – the flows of migrants transiting up through Turkey. The migration crisis had already moved on, and the summit came to symbolise something quite different from what was originally intended – the EU’s lack of readiness.

At the beginning of the year, in January 2015, just 2,200 migrants had been registered taking the irregular path into the EU through Turkey; 3,300 in February; 8,600 in March. But in August alone, the figure was a massive 112,000. During the previous three years, the authorities in Italy and the rest of Europe had grown more or less

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accustomed to the sight of migrants crossing the Central Mediterranean – a route which, although capable of reaching highs of around 25,000 in a single month, was accessible only when the weather permitted. The opening up of this new land route through Turkey signalled the beginning of the European migration crisis proper, and it was the EU’s perceived failure to anticipate it which has probably triggered the deepest soul-searching.

**Figure 1: Lack of readiness: dealing with the unpredictability of migration flows**



Data: Frontex; Italian Ministry of Interior

## 2. What was the EU's initial diagnosis?

In the summer of 2015, the EU diagnosed worrying gaps in its information-gathering and analytical capacities as the reason for its unpreparedness: the crisis illustrated a blind spot in Brussels when it came to predicting migrant behaviour.

The authorities in the EU had, of course, been well aware that large numbers of refugees had fled nearby Syria. They knew, too, that the countries of first reception like Jordan or Lebanon had had their fill. And yet the EU had struggled to turn this basic information into actionable intelligence let alone put border and refugee-reception contingencies in place. In 2015, an influx might just as easily have come from Yemen, South Sudan, the Punjab or Burma/Myanmar, and the EU had failed

### 1. Lack of readiness: projecting power to project migrant numbers

to predict that the flows from Syria would be the ones to materialise. The European Commission's only major success at pre-empting the crisis had been to encourage Cyprus, situated close to Syria, to boost its refugee reception capacities by 200 places, places which had almost immediately been filled.

As the EU now began gathering clues about migrants' behaviour, it became increasingly aware how little it knew about who might come next. Until that point, most migrants to Europe – be they workers from Senegal or refugees from Afghanistan – seemed highly predictable and strategic in their trajectories. They set out from home with a clear plan, often propelled by family members who had invested in their future. But new survey data from Italy and Greece painted a picture of people who had left home without any plan at all. Those who arrived in Europe had often lived, worked or sheltered elsewhere for some time – Palestinians in Syria, or Afghans in Iran – before finally moving on to Europe. Indeed, those migrants who had been sent by their families and villages tended to be intercepted by kidnappers, who knew that they could claim a ransom.

In short, the 'migration flows' were in fact not flows at all, but start-stop in nature, as migrants stopped off in transit countries or were waylaid.

## 3. What was the EU's first policy response?

The idea took hold in Brussels that the EU needed an EWS – a migration early-warning system – which would fill in the knowledge gaps and provide its border authorities with actionable intelligence. Countries like Canada, Switzerland and Sweden all have a system to predict annual migrant arrivals or warn of unexpected inflows, and the EU already had in place the two obvious building blocks. It had a new conflict-warning mechanism created by the European External Action Service (EEAS) to monitor trouble-spots worldwide, and a new system to identify border weaknesses and asylum backlogs inside the EU managed by Frontex and the European Asylum Support Office. The former could now be repurposed to identify migration 'push factors' abroad. The latter could flag up 'pull factors' which could attract migrants into the EU.

The task for the EU was to turn these two building blocks into a workable EWS. Officials at the European Asylum Support Office (EASO) saw an obvious means of operationalising such a system. The EU needed to know about what happened in countries of transit and first reception like Lebanon or Turkey. The EU's existing conflict-warning system (not to mention EASO's own information about 'countries of origin') could identify the factors which first pushed migrants from their home countries; and Frontex and EASO's new monitoring systems could identify the weaknesses and backlogs which might one day draw these migrants into Europe. But only information about what happened in the transit countries 'in between' could indicate to officials in Brussels when a migrant sheltering in a nearby third country would eventually respond to the pull of the EU.

Creating an EWS for an organisation as large and complex as the EU was ambitious. The EU is not a nimble Switzerland or a Canada with its isolated geography. The Schengen member states, with their 42,673 km of shared sea borders and 7,721 km of land borders, would need precise and compelling early warnings. They cannot remain on high alert for long. So if the EU did create an EWS this would need to be of unprecedented dimensions. EASO's officials appeared to set their sights high, looking into the feasibility of an ambitious system to map migrants' 'choice architecture': using Big Data, diplomatic intelligence, migrant debriefings and academic analysis, EASO would look at conditions all along the path to the EU, and the way migrants respond to them.<sup>9</sup>

## **4. What was expert opinion?**

Academics generally agreed with the need to create an EWS. But they wanted the current plans to go even further: they saw an EWS as a means to do nothing less than 'automate' the EU's response to an imminent migration influx. This would cut out the seemingly irrational internal politics which had paralysed the member states in 2015. They advocated an EWS which would trigger a pre-defined series of border and reception contingencies inside vulnerable member states. This was the only means to ensure that member states managed the inflow of migrants and absorbed them properly. Unless the EWS had this kind of automatic effect, academics felt that the EU member governments would always close their eyes to warnings of an influx.

During 2013 and 2014, experts had themselves warned that Syrian refugees sheltering in countries of first reception were preparing to move on to Europe. World Food Programme officials in Jordan, Lebanon, Turkey, Iraq and Egypt had been saying they lacked the funds to maintain the food-voucher scheme for refugees, and had hinted that Syrians might soon seek safety inside Europe. And the governments of Jordan and Lebanon had also warned that local societies were becoming saturated with refugees. But when academics had raised these issues with policymakers, EU governments had not taken the obvious step even to properly boost reception capacities in Greece. For migration experts, governments' unwillingness to listen had been the real scandal of the EU's lack of readiness.

## **5. How did the EU accommodate expert opinion?**

The EU now listened to the academics. Towards the end of 2015, for instance, its borders agency Frontex began discussing an early-warning exercise along more ambitious lines. Frontex has a role in gauging the robustness of border capacities across the Schengen area, and it can only do this if it has some sense of the migration stresses awaiting the bloc. Each year, Frontex therefore carries out a big risk analysis.

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9. Briefing by officials of EU agencies, Valletta, 16 May 2016.

## 1. Lack of readiness: projecting power to project migrant numbers

Until now, however, it had confined this exercise to modestly extrapolating migration trends from the previous year. Frontex now conceived of a more ambitious research exercise to forecast upcoming migration trends. During early discussions about this project, participants apparently showed a willingness to even consider what kind of policies and operational responses might be required if member states were to master the flows.<sup>10</sup>

Frontex is an agency like any other of course, and its role is to implement European policies, not to define them. It was therefore careful to remain within its mandate. Nevertheless, Frontex's apparent willingness to at least imagine the appropriate policy responses was in tune with the times: as the migration crisis peaked, member states and the Commission were discussing ways to turn Frontex into a kind of super-agency, a 'European Border and Coastguard Agency'. Frontex looked set to gain the power to force member states to strengthen their national borders if it spotted a risk, perhaps even intervening directly without their consent. This called for an ambitious approach to risk analysis and, incidentally, would also be in line with academic demands for an automated EWS: if the new EBCG sensed a border weakness, it would be able to act even without the sanction of governments.

And so Frontex began its ambitious risk-analysis exercise, hiring the services of a futurologist to gauge possible migration flows to Europe over the next 5-10 years on the basis of drivers such as economics and geopolitics. The goal was to improve the EU's responsiveness to incoming flows, and this was reflected too in the way Frontex now increased its information-gathering capabilities abroad. It dispatched a liaison officer to Turkey (a posting soon replicated in the Balkans and West Africa), reinvigorated its existing international information networks (the 'Western Balkans Risk Analysis Network' and the 'Africa-Frontex Intelligence Community') and began hooking up to the EU's overseas diplomatic delegations and crisis-management missions.

## 6. What was the reality-check?

Both Frontex and EASO quickly scaled back their ambitions, as they grew sceptical about the feasibility of an EWS let alone an automated crisis response. Fears centred on the ability to gain reliable data.

EASO had undertaken detailed feasibility studies on the EWS as well as discussing the project with bodies like the International Organisation for Migration, and these raised questions about the EU's ability to gather reliable information about refugees in transit. EASO had been looking to harvest clues from social media, migrant debriefings and foreign governments. But the information the EU garnered often proved unreliable. On social media, for instance, migrants altered the geolocation on

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10. Interview with participant, Paris, 18 February 2016.

their phones and changed identities, adopting pseudonyms or logging on as members of the opposite sex. This was not just about people trying to escape detection by the authorities: they had learnt what kind of information they needed to give the authorities if they wanted a sympathetic hearing.

An example which frequently arose during discussions in Brussels: when refugees were debriefed by European authorities on arrival in Greece, it seems they gave answers they knew would trigger a certain administrative response. Syrian and Afghan refugees claimed to have suffered abuse from people-smugglers, hoping for more sympathetic treatment from the European authorities. In reality, it seems only the taxi drivers in Istanbul and the locals at shore in the Aegean tended to be abusive, while smuggling networks in the main were service-oriented. This kind of misinformation not only makes it impossible to accurately predict migrants' behaviour in transit. It also risked steering EU policy in odd directions, rendering the Union reactive and unpredictable. 'The tail,' says one national border official on secondment to Brussels, 'had begun wagging the dog'.

It was Frontex which, when it did eventually publish its risk-analysis report, most vividly illustrated the effect of information overload and misinformation on the EU. At the very outset of its project, Frontex officials had apparently intended to first gauge international migration trends and then, in a second step, look at the possible operational and policy response by the EU. But, according to external participants, this approach gradually reversed. As the EU became flooded with information, EU migration policy became more and more unpredictable, and the EU itself turned into the forecasters' biggest unknown. This may explain why the Frontex report speculates first about the many unpredictable ways in which EU policy might develop and then, in a second step, about all the ways in which this could affect migration flows.<sup>11</sup>

## **7. What did the real problem turn out to be?**

At root, the task facing the EU was to reinvent its model of knowledge-based decision-making – to revamp the way it converts information into international power. For two decades, the EU has achieved a highly rational style of policymaking, and this has been the foundation of its international influence: the EU has been able to rationally size up challenges and spread appropriate norms to nearby countries like Turkey. But its neighbours now seemed reluctant to adopt its norms, and were deploying fake news, data overload and disinformation in order to disrupt EU policy. The migration crisis was a god-send for them. If the EU had continued to pursue a reactive crisis-response system in this context it would have been precisely the wrong response: an EWS would leave the EU open to manipulation by unreliable parties and their spin.

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11. The report can be found at: Frontex, 'Risk Analysis for 2016', 2016, p.54. Available at: [http://frontex.europa.eu/assets/Publications/Risk\\_Analysis/Annula\\_Risk\\_Analysis\\_2016.pdf](http://frontex.europa.eu/assets/Publications/Risk_Analysis/Annula_Risk_Analysis_2016.pdf)

## 1. Lack of readiness: projecting power to project migrant numbers

In Brussels, governments and officials had begun to realise this and adapt accordingly. Early in the crisis, they had activated various knowledge hubs to manage the massive volumes of information on migration. These, the various Knowledge Hubs and Excellence Centres for Migration in the Commission and the Integrated Political Crisis Response in the Council, increasingly turned their attention to issues of misdirection and spin. This was shortly after the EU had concluded its migration deal with Turkey, and governments had doubts about the information Turkey was giving it. Could Turkey really claim sole credit for the dip in flows across the Eastern Mediterranean, they asked, or was this in fact down to a parallel border agreement with the former Yugoslav Republic of Macedonia? How many Syrian refugees were still crossing into Turkey, how settled were they and could Erdogan really 'turn the tap back on' as he threatened?

Analysts in the knowledge hubs also began to scroll back and review the supposed policy failure which had kicked off the whole crisis: the EU's lack of readiness in early 2015. What they discovered no longer surprised them. They found that those initial warnings about an 'imminent influx' of Syrians from Jordan and Lebanon had in fact been largely false. The Syrian refugees who had arrived in Greece in 2015 had come not from the countries to Syria's south – from Lebanon and Jordan – but rather directly from northern Syria, where fighting had intensified. Jordan, Lebanon and the World Food Programme (WFP) had likely played up the threat of onward movements, it seems, in a bid to persuade the EU to increase its funding for the region. The WFP's work was in fact showing practical shortcomings, and this was perhaps a means to raise money while shrugging off scrutiny.<sup>12</sup>

The analysts concluded, more fundamentally, that the EU's complex internal politics mean it simply is not designed to respond to warnings – a good thing, when these are so unreliable. In 2015, for instance, EU governments had delayed their response to the warnings about Syrian refugees because their attention was on another flank: they were waiting for Ukrainians to start crossing the EU's eastern border. Academics had been confidently predicting not just an influx of refugees from Jordan and Lebanon but also from the fighting in Eastern Ukraine. This was during the phase before flows materialised on either flank, and the EU's tricky internal politics made it necessary to combine the concerns of its southern and its eastern member states. It therefore delayed triggering contingency measures in Greece because it aspired to a more strategic approach.

## 8. How did the EU finally adapt?

The lesson was simple: the EU, with its 28 governments, is built to act upon its near abroad, not react to developments there. The EU duly became more pre-emptive, finding new ways to exert its influence on nearby countries such as Turkey, Lebanon and Ukraine. This marked a return of its old assertive approach – a return of self-

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12. Roundtable discussion between experts and practitioners, Amman, 17 December 2015.

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confidence which in fact began far from Brussels. Out in the field on the Greek islands, officials from Frontex, EASO and Europol had made a small but significant change: they stopped trying to second-guess migrants' behaviour using information gleaned from social media, and they began broadcasting information to refugees about the EU's rules. Almost immediately, the migration flows became more predictable.

In the early days of the crisis, migrants' behaviour on the islands had seemed highly irrational. The flows had been characterised by sudden peaks and troughs. Throughout 2015, Syrian refugees had routinely headed to the south of Lesbos; but then, overnight (literally, from 3 to 4 December), the flows abruptly shifted to the opposite end of the island. Flows which had been consistently male and only one-ninth children in September were, by February 2016, suddenly one-third children and female-dominated. At one point, migrants even began scuppering their own vessels midway across the Aegean. And the EU field officers, bombarded by requests from their headquarters for clues and information, could only transmit this puzzling picture.

It turns out the migrants were behaving unpredictably because so too was the EU – migrants were picking up rumours about intended changes to policy, and were altering their behaviour accordingly, sometimes quite drastically. In the case of those scuppering their vessels, this preceded the introduction of a Greek law granting them lenient treatment if they were saved at sea. But the fact that migrants responded to European policy in this way was a sign that European policy retained its authority. Officials now realised that, if policy was clearly communicated, it would be more or less self-fulfilling: if the EU released credible information to migrants waiting in Turkey, it would echo through social media, and migrants would adapt accordingly. This was a useful reminder that the EU remained a source of authority – not just for migrants, but potentially also for other governments.

It was Europol which first hit on the right approach to managing information relations with other governments. In the early days of the crisis, Europol had been experiencing the same kind of information problems as Frontex and EASO: it was overwhelmed by data, most of it raw, some of it actively misleading. Governments had handed a massive 18.5 terabytes of information to the European police agency in late 2015 after the Paris terror attacks (equivalent to 1,387,500,000 pages of reports) and, as the migration crisis developed from a problem of public order to an investigatory situation, data flowed in on everything from people-smuggling to foreign fighters. Worse, some of it came from countries like Turkey, which apparently saw a political advantage in 'love-bombing' the EU with information.

At first sight, moreover, Europol had a weaker hand than other EU agencies when it comes to gathering reliable information. Europol is a 'first-generation' home affairs agency: it predates Frontex and EASO by two decades. As a result, its mandate for international information-sharing and gathering was more limited. Yet, these limitations actually served to protect it from the confusing new international situation, and yielded an innovative approach: rather than send liaison officers

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abroad, Europol instead attracted large numbers of liaison officers from third countries to its headquarters. By creating authoritative information hubs in The Hague it became a 'honeypot' for foreign agencies, finding that it could leverage this position to influence other countries' behaviour.

## 9. What is the long-term orientation of EU policy?

EU policymakers now seem to recognise that the crisis was not triggered by a lack of reactivity in their borders and refugee reception regime, but rather by a failure of pre-emptive action abroad. The EU had taken for granted its role in setting standards for its neighbours to follow. As the migration crisis hit, it seems it panicked about how little it understood its environment, and its first response had been to use all its diplomatic clout in order to press them for information. This had left it vulnerable to misinformation and to other players' agendas. But as the crisis unfolded, the EU realised it needed to stop using its diplomatic clout to gain information and, in a return to the classic formula,<sup>13</sup> needed to use information and intelligence to improve its diplomatic influence. One European official makes a simple point here: if knowledge is power, then the EU needs to view its knowledge-based policymaking as a question of power politics.<sup>14</sup>

The shift towards a more proactive stance has begun. At the beginning of the crisis, the EU used its diplomatic clout to gather information and improve its capacity to react to incoming flows. The Commission stocked EU overseas delegations with European Migration Liaison Officers, thirteen in total (in Egypt, Ethiopia, Jordan, Lebanon, Mali, Niger, Nigeria, Pakistan, Senegal, Serbia, Sudan, Tunisia and Turkey); Frontex pressed EU delegations to host its liaison officers; EU home affairs officials briefed EU ambassadors on their information needs. This all served to get the flow of information back to Europe where the EU might hope to prepare for the newest influx. But the approach has begun to shift, and the liaison officers are becoming more assertive abroad. Frontex has begun asking whether its liaison officers are of sufficient seniority not just to gather information but to press for action by their host government. The Commission has begun asking whether its migration liaison officers could play a role in influencing international border matters, including in geopolitical hotspots like Lebanon, Jordan and Israel.

Take the EU Satellite Centre. SatCen is the EU foreign policy agency with a mandate to provide geospatial intelligence for European diplomats. At the beginning of the migration crisis, however, SatCen found itself drafted into supporting Frontex, providing last-minute situational clues about when migrants might set sail from Libya. This was a reactive approach. But in the middle of 2016, SatCen began once again to bolster the EU's diplomatic action: EU diplomats were able to use SatCen

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13. Michael Herman, 'Diplomacy and intelligence', *Diplomacy & Statecraft*, vol. 9, no. 2, 1998, p.1.

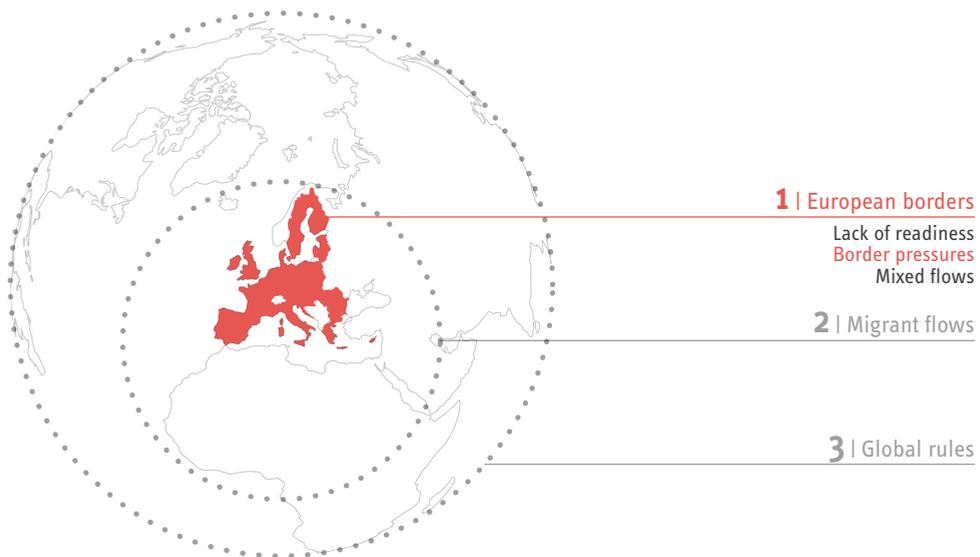
14. Interview with EU official, Brussels, 7 December 2016.

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to monitor whether transit countries were living up to their commitment to control migration flows. If SatCen found evidence that this was not happening, it would be the matter of a quick phone call. As a result of such shifts, the 'stop-start' nature of recent migration flows, and the 'unknowns' in transit states like Turkey, duly shrank.

But the most satisfying example of the EU's more proactive stance involves the early-warning system originally created by the External Action Service to flag up conflicts. In the early days of the crisis, many border officials had wanted to repurpose it to identify migration 'pull factors'. But in fact its original purpose has been reinforced – reducing the potential for conflicts before these even arose. When the EEAS identifies an indicator that conflict may break out, it does not put the EU's borders and reception policies on alert. It triggers consultations in Brussels between all parts of the EU's foreign policy apparatus. Diplomats, development and trade specialists then work to reduce the conflict potential of EU policies, long before fighting ever breaks out. The focus is on reducing push factors before they even arise.

## 2. Border management: the line between internal and external security



### 1. How did this problem manifest itself?

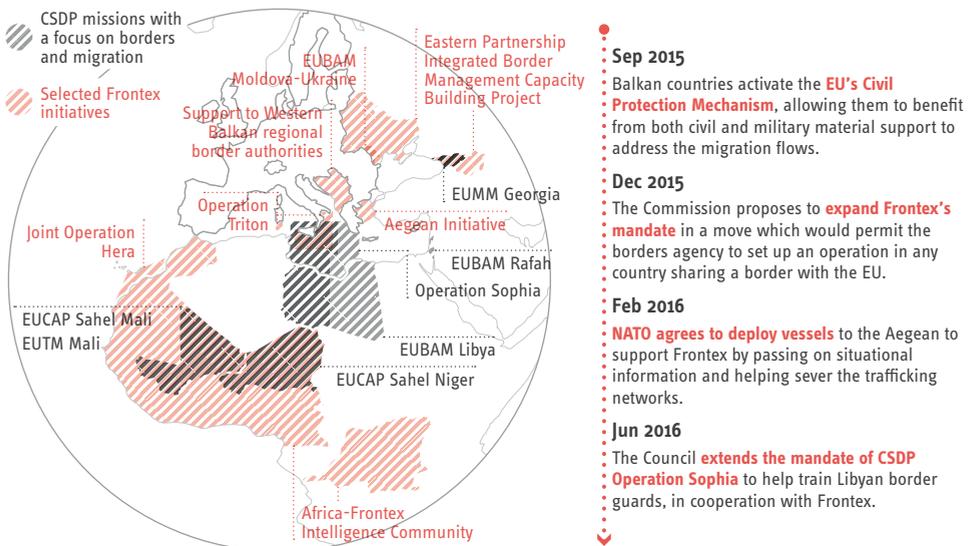
By the end of 2015, officials in Greece and the Balkans began to fear that they were experiencing what they called ‘perma-flows’ – a flood of migrants which becomes constant. They had been hoping that the pressure at the EU’s south-eastern border would have abated by winter. But when a dip did finally come, in the last week of November 2015, it hardly amounted to a sustainable trend but was due to a combination of factors: bad weather in the Aegean, a spike in smuggling fees, and a momentary reluctance by crime organisations to help migrants in the wake of the Paris terrorist attacks. In other words, the reasons for the dip were circumstantial at best. Moreover the flows, although smaller than before, remained huge. Arrivals from Turkey were still at 2,400 per day. At the Serbian-Croatian and Croatian-Slovenian borders the average crossings per day remained at around 3,500.

At least 800,000 irregular migrants had arrived in Europe already that year (666,000 alone in the Eastern Mediterranean) and European officials gave a conservative estimate that 3 million more would follow by 2018. The reasons for their pessimism

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were clear. In Lebanon, stockpiles of blank passports abandoned by Syrian authorities were being sold on the black market. In Syria, Assad's army was now going back and forth between defeat and victory, the objective of all sides being consolidation rather than advance. In Iraq, more than 3 million internally displaced persons were counted and, in those few areas which had been successfully pacified and de-mined, violence had now broken out between returnees and locals. In Afghanistan, migrants who were repatriated reported that they would head straight back to Europe as soon as they had the money.

**Figure 2: Border pressures: deploying CSDP missions and home affairs agencies to plug the gaps**



Data: Frontex, EEAS

The pressure on the EU's elaborate international border network was relentless, and not just in Greece and Italy. Inside the Schengen Area, Austria found itself at the junction of the two major flows, taking in 800,000 asylum applications in 2015, the highest per capita percentage in the EU. Outside the Schengen Area, third countries which share a border to Schengen were also under strain. Serbia counted 596,000 irregular migrant arrivals, and the former Yugoslav Republic of Macedonia 413,000. And this, of course, was as nothing when compared to the countries on the other side of the EU's southern maritime border. All ten members of the EU's southern neighbourhood were now mired in internal conflict and/or terrorism. Half of them featured in the bottom 10% of countries worldwide in governance rankings. All now had problems along their own southern borders.

## 2. What was the EU's initial diagnosis?

The EU in effect chose to classify the pressure on its border system as a 'man-made disaster', akin to a chemical spill, nuclear meltdown or any other infrastructure malfunction. That classification is, perhaps, not self-explanatory. Most observers who saw what was unfolding across Europe's borders instinctively classified it as a humanitarian emergency rather than a crisis of infrastructure. For governments, however, this specific problem was the result of a political decision taken decades earlier to lighten border controls across Europe – a man-made decision. The Schengen Agreement had been based on an optimistic assessment that large-scale migration flows were a thing of the past; far too optimistic, it now seemed. Today, massive permanent flows across the border had to be considered the 'new normal'. But if the border problem was man-made, then a man-made solution was possible: this was about mobilising governments and their border resources.

The option of imposing borders inside the Schengen Area and permanently ending border-free travel was quickly ruled out. Even a two-year suspension of border-free travel would – according to conservative estimates – entail a one-off cost of €51 billion as Schengen states tried to re-instate their individual border regimes; the added cost of trading in Europe would shave at least 0.14% off GDP. Schengen states instead needed to work together to free up resources and transplant them to plug gaps at their shared outer borders. Moreover, such shortfalls were even more acute outside the EU, in Western Balkan countries which had aligned their border policies with Schengen, and had demilitarised controls, settled local demarcation disputes, and streamlined border checks. These countries struggled to find resources to manage their borders and asylum systems.

## 3. What was the EU's first policy response?

The EU's Civil Protection Mechanism (CPM) is the go-to platform for European states dealing with man-made disaster. A sort of pan-European swap-shop, it allows governments to signal shortfalls in a crisis, or to pledge resources. The CPM proved particularly useful now because it transcends the two major silos which usually slow the EU's crisis response. The CPM allows states to free up both civilian and military resources, and to get them to where they are needed – whether inside or outside the EU. This pragmatic approach reflects the CPM's historic development: the CPM was first dreamt up under the EURATOM treaties after the Chernobyl disaster (a massive transnational catastrophe which affected states inside and outside the EU) and it was given its character in the 1990s when the member states decided to use their post-Cold War militaries for civilian tasks (the concept of 'civil defence').

Indeed, the fact that this handy little mechanism was available may well have persuaded the EU to treat the situation as a 'man-made disaster'. It allowed member states to free up resources from their internal and external, civilian and military,

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toolboxes in a way which would have been impossible if they had labelled their situation – say – a humanitarian emergency. Admittedly, at first glance, the EU's CPM seems badly-resourced and hamstrung by a decentralised structure (it largely relies on voluntary contributions from states). It certainly pales in comparison to its cousin, the EU's massively well-resourced Humanitarian Aid toolbox. And yet, if the EU had chosen to declare its borderlands the site of a 'humanitarian disaster', it would have quickly run into practical and legal problems.

Humanitarian aid operates at arm's length to the governments of crisis-stricken countries, meaning the EU would have had to largely bypass local authorities in the Balkans. Humanitarian aid is also needs-based and, no matter how bad the situation in and around Europe, it would be hard to justify large-scale spending there rather than in, say, Bangladesh. Moreover, it would be tricky to link humanitarian aid to other EU toolboxes, most obviously the military: the only thing the EU's Common Security and Defence Policy (CSDP) and its humanitarian aid toolbox seemed to have in common is that both are more or less limited to deployment *outside* the territory of the EU. This would not be much help in plugging vulnerabilities inside the Schengen border regime.

Officials had already discovered the limitations of the CSDP toolbox earlier in 2015, when they had treated the situation in the waters off Libya as a 'security situation' and mobilised spare military resources to deal with the crisis. All had gone smoothly, initially. Resource generation for the new CSDP mission had unrolled surprisingly quickly, with the 14 participating member states mobilising the naval resources in record quick time – just one month. But the mission was now beset by legal and operational questions as it tried to squeeze its wide-ranging tasks into a strict military concept. Operation *Sophia*, as it was now named, would inevitably find itself performing many classic border-patrol tasks. But the EU had felt obliged to delineate only military-type tasks for it – to 'identify, capture and destroy smugglers' vessels'. Ironically, this aroused international suspicion, and made it hard for Operation *Sophia* to secure a mandate under international law to actually perform those core military tasks.

And so in autumn 2015, as flows along the Balkan Route continued, the member states resorted to the Civil Protection Mechanism and its catch-all label 'man-made disaster'. When leaders from eight EU member states met in Brussels with their Western Balkan counterparts, they made the CPM a central part of their 17-point Action Plan. The Former Yugoslav Republic of Macedonia and Montenegro had joined the Mechanism in 2012 and 2014 respectively, and they now triggered it. Meanwhile Serbia, which was particularly hard hit but ready to bear the burden of hosting refugees, was encouraged to, in quick succession, accede to and then trigger the Mechanism. And then, shortly before Christmas 2015, Greece itself was encouraged to trigger it, following a series of high-level technical meetings in Brussels which brought together the heads of national civil protection agencies and other services.

## 4. What was expert opinion?

Experts themselves seemed supportive of the triggering of the CPM, insofar as they were aware of its existence. But, for many of them, the use of this small-scale toolbox was a sign of just how trifling the EU's response was. As migrants continued to pour across European borders, experts argued that the EU needed to go much further in mobilising resources. The CPM could not be the only means of getting tents, sleeping bags and power generators, manpower, expertise and equipment, to where they were needed. Greater inventiveness was required, up to and including the use of spare security personnel and hardware in generic border and asylum roles. But most demanded strict conditions on this. If the EU did deploy its security resources, this should be simply about building up capacities to handle large flows of people, not about cutting off those flows.

For most academics, the dire situation in Europe's borderlands was clearly a humanitarian crisis, albeit one the EU's humanitarian aid toolbox was – for the abovementioned reasons – not designed to deal with. The EU could formally label it a 'man-made' problem if that helped it work with local governments and deploy resources inside the EU. It should not, however, pretend that the situation was a security issue. European Commissioners had already caused concern by claiming that Russia and Turkey were trying to 'weaponise' the migration flows in a bid to destabilise Europe; they had also suggested that the flows posed a 'hybrid threat' to Europe, as terrorist organisations could potentially infiltrate them. The EU must not be permitted to associate the refugee flows with security threats, in a spurious attempt to 'defend itself' against migrants or 'fight migration'.

But the pragmatic attempt to free up resources was welcomed. On a conceptual level, academics tended to view the migration flows as the new normal – just another sign of how interconnected the world had become, and how dated most policy silos were. Governments should be free to use CSDP resources inside the EU if it provided a pragmatic way to provide shelter to refugees, and Operation *Sophia* should certainly perform a greater search-and-rescue role. By the same logic, the EU could usefully send the EU's home affairs agencies further abroad, encouraging the European Asylum Support Office to live up to its External Action Strategy and increase its support work in a web of countries across the Balkans, the Levant and even the Middle East and North Africa. After all, Commission agencies like EASO can readily tap into the Commission's budget for overseas spending, and soak up those spare resources.

## 5. How did the EU accommodate expert opinion?

Member states had in fact already been circulating ideas about how to deploy CSDP missions close to, and even inside, the EU in support of migration-management tasks. Operation *Sophia* had led the way, moving into parts of the Central Mediterranean where it would need to rescue growing numbers of migrants. Now member states

proposed different means of deploying CSDP missions for migration purposes, including a Dutch-German initiative for a ‘horizontal’ CSDP mission which could be deployed to different migration hotspots and an Austrian plan for a central clearing house which would identify military personnel and hardware standing idle and get them to plug gaps in the EU’s borders. There were even tentative discussions about creating a non-executive CSDP ‘migration mission’ for deployment to the Western Balkans.

Some member states took a pragmatic CPM-type attitude to the question whether such missions were feasible, and an army of lawyers re-examined the restrictions on the use of the Common Security and Defence Policy inside the EU. Under the treaties, CSDP missions are meant to be used outside the EU only. But there were conceivably means by which to employ them inside the EU. Article 222 is the EU’s Solidarity Clause, reserved for man-made disasters of unprecedented scale and which exceed the capacities of the Civil Protection Mechanism. The Solidarity Clause obliges the EU ‘to mobilise all the instruments at its disposal, including the military resources made available by the Member States’. This formulation might just permit member states to establish a CSDP mission to manage migration flows inside the EU. It just needed a hard-hit member state to force the issue and trigger the Clause.

At the same time as member states were looking into using CSDP crisis-management missions close to or inside the EU, there were proposals to deploy Frontex and EASO personnel abroad – to spots such as Kosovo, Bosnia Herzegovina, Libya/Tunisia or Niger. The EU already has CSDP missions in these countries, as well as sprinkled out across West and East Africa and Eastern Europe. But if the current flows of migrants from these parts of the world and across the Schengen border were the new normal, The existing CSDP missions seemed an inadequate response: CSDP missions are conceived to be short, sharp and low-cost. EU home affairs agencies, because they can tap into the EU’s overseas budget, could create a semi-permanent and interlinked presence at the EU’s flank, and build up reception and border capacities in weak states – a systemic response to the new normal of ‘perma-flows’.

## 6. What was the reality-check?

Warning signs now flashed up indicating that the EU had mixed and matched its home affairs and CSDP toolboxes too much. In early 2016, voices in Turkey and Russia signalled their unhappiness in particular with the EU’s use of military means for supposedly civilian tasks.

Critical voices in Ankara complained that Operation *Sophia* had actively rerouted the flows of Syrians towards Turkey’s southern borders: they argued that the EU’s naval mission had severed the route across the Central Mediterranean, forcing Syrians to find a new path to safety. This was tantamount to hybrid warfare. Critical voices in Moscow complained that EU discussions about creating a ‘CSDP migration mission’ in the Balkans were proof of the way the EU was using the migration crisis

## 2. Border management: the line between internal and external security

for geopolitical ends. And voices in both capitals complained about a new naval operation between Frontex and NATO in the Aegean, tasked to gather information on people-smuggling and to apply NATO's old doctrine of 'deterrence' to non-state actors like criminals by denying them opportunities to make a profit. The Russians suspected NATO of monitoring Russia's naval activities in the Black Sea and around Syria; Turkey felt that NATO was involved in migration matters only because it had been itching to activate a new naval format.

Commentators began to talk of a 'paradigm shift'. Geopolitics was back, they said, and if the EU wanted to continue to play to its strengths as a post-national organisation it needed to stop securitising migration: Russia and Turkey were misreading the EU's intentions because the EU was using border guards and the military to exercise narrow state prerogatives outside the territory of the EU. The solution, they felt, lay in strengthening the *humanitarian* nature of the tasks carried out by the EU's home affairs agencies and its CSDP missions. In this case, however, the experts were precisely wrong. Any attempt by the EU to denaturise the two toolboxes and fit them into a generic humanitarian role would make the problem worse.

Turkey and Russia were in fact justified in their basic complaint: the EU did risk 'weaponising' migration flows, insofar as its denaturing of specialised civilian and military security resources made the flows less manageable and more destabilising. Take, for instance, the member state naval activities in the Central Mediterranean. When these had started to undertake a greater humanitarian role, and had begun moving towards the Libyan coast to search for sinking boats, smugglers in Libya had adapted their business model, drastically reducing their prices. They had begun towing out unmanned 'ghost ships' packed with Sub-Saharan migrants, on the promise that European naval vessels would rescue them. The route across the Central Mediterranean became associated with high rates of death, putting off middle-class Syrian refugees. These now beat a path towards Turkey.

## 7. What did the real problem turn out to be?

In hindsight, it was obvious how the EU should categorise this element of the migration crisis: this was a border problem, plain and simple. The EU had, moreover, spent years developing the two security toolkits necessary to deal with the roots of just such border problems – its home affairs and CSDP toolboxes. When the EU chose to mobilise all available resources to plug gaps, however, it had pushed these toolboxes into generic migration-management and humanitarian roles, and had diluted the specialised security functions which both usually perform, blunting its overall response.

It seems academics and policymakers had been too quick to believe that massive migration flows and border pressures were a 'new normal' – a phenomenon the EU should simply accept. The EU's border problems had root causes, and the EU was quite able to address many of them. The border crisis inside the EU had a clear cause:

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it was of a regulatory nature. EU border standards needed strengthening. And the root cause abroad was conflict and instability: Syrians, Iraqis and Afghans were fleeing violent conflict. Frontex is a regulatory agency, a guardian of the internal market. Its job is to help the member states build up the procedures to get people and things safely into the Schengen area. CSDP missions are more operational, and they are designed to get close to conflict abroad.

The EU had, however, been pushing Frontex ever further abroad into crisis hotspots like North Africa where it was often ill-suited to the hostile conditions on the ground but where its technocratic approach might help it avoid local geopolitics. The risk of competition with the EU's existing CSDP missions had been apparent when Frontex was turned into a European Border and Coast Guard: in September 2016, when Frontex gained its new mandate, its power inside the EU to discipline member states for regulatory shortcomings was not enhanced to the degree expected, but its international role received a significant boost. One of its first moves, furthermore, was to set up a roster of national border specialists whom it could deploy in border support missions. But the move threatened to reduce the pool of member state border personnel who might be available to CSDP missions.

Frontex was itself facing competition from CSDP missions. The borders agency has spent a decade depoliticising, demilitarising and professionalising border management in Europe. But as Frontex moved ever further abroad, CSDP missions gravitated ever closer to the EU, moving away from the conflicts and crisis which were driving migration flows, and focusing on stemming them further upstream. CSDP missions have long been involved in border management of course, but it was usually in crisis spots like Rafah where the border is a source of geopolitical tension. Some of the EU's CSDP missions now began to behave in the strictly technical manner of Frontex. The EU Border Assistance Mission in Libya, for instance, was confined to a technical capacity-building role and lacked the broader political engagement associated with the format. Operation *Sophia* was using military means to perform specialised home affairs roles close to the EU's border.

There were direct clashes in the two ways of operating. Frontex and Operation *Sophia* took different approaches to the activities of NGOs in the Central Mediterranean. Frontex suspected these NGOs of making contact with smugglers on Libyan shores, of ferrying migrants to Europe, and – once there – of refusing to communicate their point of disembarkation to the authorities. These rescue activities were held partly responsible for turning smuggling into a large-scale enterprise and for the shift in smugglers' business models described above. Frontex was champing at the bit to assert the EU's usual border rules, under Council Directive 2002/90/EC, which prohibits 'the facilitation of unauthorised entry, transit and residence'. But *Sophia* generally sought good relations with these NGOs, as CSDP missions have learnt to do from their work in crisis zones – winning 'hearts and minds'.

## 8. How did the EU finally adapt?

The EU's response was to re-establish the usual geographic and thematic distinction between its internal and external security apparatuses. The basic principle was reasserted: the EU's home affairs agencies should act primarily at home – within the borders of the EU, and in nearby spots like Serbia where their regulatory know-how is required; CSDP missions should be active abroad – in spots where border management is a source of geopolitical tension or where large numbers of people are being displaced.<sup>15</sup>

The reset was clear in the way Frontex chose to use its new powers. Under its updated mandate, Frontex had gained impressive new international powers, including the right to set up a mission in any country which shares a border with the EU and will host it. Drafters in Brussels had worded the clause of its new mandate in this way to allow for an expansive interpretation: countries which 'share a border with the EU' include not just third countries like the former Yugoslav Republic of Macedonia which hug the EU's outer land border, but also any state with an air border to the EU – that is, almost any country in the world. Yet, Frontex has made it clear that it will interpret this power only in the narrower sense, and would seek to deploy border missions close to home.

At the same time, the EU's rather technocratic CSDP mission, EUBAM Libya, has proved increasingly keen to distinguish itself from a Frontex-style mission. It has signalled to diplomats in Brussels the limitations of only being permitted to engage with the Libyan authorities, excluding civil society and tribal, political players. This in turn reasserts a distinction between the two formats – with Frontex missions tracing their heritage to the agency's founding task of protecting the single market as a regulatory system, and CSDP missions tracing theirs to member states' joint politico-military and diplomatic engagement in the world.

## 9. What is the long-term orientation?

There is a basic rule: the home affairs agencies perform a regulatory function at home, and CSDP missions perform crisis management at or close to conflict spots abroad. Having re-established this rule, the EU can encourage greater integration between the two formats, preventing the duplication of scarce resources. Discussions are continuing about how to coordinate the two toolboxes in source and destination states, and in the transit countries in between.

Close to the source of instability abroad, for instance, a Frontex liaison officer might be embedded in an existing CSDP mission. This would permit Frontex to take over long-term capacity-building tasks when the initial mission is wound down.

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15. Interview with official of an EU agency, Warsaw, 25 May 2017.

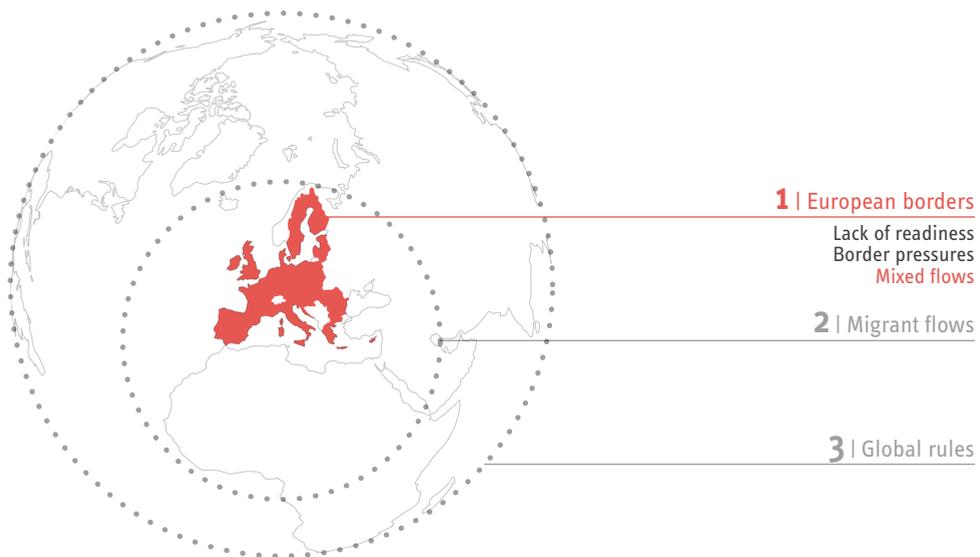
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The idea would be to have a scattering of EU CSDP migration missions operating at hotspots across the EU's near abroad, and linked up to the region-wide web of more permanent projects. This web of capacity-building work would be provided, under EU neighbourhood and development policy, by Frontex, Europol and EASO.

At the EU border, meanwhile, CSDP staff and capabilities might play a support role, helping manage short-term civil-protection or basic migrant-processing pressures under Frontex's guidance.

And along the migration route in between, CSDP missions might try to encourage local governments to adopt the Frontex hotspot model – the administrative setup created in Greece and Italy which brings together border, asylum, customs and police forces. Or CSDP staff might assess the risks posed to Frontex-run migrant-processing centres or coordinate transport for vulnerable populations. The Civil Protection Mechanism deserves a mention here too. The CPM provides an overarching framework to coordinate the two toolboxes in transit states. In 2016, a Commission study found that the EU and North Africa were cooperating on just three civil protection schemes. Brussels made the decision to reach out to Algeria and its North African neighbours and expand the CPM's coverage there.

# 3. Mixed flows: from ‘hotspots’ in Greece to hot spots abroad



## 1. How did this problem manifest itself?

In Greece and up along the Western Balkan Route, local officials had slowly begun to digest the size and suddenness of the influx. The sticking point now was the sheer complexity of the migration phenomenon. The make-up of the flows posed new problems. ‘A trilemma’ was how European officials on the Greek islands described it: the flows were made up of a tricky mix of refugees, migrant workers and also a few people with criminal or even terrorist links. Protocol demanded that each of these three categories receive very different treatment. But the authorities were struggling to sort between them, leading to backlogs, administrative tensions and arbitrary decisions. How to process people properly, with the clock ticking?<sup>16</sup>

The phenomenon is not completely new. In the 1990s, the EU had begun experiencing large inflows of asylum-seekers. These often consisted of economic migrants who made bogus asylum claims, with a small number of genuine refugees sprinkled

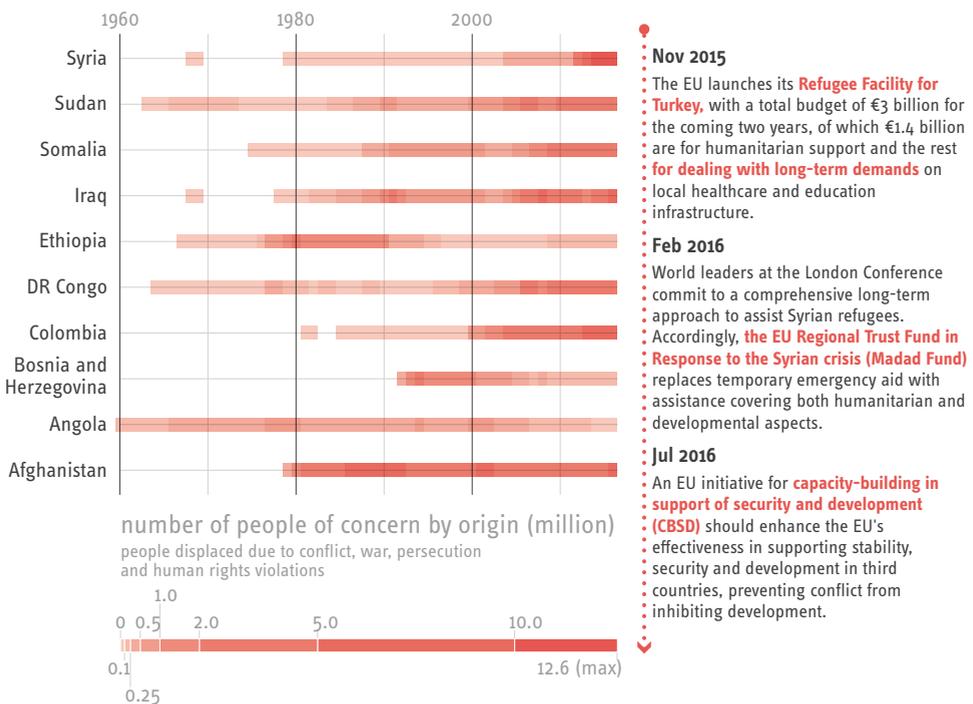
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16. Interview with local official, Mytilene, 6 May 2016.

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in. Officials labelled these migration flows ‘mixed’, and they have been the norm practically ever since. In Italy this particular mix remained the case. Only a handful of nationalities arriving in Italy in 2015 enjoyed a high recognition rate in the EU as refugees (Eritreans: 84%), and it was economic migrants from spots like Nigeria which dominated the Central Mediterranean. There the main task for officials still consisted of sifting refugees from economic migrants. And the EU took the familiar line: we should separate refugees from economic migrants, and reject the idea that there is a link between migrants and terrorists.

**Figure 3: Mixed flows: breaking silos between development, humanitarian and security policy**



Data: UNHCR

Developments on the Balkan Route would soon undermine this clear-cut position and would give rise to fears that the EU was facing a whole new kind of mixed flow. In November 2015, two of the perpetrators of the Paris terrorist attacks were found to have entered the EU through the Balkans. Admittedly, the pair may have been European foreign fighters carrying fake Syrian passports to evade entry controls; the pair have still not been officially identified, but all the other perpetrators of the attacks were EU citizens. It may also be the case that the pair were actively trying to fuel public fears about infiltration: the two attackers had apparently gone out

### 3. Mixed flows: from 'hotspots' in Greece to hot spots abroad

of their way to register in Balkan asylum reception centres as they made their way up towards France. But whatever the case, they proved that the refugee route could be infiltrated by criminals and terrorists. The term 'mixed flows' now designated a new and more complicated phenomenon for officials in Greece and the Balkans.

These officials now found themselves under mounting pressure to separate out the flows, and to sift refugees not just from economic migrants but also from those with criminal or terrorist links. If the authorities struggled to do this, however, it was because the categories were practically indistinguishable. A single applicant for asylum could turn out to be all three at once – a refugee, an economic migrant and someone with criminal links. Thus the large numbers of unaccompanied male asylum-seekers from Syria were genuine refugees (and the large numbers of young boys among them a particularly vulnerable category). But it was noticeable that they were also potential breadwinners – young males who, in singling out the EU, were motivated by economic opportunity. A few of them had also committed crimes; and almost all had consorted with smugglers.

## 2. What was the EU's initial diagnosis?

Officials in Brussels faced up to a painful idea: the blurring of categories was being caused by the EU itself, by its restrictive border and reception policies. EU refugee reception policies at this stage were still attuned to the kind of mixed migration flows experienced by Italy – indeed to the mixed migration flows of the previous two decades. Its reception policies were based on the assumption that most asylum claims were bogus, that the bulk was made up of economic migrants trying to find a way into the labour market. The EU's restrictive border and reception policies were designed to close this avenue down and ensure that the only asylum-seekers it received were genuine ones. The approach had recently worked on the Balkan Route itself, where young Kosovars and Albanians had been making bogus claims for asylum in Germany or Sweden in order to work, before absconding home.

Now, however, the EU was obliged to recognise the situation had changed. On the Balkan Route in particular, a large proportion of asylum-seekers was deemed genuine – in particular the Syrians (96%), Iraqis (87%) and Afghans (70%) who dominated this route. The EU's restrictive reception policies were geared to bogus asylum-seekers, and the newcomers' access to the EU and its labour market remained limited. This reception approach, and the backlogs it created, was fertile turf for people-smugglers who were now turning over an estimated €3-6 billion each year. More than 90% of the asylum-seekers had turned to smugglers to cross borders, and some had even been forced to pay levies to terrorists. Once inside the EU, moreover, they had little choice but to behave like irregular labour migrants, entering the grey labour market to sustain themselves. In short, EU policies which had been designed to separate economic migrants from refugees were now felt to be causing the blurring.

Officials in Brussels were persuaded that these mixed flows reflected a deeper global shift: conflicts had become longer and more intractable. The EU's approach to refugees was still attuned to the Balkan Wars of the 1990s. Member states assumed the international community could step into warzones and quickly stabilise the fighting. Their goal was to return refugees home, rather than giving them rights to work and integrate. The EU thus treated even genuine refugees as a temporary presence. But if 'protracted situations' were now the norm, at least according to bodies like the Red Cross, refugees could expect to wait an average of 17 years before conditions improved sufficiently for them to return home. If the EU offered them no opportunities to work and sustain themselves, refugees might well draw on criminal groups and illicit kinship networks linked to their violent homelands.

Budgetary pressures in the EU also forced a policy rethink. Member states would quickly exhaust their budgets if they continued to treat refugees as a temporary presence and kept them from work. The EU simply could not afford to keep refugees on emergency housing and welfare schemes for 17 years. The EU's goal with this new wave of asylum-seekers should therefore be to integrate them quickly into the labour market and society. Happily, many refugees appeared to have 'self-selected' to precisely this end: families left behind in Syria and Afghanistan had sent their young men to seek safety and work in Europe. The EU needed to reverse its border and reception policies, and begin treating asylum-seekers' claims *prima facie* as genuine and channeling them into work. This more liberal approach would in turn go a long way towards ending the blurring. Refugees would no longer have to behave like criminals or irregular labour migrants.

### 3. What was the EU's first policy response?

The EU shifted its longstanding approach to refugee reception, and its goal indeed became to get refugees more smoothly from the border into the labour market. The EU created 'integrated administrative hotspots' in Greece and Italy to help local authorities process the new arrivals at the border and steer them into labour-market and relocation schemes.

Frontex, the EU agency specialised in combating irregular labour migration, was given the lead in managing the EU's work in the hotspots, but mainly because it had been the first of the EU agencies to set up there. EASO and Europol were soon incorporated into the hotspot system, reflecting the mixed nature of the flows. And, after a sluggish start, agency officials began supporting local authorities as they fingerprinted and identified the asylum-seekers, debriefing them and processing their initial claims. Some asylum-seekers were subject to criminal investigation, having either admitted to terrorist links or claimed knowledge of infiltration of the flows from spots like Izmir. Some were deemed bogus and prepared for return. But asylum-seekers who belonged to nationalities with refugee-recognition rates at 75% or above – Eritreans, Iraqis, Syrians – were assumed to be genuine and were lined up for relocation across the EU.

### 3. Mixed flows: from 'hotspots' in Greece to hot spots abroad

Getting them into work was a priority. Member states discussed the idea of matching asylum-seekers to places where jobs were hard to fill, although they did not really carry the idea though. Still, the main EU destination states showed a sense of urgency to get asylum-seekers into the labour market. Even the most successful programmes to integrate refugees are slow: they take around 5 five years to integrate just half of refugee arrivals into the workforce. Every missed day could cost hundreds of euros in welfare and housing costs. Some member states therefore started giving asylum-seekers skills assessments even as their claims for protection were heard. The European Commission introduced policies to recognise asylum-seekers' professional qualifications, and to update them through its Erasmus+ scheme.

## 4. What was expert opinion?

Migration experts supported the policy to get refugees into work quickly, citing the economic benefits. But they struggled to defend their thinking in the face of growing public disquiet. Voters worried that the EU's effort to speed up asylum procedures might come at the cost of public order, especially after Europol reported that there had been isolated cases of terrorist infiltration. It seemed, moreover, that the hotspots had not succeeded in taking refugees out of the hands of criminals as expected – smugglers and criminals were spotted hanging around on the Greek islands, offering their services to migrants. NGOs which were at work in the hotspots, and had supported the goal of getting refugees to work quickly, now warned that the efficiency drive was making it difficult to uphold standards, and that asylum-seekers were forcibly having their fingerprints taken.

At first, experts simply suggested that the expedited procedures had been planned in a dysfunctional manner, and public hostility was crippling the relocation system. And it was true that only a couple of hundred Syrian, Iraqi and Eritrean refugees had been relocated across the EU. But there was a deeper problem – experts were hamstrung by their own principles. For years, experts and NGOs had criticised the EU for making *prima facie* assumptions about asylum-seekers – for assuming that most asylum claims were 'bogus' and were made by labour migrants wanting to work in Europe. But the same criticism surely applied to the new raft of reception initiatives and concepts, even if the assumptions behind them were now more generous. The new policies assumed asylum-seekers' claims were well-founded in order quickly to funnel them into work. Here, again, was a policy more reflexive to the labour market interests of member states than to the vulnerabilities of refugees.

With most academics still struggling to build a principled defence of liberal reception policies, a small group of experts took an avowedly pragmatic position *vis-à-vis* the problem of mixed flows and proposed another radical change of direction for the EU. This group was more than ready to appeal to EU governments' self-interest. And it promised a way of maintaining the integrity of the EU's refugee reception system too.

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The EU, they argued, could best resolve the mixed flows if it acted abroad in transit states like Turkey or Lebanon. Instead of concentrating on combining its policies for refugee reception and labour market integration at home, the EU needed to coordinate its humanitarian and development policies abroad. Providing jobs in countries of first reception would mean that only those refugees truly in need of protection in Europe would move here. The EU would probably save itself money too.

Countries like Jordan, Lebanon and Turkey were hosting far larger populations of refugees than the EU-28, and these refugees were even younger, and more in need of schooling and jobs than those arriving in Europe. According to local estimates, 9 out of 10 of Syrian refugees in Jordan were living under the poverty line, and 50% were vulnerable to food security shocks. If the EU managed to create jobs for refugees there, it would prevent them moving on to the EU for economic reasons. All the EU needed to do was link its humanitarian policies with development spending on jobs and schools. True, Jordan and Lebanon would need some persuading to recognise the Syrian refugees as a long-term presence in their societies, but this could be achieved by ensuring that their own citizens also benefited from the job creation schemes and infrastructure projects.

EU officials had long resisted coordinating humanitarian and development policies, fearing that development-style thinking would contaminate the EU's refugee work: Humanitarian Aid is meant to respond directly to the needs of refugees wherever these fall, whereas development policy is negotiated with willing partners and is driven by mutual interests. If the EU were permitted to follow its interests when dispensing Humanitarian Aid, it would be tempted to redirect it to those few spots where it feared onward flows of refugees – places rather like Turkey, Jordan or Lebanon. And refugee-hosting states like Turkey, Jordan or Lebanon might feel emboldened to 'monetise' their humanitarian burden, leveraging the presence of refugees to get more development aid or simply integrating refugees into labour market as a cheap workforce.

Yet, the small group of experts successfully argued their case, on practical grounds: the situation in Syria was shaping up to be a classic protracted conflict, and refugees in Turkey, Jordan and Lebanon clearly needed help to sustain themselves long term. EU Humanitarian Aid, with its perpetually short-termist emergency approach, would quickly be exhausted. Only development policy could help create the requisite jobs, schools and infrastructure to sustain the refugees. If the EU happened to save itself money by weaning itself off a strict humanitarian approach, or made it unnecessary for refugees in the Levant to move on towards Europe, well then that was an added bonus.

## **5. How did the EU accommodate expert opinion?**

The EU duly began to coordinate its development and humanitarian work better. It built up the Madad Trust Fund, a development tool to help Turkey, Lebanon and

### 3. Mixed flows: from 'hotspots' in Greece to hot spots abroad

Jordan get refugees into work and to ease the long-term strain on local schools and other infrastructure. Madad did not quite tear down the paper walls separating development policy and humanitarian aid, but it did find ways of bridging them, particularly in spheres such as the provision of education to refugee children. Established as a modest development vehicle back in December 2014 with just €23 million in non-humanitarian cash, the Madad Fund became a serious force nine months later, when €500 million in extra funding came its way.

The choice of a Trust Fund as the format to bridge the gap to the EU's humanitarian work was controversial. Trust funds are a common enough format in international development cooperation, designed as a flexible means for donors to club together and pool their resources. But they are novel for the EU, which has prided itself on getting its 28 members to act in unison while maintaining unyielding programming standards. There were fears that the EU would use the laxer programming rules to assert its interests in stemming the migration flow – not least because Madad focused on the EU's near abroad and so drew not on classic development aid but rather on funding from the EU's neighbourhood and enlargement policies. The European Neighbourhood Instrument and the Instrument for Pre-Accession Assistance give the EU considerable scope to shape policies in neighbouring countries, and the risk of contaminating humanitarianism with an interest-led approach was correspondingly high.

Still, the keepers of global humanitarian and development standards, the United Nations and Organisation for Economic Cooperation and Development (OECD), were in a permissive mood, and seemed to support the move: global budgetary pressures demanded this kind of pragmatic response. In early 2016, UN officials had argued that, although governments worldwide were spending 12 times more on humanitarian aid than they had done 15 years earlier, they were still falling short by about €15 billion each year. The shortfall reflected the 'protracted' nature of today's conflicts and disasters. Thus, when world leaders met in Istanbul in May 2016 for the UN Humanitarian Summit, they agreed that greater cooperation with development aid was one means for humanitarian donors to shrink the funding shortfall. The EU, and its Madad Fund, were ahead of the game.

## 6. What was the reality-check?

Officials in the Greek islands had used the label 'trilemma' for good reason: they were experiencing flows of a triple character, comprising refugees, economic migrants and people with criminal links. This was a three-sided problem and it logically required a three-pronged solution. By mixing its humanitarian and development policy, the EU could address the blurring of two strands of migration – refugees and labour migrants. But security cooperation was required if this criminal element was to be addressed.

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The wake-up call came when the EU tried to expand its Madad-style approach into Africa. Already at the end of 2015, the EU had established the Trust Fund for Africa, which focused development aid on the humanitarian situation in the Sahel and the Horn of Africa. In North and Central Africa, meanwhile, the EU was busy rebranding its existing regional refugee hubs – the long-standing Refugee Protection Programmes – as Protection *and* Development Programmes. In each case, this entailed the same basic two-pronged approach – humanitarian aid plus development support. It linked an emergency humanitarian focus with the need to provide long-term livelihoods for refugees. But the roll-out of the two-pronged approach to Africa revealed a major blind spot in its work: security cooperation.

EU officials, when they had originally set up Madad, had fretted about breaking down too many silos. In hindsight, it turns out they had not gone far enough. If the EU was to comprehensively deal with mixed flows abroad, it needed to address criminality, terrorism and violence at source and en route. This would stop refugee flows being infiltrated by criminal elements – indeed might blunt the drivers of migration altogether. But it required deeper coordination of security personnel with humanitarian and development players.

The member states have traditionally shown greater appetite for security work in Africa than they were showing in and around Syria, where Madad was focused. And it was here that their humanitarian, security and development policies were most often coming into contact. In northern Mali, for instance, after Western-backed security forces had pushed out insurgent groups, European humanitarian workers were under pressure to move in, as part of a bid to win hearts and minds, and to sow the seeds for long-term development in the region. The insurgents had been providing basic local services which had long been neglected by the central government. If local residents were to be persuaded that the restoration of order was a good thing, then the EU needed to sequence its security, humanitarian and development work.

## **7. What did the real problem turn out to be?**

Since the failed Western interventions in Iraq and Afghanistan, the EU has been keener to deploy euros abroad than troops. This seems more in keeping with its style of ‘market power’. As a result, the EU had perhaps rather overlooked the need to add a military and security prong to its new humanitarian-development spending initiatives.

A group of member states had, however, been pressing for a change of thinking, albeit focusing primarily on coordinating security and development policy. A decade earlier, the EU had formally recognised that there were close links between international security and development. But rules on spending made it hard to use development aid for tasks such as conflict prevention, let alone mentoring foreign militaries, helping them with the provision of non-lethal equipment, or ensuring that they contribute to local development. Only in 2014 did the EU begin making

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progress. It launched its Instrument contributing to Stability and Peace (IcSP), using development funds for crisis response and conflict prevention. It then proposed to use EU development aid for security sector reform (SSR) – for ‘capacity building in support of security and development’ (CBSD).

By the middle of 2016, therefore, the EU had made good progress in coordinating its development and security policies through the IcSP, and its development and humanitarian work through the Trust Funds. But the EU continued to neglect the third side of the triangle – the vital link between security and humanitarian policies.

There are, of course, valid reasons for caution and for shying away from coordinating the two policies. But it is probably the case, too, that humanitarian organisations had encouraged this blind spot. Influential humanitarian concepts like ‘protracted situations’ were to blame here, insofar as they reflected an ideological aversion to the Western security interventions which might address the drivers of conflict.

These organisations may also have had an ulterior motive in promoting the concept. The big humanitarian organisations are a large and powerful lobby – a global industry comprising 450,000 humanitarian workers and an annual expenditure of €25 billion. Observers hint – cautiously - that the humanitarian organisations which most vociferously promoted the concept of ‘protracted situations’ stood to gain financially: if Brussels accepts humanitarian situations as protracted, its task would be to finance them, rather than resolve the wars which drive them. These big organisations could therefore hope to gain an injection of cash from the development pot if their emergency humanitarian work in Syria took on a long-term character. This kind of long-term financing would allow them to hire and train their humanitarian staff.<sup>17</sup>

As for the security problems and criminal gangs encountered by migrants in transit countries like Niger or Libya, the big humanitarian bodies had created another concept which was gaining traction in Brussels: the refugee-migrant nexus. This argued that labour migrants who experienced endemic violence, kidnappings and exploitation in transit countries deserved a more liberal welcome in Europe: the harsh conditions facing Nigerian or Ivorian labour migrants as they crossed through Mali or Libya meant that they were practically indistinguishable from the refugees arriving in Italy. Refugees experience extreme hardship at source, whereas the migrants experience it en route. So, here too, was a concept which made it acceptable for the EU to bracket security cooperation out of its humanitarian response and which suited the ideological interests of the big humanitarian organisations.

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17. Interview with humanitarian specialists, London, 2 November 2016.

## 8. How did the EU finally adapt?

In response, the EU sharpened its own conceptual thinking. In June 2016, the EU's External Action Service released a new Global Strategy to guide the EU's foreign policy. When the EEAS drafted this paper, the migration crisis was raging and migration issues clearly left a stamp on their thinking. The Global Strategy's key concepts include managing the overlap between the EU's internal and external security, building up resilience to crises in the EU's near abroad, and adopting a properly Integrated Approach to the Union's overseas crisis management. Each of these concepts is concerned, in its own way, with bringing together those three key policy strands – security, development and humanitarian work, in migrant source countries, on transit routes and in various spots straddling the EU's own external border.

Of course, the EEAS has always made a point of trying to combine different strands of European foreign policy in a more comprehensive way – that is its job. But the Global Strategy expressed a new level of ambition to actually prevent conflict and disorder arising. Rather than accepting that conflicts are 'protracted', for instance, the Integrated Approach presents them as episodic and multiple. Conflict does not evolve in a linear way, from war to peace, and there can be regressions and leaps. The EU needed tools to deal with the drivers behind these various phases. Thus traditional toolboxes – emergency humanitarian aid, security sector reform, stabilisation missions, infrastructure schemes – will have to be deployed in new and rather spontaneous ways. And they will have to be deployed in ways that take them as close to the sources of conflict as possible.

Interestingly, the EU was not alone in distancing itself from the acceptance of conflicts as 'protracted' – some humanitarian organisations were also getting cold feet. They did recognise the need to introduce some kind of development-style multiannual budgeting, and to get away from emergency-style fundraising for humanitarian aid. Clearly, some humanitarian situations are of a long-term nature, and aid organisations could not stick to their old emergency approach. But they began advocating changes internal to the humanitarian toolbox, rather than breaking down barriers between humanitarian work and development funds. They worried that the concept of protracted conflicts had been devised to legitimise humanitarian access to development spending.

One idea would be for humanitarian bodies to hold a portion of their budget in reserve, allowing them to respond to crises which do become more protracted. Another would be for development professionals to improve their own multi-annual programming, so that humanitarian organisations did not have to step in when development aid was cut. And another idea would be to return the focus to the conduct of conflict, rather than focusing on its length: this could help security professionals address the drivers of the violence.

## 9. What is the long-term orientation of EU policy?

Initiatives like the EU Global Strategy aim to make the EU more 'global' as regards the range of policies available to it: these concepts help the EU dismantle the paper walls between its humanitarian, development and security policy and apply them in a coordinated way in trouble-spots. But there are signs the EU is becoming less global in the classic sense of geographic reach. Perhaps this is inevitable: the process of coordinating its various policy tools inevitably leads to a concentration of resources on certain parts of the world. But critics view this shrinking range as evidence that the EU is indulging its own narrow political interests. The migration crisis provides the most vivid example: under the guise of taking a coordinated approach, the EU mobilised all available policy tools and redirected them to a handful of transit states like Turkey or Jordan or even to crisis-hit member states themselves.

Critics are alarmed by the way the EU is breaking down old geographic demarcations. They note that EU officials no longer refer to the EU as a *global* humanitarian player, as its spending pours into nearby developing economies like Lebanon and Turkey to prop up migration deals.<sup>18</sup> They accuse the EU of using humanitarian organisations for development-style work in Jordan for purely expedient reasons: if the EU uses the Norwegian Refugee Council to build a school for refugees in Jordan, the process will be rather quicker than if it had gone through a development channel; the only drawback, however, is that Jordan will have an emergency-built school, rather than one which is – say – energy efficient. They note that member states are exploiting an OECD rule change to deploy their development spending at home on refugee reception.<sup>19</sup>

Critics blame the Trust Funds for this trend. The Trust Fund has broken taboos in Brussels about keeping the EU's needs-based foreign policies separate from its interest-based policies. The Trust Funds break down paper walls, and permit the EU to shop for tools from across its repertoire of development, humanitarian and security policies. Due to the Trust Funds, the EU can simply choose the combination of tools which seems most expedient and to redirect them to the few parts of the world where it has intense political interests.

But in fact, the Trust Funds are not the source of the problem, but the vehicle for addressing it. The UN was correct: financial pressures will shrink the EU's geographic range. The EU faces budgetary pressures at home and emerging powers abroad which resist the EU's presence. That means it needs to coordinate better with third countries or organisations like the African Union, to extend their joint coverage. The Trust Fund format is designed for precisely this kind of complementary multi-donor cooperation: the format was first created to deal with big problems like the

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18. Interview with EU official, New York, 25 January 2017.

19. Interview with development worker, Berlin, 30 November 2016.

## Nobody move! Myths of the EU migration crisis

deteriorating situation in Iraq in 2004, problems which individual donors could not tackle alone. If the Trust Fund format permits donors to tear down the paper walls between different programmes and funding lines, then it is in a bid to help them cooperate.

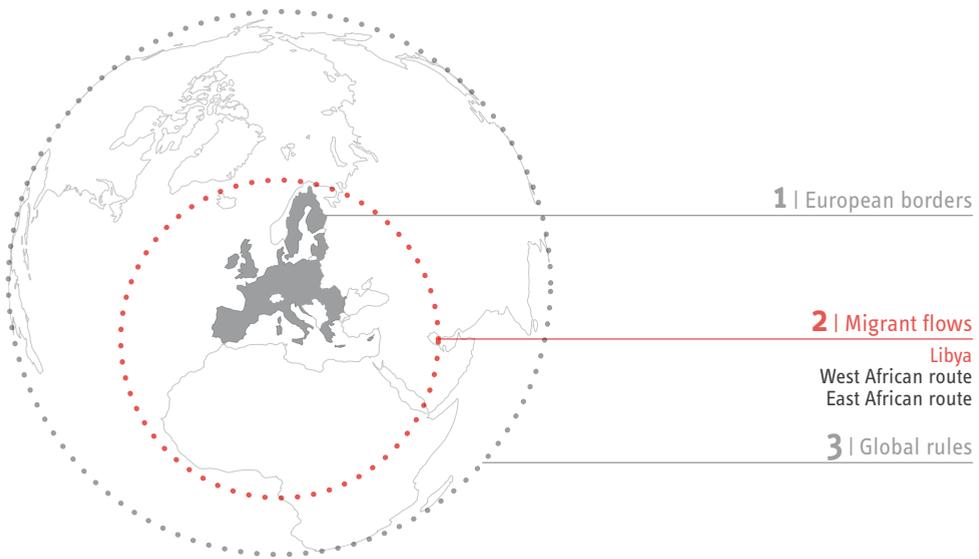
Happily, the EU's Africa Trust Fund specifically recognises the need for cooperation, and is designed to 'cover the gaps, both in geographic and in thematic terms, not covered by other means or by other development partners'. The EU's readiness to occasionally play a niche role when it comes to development is important because, in the field of humanitarian aid and security policy, the EU is behaving in a more assertive manner. During the migration crisis, the EU felt that big organisations like the UN had not done enough to publicise its funding, and so wanted to raise its profile. The EU is concentrating on a few large and visible humanitarian projects of its own in Lebanon, Jordan or Turkey rather than filling niches left by other big international donors. And the EU's security work, under CSDP, has also become more independent of big players like the UN.<sup>20</sup> Through the Trust Funds, the EU can go on filling niches.

Sometimes, however, the Trust Fund approach can actually benefit refugees and migrants precisely because it gives more weight to the EU's interests. Critics initially worried about the way the Trust Fund format loosens the rules pertaining to bilateral development programming: this could allow the EU to assert its development priorities *vis-à-vis* third countries. They feared that the EU would use the Trust Funds to force through its narrow migration goals in transit countries like Kenya or Mali. But the Trust Funds' looser programming rules are not always a bad thing, and they potentially allow the EU to focus on parts of the country where the partner government has little interest in donors operating – namely zones which are hosting large numbers of foreign nationals and refugees such as the northeast coast of Kenya.

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20. Interview with expert, Berlin, 12 January 2017.

# 4. Libya: expanding the EU's 'neighbourhood watch'



## 1. How did this particular migration problem manifest itself?

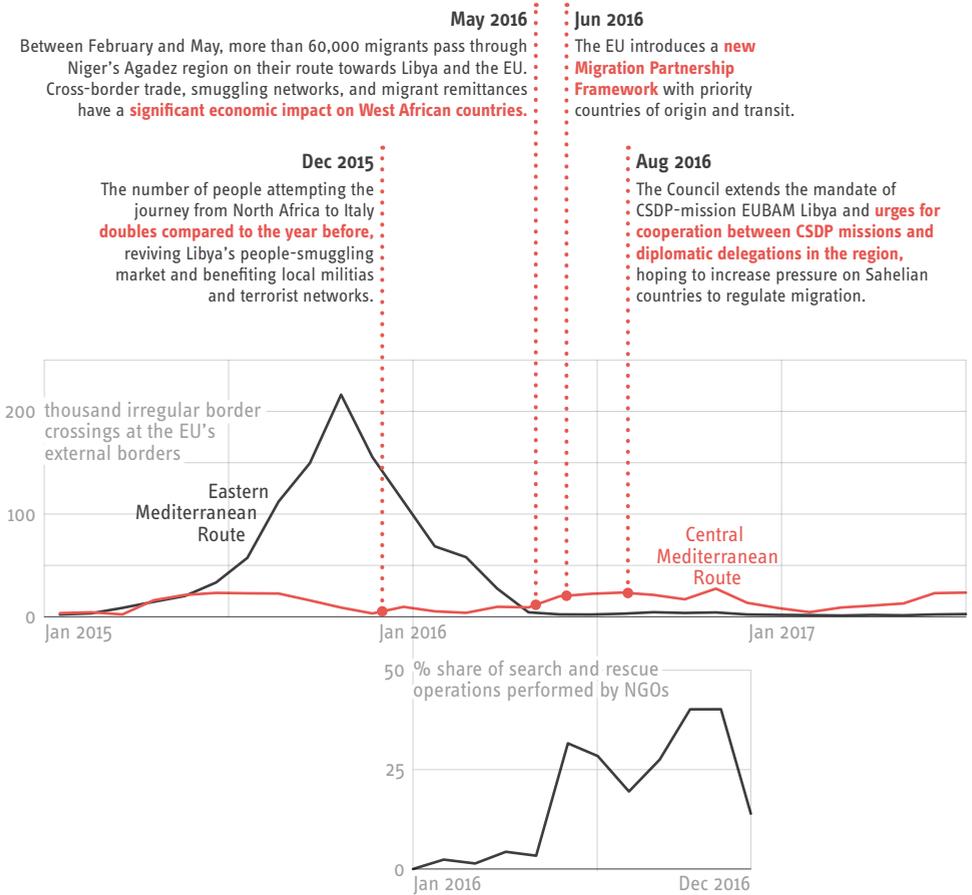
In spring 2016, the EU claimed success in the Eastern Mediterranean. The former Yugoslav Republic of Macedonia accepted help under the EU Instrument for Pre-Accession to strengthen its border to Greece. And then – even more importantly – Turkey agreed to accept back those refugees who crossed into Greece by irregular means. In the three weeks prior to the EU-Turkey deal, 27,000 people had arrived on the Greek islands; in the three weeks following only 6,000 people did. By October of that year, a mere 4,195 people arrived via the Eastern Mediterranean route, compared to 216,260 in October one year earlier. Migrants who now found themselves ‘stranded’ in the Balkans continued to seep out into neighbouring countries, such that by the end of the year there were only an estimated 200 refugees in the former Yugoslav Republic of Macedonia and perhaps 5-6,000 in Serbia. But no major new Balkan routes appeared – not from Albania to Italy, not across the Black Sea.

All eyes turned to the Central Mediterranean Route. The volume of people crossing the Central Mediterranean from Libya was picking up. In March, a sizeable 9,700

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migrants arrived in Italy compared to 2,300 a year earlier. For a moment, the critics of the EU-Turkey deal seemed to have been proven right: the ‘closure’ of the Balkan Route had simply diverted Syrian refugees back through Libya. And there were indeed signs the Balkan Route was beginning to reverse, as Syrian refugees moved out of the EU, from Austria into Italy and then back through the Eastern Mediterranean. But it seems that many of these people were simply returning to their home region. Indeed, the truth was that the EU’s deal with Ankara had succeeded almost too well: it had created a precedent for the EU, and had raised expectations about reaching a deal with Libya’s Government of National Accord.

**Figure 4: Rethinking EU neighbourhood policy: from fighting criminals in Libya to making deals across the Sahel**



Data: International Organization for Migration

#### 4. Libya: expanding the EU's 'neighbourhood watch'

In December 2015, the UN had brokered the Libyan Political Agreement (LPA) to create a new set of governing institutions, including the Government of National Accord. Now, following the announcement of the EU-Turkey deal, there were popular expectations in Europe that an 'EU-Libya deal' with the new government was possible – indeed, that an earlier migration arrangement with Libya could simply be resurrected. Back in 2010, Gaddafi had famously reached out to Europeans, at a time when his country's oil economy was tanking and he was struggling to provide employment for Sub-Saharan Africans in the country. He offered Libya as a migration buffer, at a price. But the expectations seemed unrealistic. Today, there was no more Gaddafi, and ethnic groups and municipalities which had previously been suppressed were fighting for advantage. Worse: it was unclear whether the UN-brokered LPA would even hold.

For five years, the international community had been slowly building support for a central government in Libya, bottom-up. Europeans were now under domestic pressure to quickly restore top-down coastguard, border and law-enforcement functions.

## 2. What was the EU's initial diagnosis?

The EU tried to place its own particular dilemmas into a broader context. Libya itself needed to give its domestic stakeholders, ethnic minorities and municipalities time to create a new political settlement, but it also needed to quickly restore law and order. By mid-2016, this political tension inside Libya between 'bottom-up' and 'top-down' pressures had deepened so far as to take territorial form: self-styled forces of order under General Haftar in Libya's east pressed back against the loose 'Dawn Coalition' of ethnic groups, militias, municipalities and Islamists in the west, creating a deep split in the already fragmented country.

This split had been triggered by a set of elections which had been meant to bring the country together. A group of delegates from the old legislature, the General National Congress (GNC), disregarded the outcome of the elections, and claimed a bottom-up popular mandate from the earlier, more legitimate, 2012 elections. They now maintained a kind of rump GNC in the West of Libya, from whence they argued that the latest election results could be disregarded because popular turnout had been a mere 18%. The rump GNC was able to mobilise a swathe of Libyan social groups and militias under the banner of the 'Dawn Coalition'. And it also disputed the legitimacy of the new House of Representatives, which had formally emerged from the elections as the new seat of legislative power and was provisionally situated in the east of Libya.

As for the new House of Representatives, its Speaker held the GNC responsible for the violence that had marred the elections and had prevented people from voting. After months of tension with the rump GNC and its Dawn Coalition, he aligned with strongman General Haftar, whose Operation Dignity and Libyan National Army sought to impose order and flush out the Islamists who the GNC had failed to deal

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with. So now, the forces of order led by Haftar were pitted against the popular forces of the rump GNC. The rump GNC was based in Tripoli, on Libya's western coast, while Haftar and the House of Representatives were centred on its eastern coast, in Tobruk. Both sides maintained a large zone of influence, but could not command the whole of Libya. And both sides refused to play the part foreseen for them under the UN's unifying Libyan Political Agreement.

Indeed, the international community's efforts to meld these two warring factions into a new set of central governing institutions were in crisis. The House of Representatives had initially given its backing to the UN-brokered LPA but this had caused concern among the rump GNC about the neutrality of the UN process, and it had been reluctant to play the role foreseen for it. The mandate of the House of Representatives was short and specific, meaning authority in the east increasingly accrued to Haftar, and he backed away from the UN deal and from the new set of unified governing institutions. Thus, by early 2016, these central institutions – the new Presidential Council, the Government of National Accord and a reconstituted House of Representatives and State Council – were still paper tigers which presided over a deep east-west split.

The Libyan coastguard was a main focus of the EU's migration control efforts, and it reflected the country's broader east-west split and the lack of an overarching political superstructure. On paper, the 6,000-strong force was administered by the UN-backed Government of National Accord. In reality, its physical assets had been removed by the international community, and were held partly in Tunisia and partly in the EU. While the UN-backed Government of National Accord remained a shell, still waiting for endorsement from the House of Representatives in Tobruk, the coastguard was in practice split between the east and west of the country, as well as between the defence ministry (which controlled the Naval Coastguard) and interior ministry (the Maritime Police). Many of the service's staff were in the east, while its remaining physical resources were said to be clustered in the west.

Europeans were aware that their focus on border control was a narrow one, and was just a tiny part of the job of building law, order and a sustainable political settlement in Libya. Still, the Libyan coastguard did represent a microcosm of Libya's broader problems, and re-establishing it would mean overcoming east-west tensions. Moreover, migration control was a mobilising goal for the EU members, and so could act as a useful spearhead for European engagement there. Member states seemed ready to replicate the kind of diplomatic *modus operandi* which had led to the EU-Turkey deal, with EU members giving a strong degree of trust to a single member state or group of EU officials negotiating on their behalf, and there was an unspoken agreement between them that if good arrangements and initiatives were brokered then they would get behind them.

### 3. What was the EU's first policy response?

Prior to the EU-Turkey deal, the EU had already been working with what remained of Libya's border authorities via EUBAM Libya, the EU's 17-strong civilian CSDP mission with a mandate to mentor Libyan border guard personnel. In 2015, the EU had set up a naval mission, Operation *Sophia*, which was tasked with destroying people-smuggling networks. These two CSDP missions now made a greater effort to reach out to local political forces in a bid to ensure that their work was conducive to the creation of an overall political settlement in Libya. They reached out across the east-west divide, while trying to support the overarching mandate of the United Nations Support Mission in Libya (UNSMIL) to coordinate security sector reform (SSR) efforts.

Early on in the crisis, EUBAM Libya had had to decamp to Tunisia as fighting between militias in Libya worsened, and its personnel could still only make weekly dashes up to Tripoli. As for Operation *Sophia*, it was operating outside Libyan waters trying to disrupt the smuggling business. But now, EUBAM Libya's mandate was revamped with the task to prepare for a more comprehensive EU border mission in Libya in the future. And Operation *Sophia* was tasked with training Libyan coastguards (and, later, monitoring what use the Libyan authorities actually made of them) as well as gaining a role supporting the UN embargo on weapons.

In summer 2016, Operation *Sophia* inked a formal agreement with the Libyan Coastguard, facilitated by the EU Planning and Liaison Cell, the EU's political mediation team. The naval mission also gave Libyan representatives a greater say in its work. And EUBAM Libya reconvened a working group with Libyan stakeholders, and mapped the relevant interlocutors in the field of border management. It also linked up to Libya's National Team of Border Security and Management, which had been created in October 2016 by the Government of National Accord and Presidential Council and comprised participants representing both the east and west of Libya in addition to the relevant ministries.

### 4. What was expert opinion?

Experts argued that the EU should confine itself to a more hands-off role in the field of migration, preferably withdrawing somewhat from Libya itself: it should strengthen its search and rescue efforts to the north of the Libyan maritime border, and perhaps create a scheme in Niger to help vulnerable West African migrants return home before they reach the southern Libyan border. After all, the EU's encroachments into Libya would only make the situation worse, not better: the EU, experts felt, simply could not be trusted to curb its interest in creating a migration buffer in Libya,

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with negative implications for the country's stability: news had leaked out about a draft Memorandum of Understanding negotiated with Libyans by an EU member state, which namechecked the earlier Italian cooperation with Gaddafi, the 2008 'Friendship, Partnership and Cooperation Treaty'.

The EU simply had to recognise that Libya was an 'ungoverned space' which required a gradual bottom-up solution, and that it was impossible to impose top-down law-enforcement measures without taking sides between clans, municipalities and militias. The EU might stress the role of the UN-backed institutions and the need to reconcile the two different centres of authority, in east and west, but these were hardly the only major political forces inside Libya. Rather, Libya was being tugged in multiple directions by competing municipalities (particularly in the West), tribes (in central and eastern Libya) and militias. The House of Representatives, for instance, had been little more than the plaything of its Speaker and his personal ties to Haftar. The Government of National Accord was backed principally by Misrata, a lone municipality. And the EU in its haste to recognise the GNA, and begin cooperating on migration, risked giving it a reputation as a Western puppet government.

Libya's coastguard was just another part of this complex morass, a political football for Libya's central and local political forces. Even under Gaddafi, the coastguard had been ramshackle, a vehicle for co-opting Libya's local groupings into the regime. Today, the coastguard was more or less openly part of the local smuggling business, as exemplified by towns such as Zawiya: when a Libyan coastguard vessel did intercept migrants, it sent them to detention centres run by local militias, who in turn were rewarded with government funds. As these centres filled up, the migrants were passed on to detention centres outside state control. These camps made their money by selling migrants to smugglers, who put them to work and then sent them out to sea again. The EU's support for the coastguard might mean fewer migrants were reaching Europe, but they were hardly being diverted into a well-governed migration system.

The EU, moreover, risked cementing Libya's territorial divisions by its support for the coastguard. Libya's northern smuggling groups and militias were not mere criminals looking to make a quick buck: for them, the territorial motive was often as important as the money. Militias were keen to control migration flows because they were interested in establishing control of territory and population, and forcing recognition from the weak UN-backed Libyan government. If they cooperated with the coastguard, it was in order to carve out parts of the state for themselves. And if Europeans now worked with militias, no matter how indirectly, they would be legitimising this. Even well-meaning efforts by the EU to visit Libya's detention centres and to check on migrants picked up by the coastguard would end up giving legitimacy to the groups running them.

By contrast, if the EU adopted a more principled, hands-off and humanitarian response it could foster a bottom-up dynamic inside Libya, moving the country towards a stable political settlement.

#### 4. Libya: expanding the EU's 'neighbourhood watch'

Events in Zuwara, a major disembarkation point for smugglers, illustrated the existence of these positive bottom-up forces. In late 2015, civic activists in the town had risen up against people-smugglers, disgusted at the criminals' lack of humanity. Various ethnic groups in Zuwara had themselves experienced discrimination under Gaddafi, and it appears they were now keen to show hospitality to migrants and even find work for them. But, in the event, the EU could not capitalise on the momentum. The EU had not created channels for dialogue between local Libyan mayors, and the Zuwaran activists hardly viewed the bloc as an interlocutor on humanitarian matters. Thus, the principal effect of Zuwara's initiative was to push the smuggling business elsewhere. The Libyan smuggling trade fragmented, and new points of disembarkation emerged all along the coast.

### 5. How did the EU accommodate expert opinion?

The EU's work shifted from east-west to gain more of the north-south axis advocated by experts: the EU redoubled its rescue efforts out at sea to the north of Libya's coast; and it helped migrants transiting through Niger at the southern border to return home.

This shift could be seen in the work of Operation *Sophia*. It is estimated that Operation *Sophia* rescued around 10% of those who were setting sail from Libya, and its responsiveness to both the Italian Rescue Coordination Centre and Frontex's Situation Centre was now improved. *Sophia's* growing sensitivity to its rescue duties also entailed deepening relations with the handful of large humanitarian NGOs operating vessels in the Central Mediterranean where they were carrying out an active search-and-rescue role. The hub for Shared Awareness and Deconfliction in the Mediterranean (SHADE) in Rome was the forum to interact with international NGOs and encourage cooperative dialogue.

As part of a growing drive to coordinate CSDP missions across the Sahel and Africa, Operation *Sophia* also deepened its links to the EU's CSDP mission to its south, in Niger, which had originally been focused on a broader set of criminal and terrorist threats. That mission, EUCAP Sahel Niger, had recently increased its focus on border control and established a sub-office in Agadez, tackling activities in a city whose population had exploded from 118,000 in 2012 to an estimated 500,000. This was coupled with efforts to educate Sub-Saharan migrants about the conditions which awaited them in Libya, and to give them the opportunity to return home.

The overarching goal was to build order along Libya's northern and southern borders by bottom-up means. By creating a returns hub in Niger, the EU would help starve the smuggling business of customers, using a humane policy to encourage political stability in Libya: like at the country's coast, the Libyan government had co-opted militias to guard the southern border. These had created a rentier economy, and had strained the already bloated public sector payroll. Without pay now since 2013, they were locked in combat with rival groups which had remained loyal to Gaddafi.

The EU designed its returns hubs to reduce crossings at the southern border. In the six months to July 2016, the four transit centres for migrants in Niger supported by the EU reported having assisted over 12,000 would-be migrants get back to their countries of origin.

## **6. What was the reality-check?**

As the EU extended its focus southwards to Niger it became aware of the broader regional political economy which sustained the smuggling business. The EU's work in Niger, helping vulnerable migrants to return home, had met with some resistance from the major West African sending countries, in turn highlighting the fact that Libya's southern neighbours had a stake in the disorder there.

States like Gambia and Senegal rely to a significant degree – for between 5% and 15% of their gross national income – on remittances from migrant workers. Some had a stake in propelling their citizens – young unemployed men who might pose a threat to local stability – into Europe's rich labour markets, far more perhaps than did their citizens themselves: the majority of West African migrants arriving in Italy said they had left home with no destination in mind. They certainly lacked the skills to make it in Europe (10% had no education whatsoever) and they complained that their governments had made little effort to educate them about the generous legal rights to find work within the West African region. Some complained, too, that their governments had restricted the opening times of consulates along the route into Libya, thereby removing all support and all but ensuring their onward passage to Europe at the hands of criminal networks.

Prior to the ouster of Gaddafi, the immigration authorities in Tripoli had quietly begun expelling large numbers of irregular migrants – an estimated 4,000 in 2000; 43,000 in 2003; 54,000 in 2004; 84,000 in 2005. With the country's descent into chaos, these repatriations stopped. As a result, those West African migrants who crossed Libya's southern border had reached the point of no return. They were more or less stranded in Libya, with no guarantee of safety or work. The terrible conditions they had just left behind on the transit route meant turning back was no option, and the risks of crossing the Central Mediterranean to Europe were relativised. Many of them were finding themselves pushed on towards the coast and just such crossings.

Indeed, West African migrants who had left home without a plan were provided with a kind of step-by-step structure by smugglers, offering work from one place to the next, pushing them ever northwards. Violent tensions in Libya's south-west between Tuareg and Toubou (and between Zway and Toubou in the south-east) displaced long-established safe drop-off points for migrants northwards. And the informal job-brokering systems which had previously funnelled migrants into southern agricultural hubs like Sebha or nearby oil plants also broke down,

#### 4. Libya: expanding the EU's 'neighbourhood watch'

meaning that migrants sometimes had to reach the north coast in order to learn of work opportunities in the far south. Old patterns of seasonal migration back and forth from Sub-Saharan Africa to southern Libya also became impossible given the violence and the collapse of local remittance chains.

## 7. What did the real problem turn out to be?

Libya was an ungoverned space, true, but it was also one where government interests were clearly at play: Libya's powerful neighbours had lined up behind militias and criminal gangs, fracturing Libya along east-west and north-south axes.

The EU's law-enforcement, border and counter-terrorist work in Libya had sensitised it to the international forces behind the country's east-west split: Egypt, the United Arab Emirates (UAE) and Russia had given their backing to General Haftar, to cleanse eastern Libya of Islamists and create a buffer against the undesirable political elements in the west. Turkey and, to a lesser extent, Qatar had channelled support to groups in the west, encouraging political Islam to take hold. Algeria, and to a lesser degree, Tunisia and Morocco had opposed the external interventions, but now found themselves getting caught up in tensions between these players elsewhere, such as in the Gulf where Qatar and the United Arab Emirates were at loggerheads. It was these outside powers which sustained Libya's east-west division creating spheres of influence in the country.

At Libya's southern border, West African economies were using the chaos to propel their own nationals northwards. These governments were not interested in territorial gain, and the networks are described as non-hierarchical and guided by the profit motive. But some of these smuggling networks are clearly linked to governments across the region. The Trans-Sahelian transport firms which carry migrants can broker political influence across West Africa. And kinship networks play a role, too. The Toubou clan which were heavily involved in the smuggling business are ethnic Africans with links to Chad, Niger and Sudan. The Toubou had links to forces in the north-east of Libya, which were in turn connected to Egypt and the UAE. Meanwhile, their rivals, the Tuareg, linked to the Libya Dawn government as well as to the defence ministry.

## 8. How did the EU finally adapt?

The EU's first move was an unexpected one: it focused on the NGOs operating to the north of Libya in the Central Mediterranean, and took the controversial step of helping elaborate a Code of Conduct for their migrant-rescue work.

Work on a Code of Conduct had begun in Italy some time before, due to concern on the part of the authorities about migrants' welfare: some NGOs were performing

search-and-rescue tasks in a spirit more of enthusiasm than professionalism, and they did not always have the right equipment. But when the focus of the discussion shifted to questions such as whether NGOs should be permitted to carry flares and radio transmitters, this was for a different reason: the authorities suspected that NGOs were actively communicating with people onshore in Libya and were coordinating their rescues with smugglers. NGOs in turn criticised the Code of Conduct as a politically-motivated attempt to prevent them helping people in distress. They denied coordinating with smugglers, and they provided statistical evidence to refute claims that they were creating a 'pull factor' for irregular migration flows and somehow luring migrants into making the dangerous sea crossing.

The EU had its own particular reasons for getting involved in this thorny discussion about a Code of Conduct. The EU seems to have been motivated less by the NGO's suspected collusion with smugglers in the Central Mediterranean and more by events further south. The EU needed to put diplomatic pressure on West African governments to live up to their international commitments to protect their citizens in Niger and Libya. On occasion, it might even need to name and shame those which did not repatriate citizens in distress. The NGOs were undermining this goal. They were naming and shaming the EU, and making it alone responsible for regional problems which would require multilateral diplomacy to resolve. They were also presenting an illicit political economy involving labour migrants as a purely humanitarian issue.

If the EU now hit back, it was because it was slowly adapting its traditional neighbourhood policy. It was updating its usual standard-setting role and giving a new and sharper multilateral aspect to its diplomacy in North African states.

## **9. What is the long-term orientation?**

The EU has somewhat reformulated its goals in Libya, away from the rather narrow and self-interested aim of border control to a more positive one which Libya's neighbours can share: rebuilding the labour market there. Libya has a small population (6 million) and the largest oil reserves in Africa. Before the civil war, as many as 2.5 million migrants serviced its economy. Even now, four years after the country tipped into violent conflict, data from the International Organisation for Migration and its 'Displacement Tracker' suggests there are around 400,000 migrants working in Libya's oil and agricultural sectors, with some estimates running as high as 1-2 million, and more workers drawn in daily. Re-establishing this labour market is an interest shared by the EU, but also Libya's North African and southern neighbours.

The 2.5 million migrant workers living in pre-crisis Libya had included 1 million Egyptians, 60,000 Sudanese, and, according to IOM, 'a large population of Sub-Saharan Africans mainly from Niger, Chad, Mali, Nigeria and Ghana'. In the upheavals of 2011, Libya's neighbours were hit by migrants fleeing the chaos – 345,000 went to Tunisia, and 14,000 to Algeria, not to mention 243,000 to Egypt, 84,000 to Niger and 52,000 to Chad. In short, all its neighbours had a stake in revitalising Libya

#### 4. Libya: expanding the EU's 'neighbourhood watch'

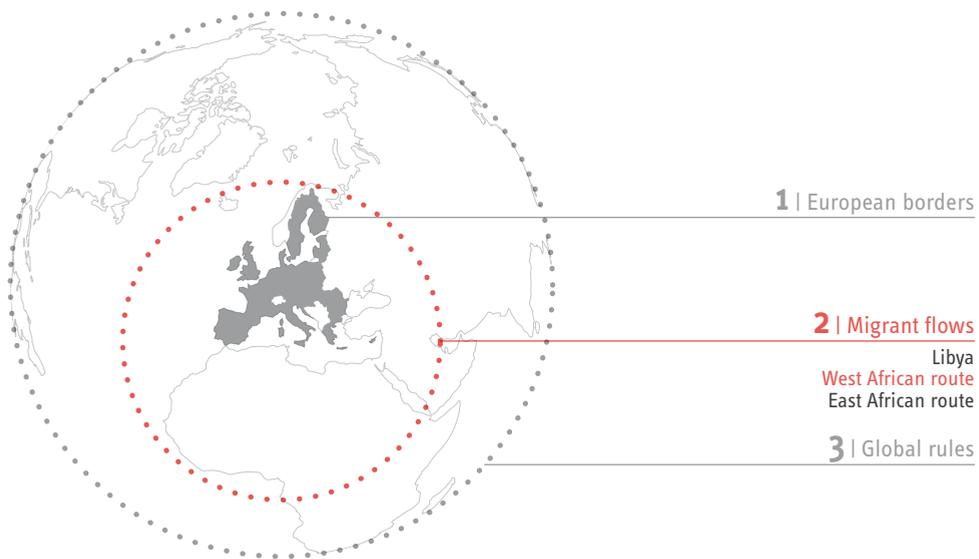
as a labour market. And for the EU, this was no less the case. In April 2016, a UN official had been quoted as warning that one million migrants were waiting in Libya to head to Europe. In fact, his message was different: if Libya's labour market could be re-established it could provide work for one million migrants, meaning they did not have to move on.

Towards the end of 2017, there were signs that this shift in the EU's thinking was beginning to pay off. A CNN television report had just exposed the conditions facing migrants inside Libya and pointed to the existence of slave markets. The global media drew a link to EU migration policy, and named and shamed EU states for their policies in Libya. This came just ahead of a summit between the African Union and the European Union, and the African side could easily have exploited the reports in order to shift responsibility solely to Europe. Instead, African governments presented a plan for evacuating their nationals, the Rwandan President offered to assist in the transit of returning migrants, and the AU proposed a joint EU-AU declaration on the migrant situation in Libya. This demonstrated, really for the first time, signs of African ownership on the issue.

A trilateral EU-AU-UN encounter on the subject was duly scheduled to take place in the margins of the EU-AU Summit. This highlighted scope for further cooperation – setting up mobile IOM migration units inside Libya, working more closely together on assisted voluntary returns, and – perhaps most importantly – involving the AU in crisis-response work in North Africa in a way which had not been the case following Libya's descent into chaos.



# 5. West Africa: dropping the development approach



## 1. How did this problem manifest itself?

Large, growing West African economies had become the problem. From 2016 on, this region dominated the Top Ten of sending countries to Europe, with Nigerians accounting for a sizeable 21% of flows across the Central Mediterranean. They were followed by Ivorians and Gambians with 7% each, then Senegalese and Malians, both 6%.

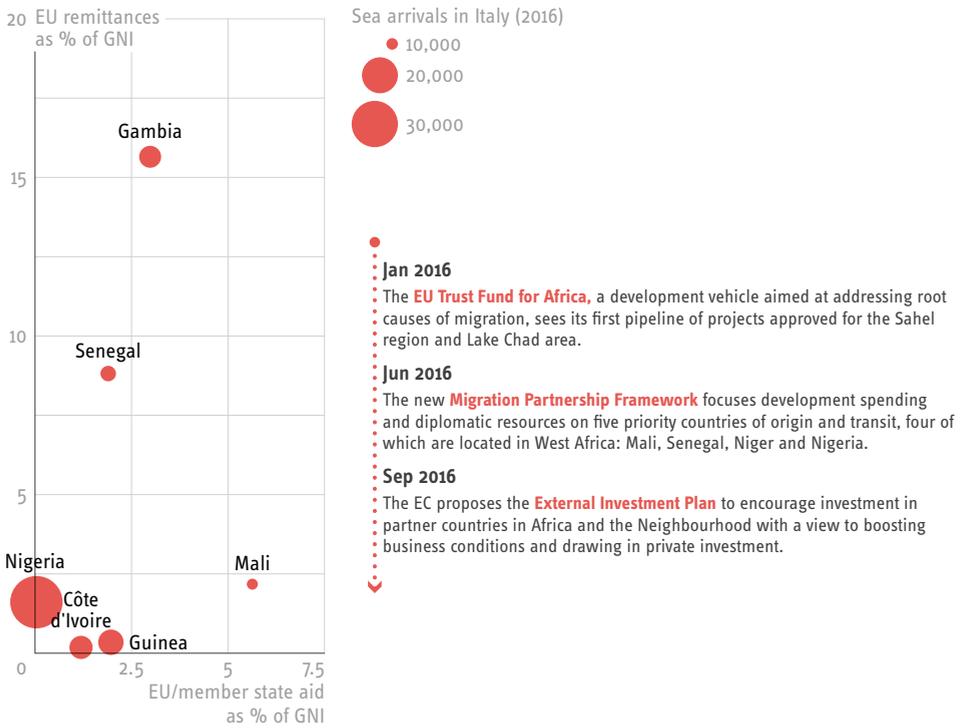
It was becoming clear that a regional powerhouse like Nigeria (with a population of 186 million) could continue to pump out migrants to the EU, even as the numbers from poor and repressive East African countries fluttered then dipped: by 2017, migrants from the tiny East African country of Eritrea (population: 4.5 million) made up just 4% of new arrivals in Italy, down from 11% the year before. They were now outnumbered by Nigerian migrants and asylum-seekers. But whereas more than 90% of Eritreans received protection at first instance in the EU, the figure was only around 20% for Nigerians. And only around 3,000 of the 15,000 Nigerians designated for repatriation in 2015 were successfully returned.

Although the EU had deep development relationships with many of these West African states, repatriation and border control did not always feature prominently.

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North African countries had long functioned as a buffer to migration from the region. EU member states had been happy to rely on source countries' loose general commitment to migrant repatriation included in the Cotonou Agreement, the treaty establishing overall development relations between the EU and African countries. As Libya imploded, however, the need for cooperation with West Africa became more obvious. Nigeria had lately consented to cooperate with the EU as part of its bilateral development cooperation, but it did so alone of all West African states, indeed as one of only two states in all Africa (the other being Ethiopia).

**Figure 5: What use of development policy in migration management? A case for West Africa**



Data: OECD; World Bank; Italian Ministry of Interior

The tiny Cape Verde islands were probably the EU's closest partners when it came to migration control. In 2008, the EU had sought out the islands as a guinea pig for a 'Mobility Partnership', a then cutting-edge format which offered access to European labour markets in return for cooperation on migration. And, in 2012, the EU had again sought a guinea pig, this time for a visa-facilitation deal, a format making

it simpler for the archipelago's 500,000 citizens to get a 90-day Schengen visa, in return for returns cooperation. But by 2015, these experiments with the tiny islands were all but irrelevant: the EU needed to create cooperation formats to suit large, populous, growing economies like Nigeria and Côte d'Ivoire.

## 2. What was the EU's initial diagnosis?

European policymakers were bullish about their chances of tackling the West African Route at source and of quickly taking the weight off fragile transit countries like Niger and Libya. The fact that the EU had had rather limited dealings on border matters with West African source countries simply meant there were low-hanging fruit to harvest. Moreover, cooperation with the region need not be all about blunt border control and migrant repatriations. Compare the drivers of migration on the West African Route to the other main routes to the EU, and the reason for the optimism is clear. On the Balkan Route, the cause of migration was a bloody civil war in Syria; on the East African route, it was an Eritrean regime which subjected its young citizens to conditions of near-slavery. In West Africa, by contrast, the EU would be dealing with 'development stars' who simply needed help managing their vibrant economies.

Best of all, the EU would be able to realise the upbeat development goals it had set itself at the 2015 Valletta summit – addressing the root causes of migration, improving the flow of remittances to the countries of origin and promoting voluntary returns. True, some West African source countries were unstable, as witnessed by Boko Haram's insurgency in northeast Nigeria. But most of the migrants coming to Europe were in fact from stable regions, places which were experiencing developmental problems like jobless growth. But the signs were hopeful – Côte d'Ivoire had an economic growth rate in 2016 of 8%, Senegal of 6%. Moreover, these countries' response to the recent Ebola crisis in Sierra Leone, Guinea and Liberia had shown that they could control their borders.

## 3. What was the EU's first policy response?

Prior to the migration crisis, the EU had dreamt up the idea of a Trust Fund for Africa as a means for dealing with insecurity and fragility in the Sahel. It now transformed this idea into a jobs and migration-management vehicle and expanded its coverage to source countries in West Africa – Ghana, Guinea and Côte d'Ivoire. Within just one year of the Trust Fund's creation, the EU had approved 65 programmes in the Sahel and Lake Chad window, worth nearly €1 billion, of which €220 million went towards job creation in the West African region. Compare this to a total spend of

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just €65 million in North African transit states, and to the mere 35 programmes which it financed in the Horn, where the drivers of migration were considered to be more multi-faceted and complicated, and it becomes clear that the EU was sincere in its belief that it could ‘cure’ the West African flows at source.

This, therefore, was all quite compatible with the usual tenets of European development policy. The EU hoped that this spending surge would not just reduce the flow of people to a trickle, but also help West African states reintegrate citizens returning from Europe. As a result, the main sticking points in Brussels when it came to deploying the Trust Funds and the new bilateral Framework Partnerships with Mali, Senegal and Nigeria tended to be rather trifling conceptual issues: would it be ethical to divert development spending in West Africa away from – say – education provision for girls and to redirect the money to job creation schemes for the young men who make up the bulk of irregular migrants? And yet, one big question did gradually begin to divide Brussels: conditionality. Should the EU attach political conditions to this new injection of spending?

The EU has committed to spend 0.7% of its annual gross income on Official Development Assistance (ODA). But ODA ceases to count as ODA if the EU uses it to impose its narrow interests on recipients: this kind of power play inhibits the development effect of spending. Some in Brussels cautioned against the use of conditionality for this reason. And yet, other voices argued that it was hardly in the interests of good governance to allow the flows to continue. West African states are obliged under customary international law to repatriate their citizens. Indeed, they would surely be meeting basic standards of governance to dissuade citizens undertaking dangerous journeys to Europe in the first place. Besides, how could the EU justify to voters this new surge of spending if Nigeria or Côte d’Ivoire were not cooperating on borders and repatriation?

There was a precedent for a hawkish line: Afghanistan. Kabul had been garnering negative headlines in Europe for its refusal to repatriate Afghan nationals from the EU, and some member states were preparing to leverage the Afghan International Donor Conference to cajole it to cooperate. Some EU states had even begun to apply a soft form of this approach in Africa: when European foreign ministers and prime ministers visited West Africa, they had started coordinating their speaking-points beforehand, intimating to source countries that they expected border and migration cooperation in return for ODA. Sierra Leone and Liberia are almost as dependent on ODA as is Afghanistan, while Niger and Senegal all hover at around 10% of their GNI.

There were also debates in Brussels about drafting in Frontex to implement relevant EU aid projects in Sub-Saharan Africa. Other major international aid donors already use their own national agencies to implement programmes in Africa because it gives them political heft there. The EU has traditionally sub-contracted to outside agencies. But the EU’s home affairs agencies had recently begun playing a role in regional security sector cooperation in North Africa under the European Neighbourhood Policy (ENP). Now there were signs that Frontex would begin implementing aid in

## 5. West Africa: dropping the development approach

West Africa. If Frontex officials did carry out the border and migration reforms which the EU was funding, they would be able to make their message clear to West African governments: if you want European development support, you need to cooperate on those aspects of migration which most interest us.

But in the end the EU backed away from this more hawkish line, advocating instead a ‘more-for-more’ approach. The EU would reward African partners for cooperating on migration, adding extra projects alongside the existing spending, but would not impose negative conditions on those who resisted. The European Commission mobilised money for the Trust Fund by using unspent reserves from the European Development Fund, rather than by diverting money from uncooperative African states; and it discussed rewarding partner countries by such means as ‘direct budgetary support’ – that is, payments which recipients can spend more or less as they chose. But, even here, the Commission trod carefully, aware that the practical distinction between rewarding a state for good behaviour and sanctioning one for bad behaviour was blurred.

EU member states were happy to run with ‘more for more’. But they wanted to see results for this extra spending, quickly. After all, one of the ways in which the Commission had tried to raise extra money for the Trust Fund was by asking member governments to match the extra spending it had freed up from the EDF reserves. Member states were already the source of the European Development Fund, and they balked a little at being asked to ‘match’ this with a further tranche of spending. They wanted ‘bang for their buck’ – a sign that levels of irregular migration were dipping, one way or another.

## 4. What was expert opinion?

Academics had heard this all before. The EU had frequently debated taking a transactional approach to development aid and migration, and experts had spent years arguing that this would be self-defeating.

If the EU took a punitive line (academics found themselves repeating) this would only lead to a rise in irregular migration: development policy tackles basic push factors of migration such as poverty and unemployment, so it really made no sense to cut aid as punishment for a state’s refusal to cooperate. The cuts would only lead to the kind of instability and hardship which caused people to flee in the first place. But academics also pointed out that the ‘more-for-more’ approach, whereby the EU rewarded cooperative African states for restricting migration and taking back their nationals with extra development spending, could be every bit as dangerous: the EU risked creating a pressure-cooker situation in West Africa.

‘More for more’ would not work for a simple reason: economic development is in fact a trigger for irregular migration, at least in the short to medium term. People in Africa are more likely to move as soon as they gain the money and aspiration – in

other words, precisely when their local economies begin to grow. This phenomenon is called the ‘migration hump’. And academics argued that this phenomenon was precisely the reason why the EU was currently experiencing so much migration from ‘development stars’ in West Africa. They warned that if the EU now threw extra development cash at Nigeria or Côte d’Ivoire for holding back their citizens, it would increase the pressure to migrate at just the point where governments closed off migration channels.

Sure, the EU could hope for success in curing some basic root causes of migration with its spending surge. But did the EU really expect to raise Nigeria (with an average per capita income of €5,000) or Côte d’Ivoire (€3,000) to the wealth level of Thailand or Brazil in double quick time? After all, that is the tipping point when West Africans are likely to stop looking to migrate and instead stay at home – when their country’s per capita income is as high as €10-15,000.

Rather than a transactional approach whereby the EU offers development aid as a reward for the reduction of migration, the EU had to embrace international migration as a *part* of global economic development. It needed to harness migration as a driver of economic and political development in West Africa and in Europe itself. This more holistic approach would allow the EU and West African states to cooperate on migration in ways which genuinely rested on their mutual development interests. Academics dusted off a familiar blueprint – a plan which they had first promoted in the Cape Verde islands in the 2008 debate about mobility partnerships.

Under this plan, the EU would open itself to temporary migrants from West Africa – migrants who would undertake to return home once their contract finished. Europe would thereby gain a flexible labour force comprising workers who would not represent a burden in the way of long-term welfare or pension costs. West African countries would gain a steady stream of labour remittances, which could be channelled into job creation schemes at home; their citizens would ‘upskill’ during their time in the EU, meaning that the jobs they created at home would probably be in lucrative services sectors; and they would bring home new and progressive political attitudes picked up in Europe’s well-governed democracies. West Africa’s old problems of irregular migration and brain drain would be transformed into a beneficial and well-regulated ‘brain gain’.

## 5. How did the EU accommodate expert opinion?

In line with academic pressure, coalitions of EU member states now began dusting off old policies of ‘circular migration’ and discussed such ideas as clubbing together to issue temporary work visas for migrants from Nigeria and Côte d’Ivoire. This concept of ‘circular migration’ rested on two counter-intuitive discoveries about how migration works.

## 5. West Africa: dropping the development approach

First, international migration often follows a natural rotation pattern: migrants will return to their home country of their own accord. This kind of natural rotation had occurred during Europe's own history: in the nineteenth century, during the great emigration to America, large numbers of people had returned to Europe after a couple of years. This was not because of the hostile conditions in the US, but rather because they had made sufficient money to come home and live comfortably. Even today, migrants are likely to return home voluntarily after completing their contract, so long as there is an option to migrate again in the future. This research produced a counter-intuitive lesson for European governments more accustomed to forcing West African states to repatriate their citizens: the EU could cautiously open itself to migrants from West Africa, and exploit a natural repatriation dynamic, simply by guaranteeing that these workers would be eligible to return to Europe in future.

Researchers had also discovered, second, that the global volume of money remitted to their home countries by migrant workers was in fact far bigger than the global volume of Official Development Aid. In 2010, for instance, migrant remittances reached about USD 338 billion; this was estimated to be more than three times the total global volume of ODA. This created another counter-intuitive lesson for the EU: rather than viewing migration as something that might be 'cured' by the development Trust Funds, or using the Trust Funds as a reward for migration reduction, the EU should embrace migration and remittances as the central plank of its development toolbox. The EU could do far more to promote the economic development of West Africa, and spur the creation of genuinely useful and sustainable jobs there, if it opened itself up to temporary migration.

This, indeed, is what EU policymakers had set out to do a decade earlier, when they created that Mobility Partnership for the Cape Verde islands, offering temporary labour migration as a spur for reform and development. But EU members had lost their nerve and turned it into a more transactional set-up, with money and cooperation on remittances offered in return for border control. Now, a decade later, the EU began a search for a new generation of West African guinea pigs for this ambitious format.

## 6. What was the reality-check?

Around this time, however, the 'Ghana case' became widely known in Brussels, and it forced yet another fundamental rethink in the way Europeans viewed migration and development policy.

The 'Ghana case' was so named because an EU member had recently cut its ODA spending in the West African country by 10%, or €10 million. Fed up with Ghana's refusal to sign a migrant repatriation deal, this member state had repeatedly warned Accra that it was ready to introduce development sanctions. But Accra continued to resist cooperation on returns, and the donor carried out its threat. The result?

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Ghana continued to defy the member state, and resisted pressure to cooperate on returns matters. Academics viewed this as proof of the futility of using development support as leverage. The ‘Ghana case’ became shorthand among academics for the failures of the transactional approach.

But, in fact, the Ghana case also showed why the more enlightened development concept of ‘circular migration’ was unworkable. There were three reasons why Ghana, and other West African states, were refusing to repatriate their nationals, and each of these showed why circular migration made cooperation between West Africa and Europe harder, not easier.

The first reason why West African states refuse to take back their nationals is precisely because the volume of remittances they receive from their diaspora in Europe often eclipses what they receive in development spending. These countries have little rational interest in repatriating migrants from Europe in return for a little more development spending. In Ghana’s case, the equation seems quite finely balanced: remittances and ODA both make up around 5% of Ghana’s GDP. But Ghana is still unlikely to pull lucrative migrant workers out of Europe in order to secure ODA which it anyway knows is subject to a sunset clause.

Second, all West African states are struggling to create proper jobs for their returnees – even those states like Ghana which adhere to international best practice on this. The trouble is that they have had most success in creating low-skilled and rural jobs, while the Ghanaians who do come home have tended to head for urban areas. Migrants had been sending large volumes of remittances from Europe as expected. But these tended to fuel household consumption, rather than go into the creation of new enterprises or public investment.

Third, African states actively feared the return of some members of the diaspora, viewing them as a source of political instability. They feared returnees spreading values and ideas which they had incubated during their time in Europe. Although this was not a major sticking point for Ghana, it certainly was in Mali and Ethiopia – two other countries where the EU was working on a close migration partnership. In other words, here as in other fields, academics had correctly identified many of the attributes of ‘circular migration’, but had completely misread the ability of West African and European states to create a framework to harness them.

One European diplomat puts it succinctly. He says many West African countries think a certain amount of ‘brain drain’ is a good thing: it is a means of dealing with the large numbers of young, well-educated, unemployed workers who might otherwise cause instability at home. They actively fear circular migration and ‘brain gain’.<sup>21</sup>

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21 Interview with member state official, London, 3 November 2016.

## 7. What did the real problem turn out to be?

In hindsight it is clear that circular migration had in fact become a rather circular debate – an idea which, over the years, was regularly promoted and then dropped as impractical. If the concept of circular migration was recycled in this way, it is probably because European policymakers and academics remained convinced that there was a formula for combining development policy with migration management. And, inevitably, they kept running through the same basic approaches – the curative ‘root causes’ approach, the transactional mode of reward and punishment, and the holistic ‘circular migration’ approach. In fact, the key breakthrough came when policymakers downgraded the development approach.

They had come to a simple realisation: merely because the EU is a major development donor to West Africa, and there is a link between a country’s economic development and rates of migration, does not mean development policy is the right tool to tackle migration. In a narrow sense of course, those policymakers who wanted to use development policy to alleviate the root causes of migration were justified: when West Africa’s economies do become sufficiently developed, their citizens will probably stay home. But this does not mean that the EU’s development spending itself could affect migration flows to a sufficient degree. Economic development may cure irregular migration, but development *policy* in itself will not. It offers too small and narrow a toolbox.

As for the concept of ‘circular migration’, it effectively amounted to the privatisation of ODA: it meant treating migration as a kind of substitute for development policy and treating migrants as substitute development workers. The advocates of this approach were justified, but again only in a narrow sense: migrants going back and forth between Africa and the EU can indeed spur economic development. But this does not mean that they should replace development professionals. Migrants from Ghana were hardly living up to development policy best practice – and who would seriously expect them to? The small and narrow toolbox provided by development policy is useful, and cannot be substituted by migration.

## 8. How did the EU finally adapt?

The EU made a series of quick fixes to correct the effects of previous policy approaches, and to downgrade somewhat the centrality of development aid to its migration cooperation with West Africa.

First, the EU moved to reduce West Africa’s addiction to migrant remittances from Europe. When the EU had signed up to the concept of circular migration the last time, a decade earlier, it had given itself the objective to drive down the cost to African migrants of remitting their earnings from Europe. But its success in this field had had the unintended consequence of encouraging Nigeria to push its nationals

towards Europe. The EU now recognised that it needed to give Nigeria a greater financial stake in getting its workers into other world regions including West Africa itself. The EU therefore focused on reducing the costs of remitting money between African countries themselves. In some cases, these are up to four times more than remitting from Europe.

Second, the EU refocused its development spending in West Africa on ‘governance aid’. This is the only field of ODA which does seem to correlate with a decrease in migration flows: people tend to stay in their home regions if they are well-governed and responsive to their needs. The EU now increased its support for governance standards in Africa, dedicating a significant portion of Trust Fund spending to this. The EU also looked into the contribution to combating corruption which could be made by Frontex. Simple fixes like introducing gender parity into border standards can do wonders for governance, breaking the corrupt old boys’ networks which run Africa’s border controls and law enforcement.

Third, insofar as the EU continued to roll out formats such as mobility partnerships, these were aimed rather more at Africa’s political elites than at their broader citizenry. In Eastern Europe and in the Balkans, the EU widely applies mobility partnerships and visa liberalisation, allowing citizens with biometric passports free entry to Schengen for a 90-day period and helping young workers gain temporary contracts in the EU. The EU calculates that the incentive of visa liberalisation will appeal to these young voters, who put pressure on their political elites to carry out the requisite political reforms. But, when considering the roll-out to West Africa, discussions in Brussels now focused on creating incentives specifically for the elites: the EU discussed giving special benefits to holders of diplomatic passports. If the EU chose these particular methods, it was because it had gradually realised that elites in many West African states felt little responsibility for their citizens.

## 9. What is the long-term orientation?

The EU is diversifying the range of policies it uses for migration cooperation with West Africa, making development aid the glue in a far broader package of policies.

From trade policy to investment, from agricultural to fisheries policy, the EU has a wide array of tools to encourage job creation, customs and migration management. At one end of the spectrum, this new approach has involved the launch of full-blown schemes. The new European External Investment Plan for Africa, for instance, converts development cash into investment capital, and should help create jobs and businesses in places and situations that development aid cannot always reach. At the other end of the spectrum, this approach has involved modest but important efforts aimed at ensuring the EU’s trade or agricultural policies do not cause migration. If the EU offers a developing country a trade concession on, for example, sugar, it needs to be aware that this could have negative implications for sustainable development. It could trigger a land grab as the country creates massive new sugar plantations.

## 5. West Africa: dropping the development approach

One good example of this diversification of tools is the recent discussion in Brussels about encouraging circular migration with West African countries, but to do so largely outside the development policy framework. The idea would be to use trade and investment policy instead: the EU would reach out to multinational businesses which maintain a presence in both Europe and West Africa and encourage them, under their Corporate Social Responsibility and the Mode 4 World Trade Organisation rules on ‘trade in services’, to move workers from one branch of their business to another, transferring employees into the EU for a limited period only. This draws inspiration from Switzerland, which has been exploring similar policies for years. Switzerland has found that, by co-opting the private sector like this, it can ensure that the ‘natural rotation’ dynamic in international migration actually occurs. By moving outside the strict development framework in this way, Switzerland ensures that developmental benefits of circular migration can be achieved.

The secret of Switzerland’s success has been to package up a range of these small trade, investment and development deals in its migration cooperation with Africa. EU member states with strong bilateral relationships to West Africa argue that the EU should emulate this approach.<sup>22</sup> Such package deals are, however, hard for a complex body like the EU to coordinate. In an individual member state like – for example – The Netherlands, diplomats can put together such package deals quite readily. Indeed, member state diplomats sometimes tell stories of migration negotiations with African countries and of sending spontaneous text messages to colleagues in nearby ministries to secure concessions on education or cultural funding. In a system like the EU, putting together such ‘package deals’ would be a much more complicated affair.

The above idea of ‘corporate circular migration’ would, for instance fall mainly to the Commission Directorate General ‘GROW’, for the internal market: Corporate Social Responsibility is its preserve. But DG GROW would need to work closely with the Commission’s Directorate General for Trade. And DG TRADE already worries about using trade cooperation for migration management, not least because it can make the ratification of trade deals by member state parliaments more difficult.

At present, the EU’s attempts to coordinate between different policy initiatives in West Africa is therefore left increasingly to its home affairs agencies. Frontex can play a role in development implementation in Nigeria; it can help coordinate ‘multipurpose operations’ to combat illegal fishing in places like the Gulf of Guinea; it can support the work of security missions in Niger. But it is an agency, and cannot facilitate political deal-making.

What Brussels can in future offer is help in coordinating individual member states’ deal-making abroad. In the early days of the crisis, Brussels created various hubs which helped national ministers speak with one voice in West Africa and to subtly leverage ODA. These hubs were a central repository for national governments to share information on upcoming visits and speaking points. They could now be repurposed

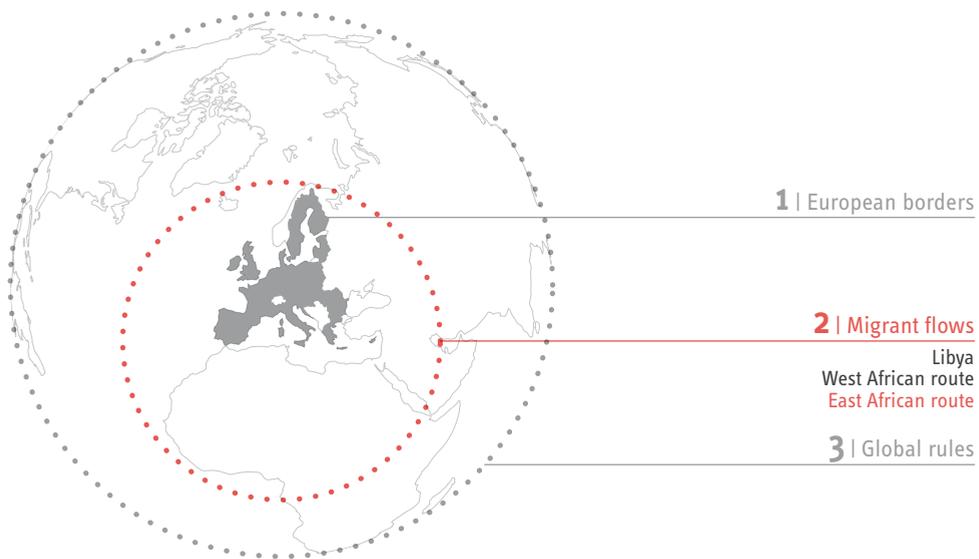
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22. Interview with national official, Spain, 18 November 2016.

## **Nobody move! Myths of the EU migration crisis**

to help member states make deals with partner states in a more coordinated way. If a member government signs an air transport deal with a West African state, for instance, this agreement would contain relevant air-border and traveller-repatriation obligations. The hub in Brussels would help ensure that this bilateral development initiative is coordinated with other member states pursuing similar deals. The result would be a wide-ranging migration package.

# 6. East Africa: how do you solve a problem like Eritrea?



## 1. How did this problem manifest itself?

The problem was Eritrea – and a whole class of states like it. Between 2013 and 2014, the number of Eritrean asylum applicants in the EU, Switzerland and Norway doubled, reaching more than 47,000. But it was not the sheer volume of these refugees (during the migration crisis, in 2015, the numbers of Eritreans had stayed constant while Syrian applications had grown by 500%, Afghans' by 300%, Iraqis' 200%, and Albanian applications doubled). Nor was it the demanding nature of the Eritreans' applications (10% were unaccompanied children) that was problematic. Rather, it was that the EU felt that it could not influence the regime in Asmara or the root causes of the flow.

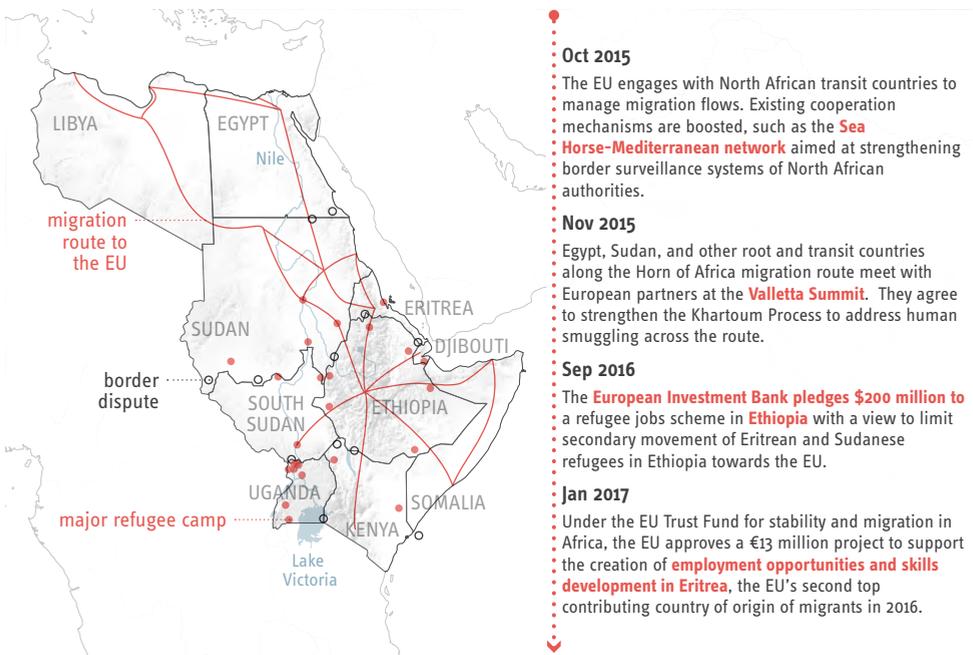
Eritrea has, since its war with Ethiopia in 2000, been under the control of an authoritarian and heavily-militarised regime which remains heavily centred on President Afwerki. Described as a 'Siege State', or simply as the 'North Korea of the Horn', Eritrea's government has a reputation as paranoid and inward-looking. It is an anachronistic regime hemmed in by border disputes with its neighbours and

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cut off from the outside world by economic sanctions imposed by the UN Security Council at the behest of the African Union. In the absence of a properly functioning domestic economy to build public support, it feeds off its isolation and the sense that the outside world is hostile to it.

But, although there had been a crackdown on political freedoms in the wake of the war, Eritrean refugees were not always in fear of their lives or of persecution. A controversial Danish Red Cross analysis suggested they were often escaping unemployment and the prospect of extended military service. If the EU authorities nevertheless granted asylum to 93% of applicants, it was because to repatriate them would be to break the principle of *non-refoulement*: these were deserters who had fled the country. Eritrea considered this a treasonous offence which reportedly carries the punishment of life imprisonment or the death penalty.

### Figure 6: Diplomatic engagement with refugee source countries: cooperation along the Horn of Africa migration route



Data: UNHCR, iMap

For European officials, this particular migration flow arguably represented the most intractable problem the EU had so far faced. Eritreans were not fleeing a hot conflict or failed state like Syria, Iraq or Afghanistan; so they were not coming from a place which might be stabilised and reformed. Nor were they migrating from a fast-

## 6. East Africa: how do you solve a problem like Eritrea?

developing economy, such as Nigeria, which might be induced to cooperate with a mix of economic investment and diplomatic naming-and-shaming. Rather, they were escaping from a repressive but functioning state, one that the EU could not really approach without fundamentally compromising the principles of development aid.

In a world which seemed increasingly to be divided into warzones like Syria, assertive ‘development stars’ like Nigeria and frozen states like Eritrea, it was the latter which seemed to store up the most problems for Brussels policymakers.

## 2. What was the EU’s initial diagnosis?

In the early days of 2015, the seemingly endless stream of Syrians had raised fears in Brussels about ‘perma-flows’ – about permanent inflows of irregular migration. The EU-Turkey deal had put these fears to bed, and had given the EU the confidence to deal more robustly with the security and the economic drivers of migration. But now, as attention snapped back to the Central Mediterranean, the old fears resurfaced.

In the form of Eritrea, the EU found itself dealing with a regime which would probably neither collapse nor cooperate, but would merely perpetuate itself, spewing a continuous stream of people to Europe who had to be permitted to remain. UNHCR estimated that 5,000 people were slipping out of Eritrea each month. And if tiny Eritrea could produce this seemingly unstoppable flow of people, what about other anachronistic regimes – Transnistria, South Ossetia, Equatorial Guinea, Burma/Myanmar, Gambia, Belarus? What about the breakaway zones which might emerge in Syria, Libya or Iraq as the central governments of these countries failed to assert their authority over national territory?

This raised fundamental questions – questions about whether the EU could remain committed to the international refugee regime. States like Eritrea represent a potent mix of new and old problems – they combine modern connectivity with Cold War-style isolation. In the 1990s, many European governments were facing massive migration flows and had questioned whether they could stick with their commitment to the 1951 Convention on refugee reception. They chose to do so, however, because they believed globalisation and modern connectivity would allow them to intervene at source and resolve the drivers of migration. Eritrea was an example of a 1950s-style regime which was impervious to outside influence, but whose citizens could take advantage of an interconnected global economy to move great distances.

True, the Eritreans who set out from home took longer to reach Europe than did the Sub-Saharan Africans leaving more open societies. Nigerians or Ivorians were able to transfer money to smugglers across the Sahel or to hook up to a diaspora population in Europe long before they planned their journey. But Eritreans made

it all the same, and indeed they were increasingly creating their own smuggling networks. Eritrean criminals had established a permanent presence of their own in Libya, where they managed a network of people smugglers which reached right back to Eritrea's own border service.

Some national officials in the EU argued that the situation required hard-headed thinking: if Europe was to maintain its commitment to refugee reception at home, this justified some basic *realpolitik* abroad. They talked frankly about the need for the EU to adopt a buffering policy in eastern Africa on the transit route from Eritrea.

### **3. What was the EU's first policy response?**

The EU came to rely more on the big regional powers further downstream to contain the flow of people. If the EU could not stem the flow inside Eritrea itself, the next best option was border and police cooperation in Sudan and Egypt to break the smuggling networks.

Already in 2013, the EU had begun talks with a whole string of countries on the transit route from Eritrea to Libya – including Egypt and Sudan, Ethiopia and Uganda, and even Tunisia (included because it was now hosting the EUBAM border mission to Libya). This initiative, which would become the Khartoum Process, echoed the EU's long-standing dialogue with West African countries. But whereas the Rabat Process covered positive issues such as relations with the West African diaspora in Europe and remittance facilitation, Khartoum focused on narrow law-enforcement issues: in West Africa the EU was optimistic about alleviating the root causes of migration with 'development stars' like Nigeria or Côte d'Ivoire, and of quickly taking the pressure off transit states like Niger or Mali; but in the Horn, the EU could at best hope for transit states to crack down on the flows.

The difference between the two dialogues crystallised in November 2014 at a flurry of meetings in Rome. The Rabat Process was given new impetus by a quid-pro-quo with West Africa: the EU agreed to 'support the development potential of migration' if West African states improved their control of migration. This aligned the Rabat Process more closely with the EU's formula for migration cooperation which it had adopted in Eastern Europe and the Balkans. The EU would increase the opportunities for legal migration and remittance flows in order to gain cooperation on irregular migration. Meanwhile, the Khartoum Process was given just one central strand: law enforcement. The EU looked to free up funds from its development budget and the European Internal Security Fund for law enforcement in East Africa.

The only bright side was the EU did not have to use its massive spending power to cajole countries on the East African Route into playing ball – this narrow focus was in fact demanded by the countries of the region, notably Egypt, which took the chair of the Khartoum Process in 2015.

## 6. East Africa: how do you solve a problem like Eritrea?

Already back in 2012 Egypt had shrugged off the EU's offer of a Dialogue on Mobility and Security – the precursor to a full-blown Mobility Partnership, which would have combined opportunities for Egyptians to migrate to Europe in return for border control by Cairo – even as Tunisia and Morocco engaged with the offers made to them. It seems Egypt did not wish to make itself dependent on the EU. It pictures itself as a regional leader, and maintains a web of links to major external powers from Saudi Arabia to the US. The vast majority of migrants from Egypt head to other Arab states rather than to Europe. As for high-skilled migrants, they head for destinations like the US, and those Egyptian professionals who wish to go to Europe easily qualify under the existing Blue Card system. So Cairo proposed its own cooperation formula with the EU: European funding, with no strings attached.

## 4. What was expert opinion?

Academics, watching nervously as the EU engaged with Cairo, rejected the argument that the EU somehow faced a choice between a rock and a hard place – between cooperating at source with a repressive Eritrea and creating buffers downstream in Egypt and Sudan. Just because the EU could not work with Eritrea, this did not justify repressive measures elsewhere. Some experts even contended that the problem would soon take care of itself – that the flow of people from tiny Eritrea (with a population of just 5 million) would dry up of its own accord. Academics argued that this had been the story of every large flow of migrants to the EU in the past decade – first a sustained build-up of irregular migration, then a sharp spike and a steep decline. Each time the stock of potential migrants exhausts itself, irrespective of countervailing policies introduced in transit countries.

Academics had not been too worried about the EU's deal-making with countries of transit and origin in the past, because this had usually involved the EU conceding new channels for legal migration and remittances – policies like the Mobility Partnerships it looked set to introduce in West Africa. But the EU's handling of the transit route from Eritrea seemed to mark a fundamental change of direction. Under the Khartoum Process, the EU was not only promoting blunt law-enforcement policies, it was also making itself reliant on buffer states, and leaving itself open to blackmail by Cairo or Khartoum which could be claiming to hold back a flow of Eritreans which had long since tailed off. The EU was about to do permanent and unnecessary damage to the whole region, they said, if it engaged in this way with Sudan or Egypt.

True, the EU had not given any funds directly to the Sudanese government for the purposes of border control. It had merely sent a fact-finding mission to assess whether it was feasible to give equipment to Sudanese border services, as well as funding international bodies like the International Organisation for Migration for their work in the region. But there were concerns that even this could expose the EU to blackmail by Sudanese politicians. Sudan was keen for the EU to set up a border training mission, apparently viewing this as a means to gain international recognition,

and bolster its case to lift international sanctions. The Sudanese government also had a reputation for exploiting aid agencies. It would call for support from the EU, and then the Sudanese Humanitarian Aid Commission would pull its usual trick of extorting the NGOs which subsequently arrived.

The lesson was simple. Over the years the EU had been entrusted with awesome powers to help regulate international borders, and these ought not to be used for containment. Sudan, Morocco and Jordan were all using the migration crisis to solidify their disputed borders, said experts, and the EU was lending them respectability merely for holding back the flow of people. The EU was failing to get involved in spots like Yemen for the simple reason that Riyadh was effectively holding back the flow of people fleeing its bombing campaign there. And, when member states did accept and recognise refugees, experts believed they were often doing so primarily to undermine the source countries rather than because they had a sense of humanitarian obligation.

## **5. How did the EU accommodate expert opinion?**

The EU duly began to pursue a more positive third option, further up the transit route: cooperation with the Horn's own 'development star', Ethiopia. This was an attempt by the EU to transplant its new development-humanitarian approach from the Levant, and to create jobs in Ethiopia for Eritrean refugees and for locals. This would serve to stem the flow of people from the Horn, but in a sustainable manner.

True, the EU had not pursued this positive focus with Ethiopia from the beginning. It had come about through a roundabout route, and only after the EU had exhausted the options for cooperation with Sudan and Egypt, as well as for a deal to repatriate Ethiopians living irregularly in Europe. The EU's initial focus in Ethiopia had logically been on repatriation and border control: Ethiopia is populous – it is home to 100 million citizens – and the potential outflow of migrants from Ethiopia could potentially dwarf that from Eritrea. EU members held out the offer of greater options for legal migration and study places for Ethiopians. But Addis was divided internally on the matter, and the talks stalled.

And, in hindsight, the EU actually felt that it had ended up with the better option in the form of this job-creation scheme. Most irregular Ethiopian migration heads towards the Gulf. And the reason why EU governments had been unusually ready to offer Ethiopian students concessionary 'Erasmus scheme' places is precisely because they had a reputation for leaving again, voluntarily. The refugee-hosting deal was, in the end, more valuable to the EU than the repatriation deal.

## 6. What was the reality-check?

As the EU better understood Ethiopia's motivations, however, it came to realise that the job creation scheme there was not the easy win it had first seemed. There were suspicions that Ethiopia's canny prime minister, in a negotiator's classic 'two-level game', had made the most of the domestic constraints on his room for manoeuvre in order to squeeze concessions from the EU.

During those initial talks on a repatriation deal, the Ethiopian prime minister, with his diplomatic background, had signalled a strong desire for cooperation: he was more than ready to help repatriate migrants from the EU if this was a way to seal relations with Europe. But, to his apparent surprise, the Ethiopian security services had undermined him, saying they feared the return from Europe of criminals, terrorists and other people who might falsely claim to hold Ethiopian nationality. The security services refused even to talk to the EU's diplomats, and the prime minister could only express his embarrassment. As a sign of good faith, he expressed a readiness to make concessions in other contentious fields. His government would improve existing schemes to allow Eritreans to leave their refugee camps and to integrate into the labour market.

But there were now concerns in Brussels that Ethiopia had agreed too readily to make 'concessions' in this field: diplomats speculated that Ethiopia was exploiting the migration crisis in ways not dissimilar to other transit countries like Sudan and Egypt. Addis Ababa had secured EU support to build two industrial parks which would create thousands of jobs for locals and refugees. But there were concerns in Brussels that the prime minister had not provided a really convincing business case proving that the scheme would create work for refugees. It seems the Ethiopian government was using the migration crisis for domestic purposes, as a means to shore up the government by creating job schemes for its supporters. Ethiopia apparently hoped, too, to draw the EU into the region's power politics. Its hope was to shift the balance in its disputes with Sudan and Egypt, and of course to deepen the international isolation of the Eritrean regime.

Addis wanted, also, to strengthen its hand in the nearby Gulf region. Governments there had been threatening to expel Ethiopian migrants should Addis take the wrong side in the Qatari and Yemeni disputes. And there is an irony here: if Addis and Brussels had pursued the initial option of greater mobility for Ethiopians to Europe, this might have served their interests better. It would have reduced, even in a small way, Ethiopia's dependence on Gulf markets. And it might also have obliged Ethiopia and the EU to address some of the reasons why mobility remains low, and why many Ethiopian expats do reliably return home: land rights in Ethiopia are notoriously poor, meaning few people migrate long term for fear of losing their property. Addis Ababa has been slow to address this issue because land grabs have allowed it to undertake the large-scale infrastructure projects which help make it a 'development star'.

The geopolitical situation in the Horn now deteriorated, and border and migration issues only fuelled the rivalries. The UAE and Saudi Arabia drew Eritrea into their spat with Qatar by reminding Asmara that they host large numbers of Eritrean workers and could readily expel them. Qatar responded to Eritrea's alignment with Saudi Arabia by withdrawing its 400 observers from the disputed border between Eritrea and Djibouti. Somalia, which had been trying to maintain its neutrality during the Qatar dispute, enraged Saudi Arabia and the UAE and they threatened to stop funding the Puntland coastguard. Ethiopia, meanwhile, was in the thick of things: Addis aligned with Saudi Arabia, because it feared that the expulsion of its citizens from the Muslim powerhouse would upset its own delicate religious balance, and would drive up its 17% unemployment rate in a country where job creation schemes tend to favour supporters of the government.

## **7. What did the real problem turn out to be?**

The EU had refused to cooperate with Eritrea on the root causes of migration for reasons of principle. But this was, in effect, tantamount to geopolitical containment: the EU had deepened Eritrea's international isolation and created buffer states further downstream. This would only exacerbate geopolitical tensions in the region.

If the EU did not change its approach, it was at risk of getting tugged into rivalries between migrant transit states like Ethiopia, Sudan and Egypt. After all, the EU was reliant on these countries to block the flow of people, and it lacked its usual positive leverage there: these countries were not particularly interested in gaining access to European labour markets, and European development spending came with too many reform conditions attached. As such, the EU was vulnerable to exploitation by countries like Sudan which offered border cooperation in return for EU support on more vital questions such as, for example, Nile water: the migration flow from Eritrea to Europe traces the path of other flows – such as of water and goods. Old strategic rivals like Egypt and Ethiopia were not necessarily interested in the sustainable management of these flows: more often than not, they simply wanted to get one over on the other.

The EU is not the only external power to behave as a single-issue player. The US has a singular focus on counter-terrorism in the Horn, including imposing sanctions on Eritrea for its support for Al-Shabaab, the Somali terrorist group. By contrast the Chinese, from their base in Djibouti, were promoting a more Silk Road narrative around a rather more comprehensive vision of flow management, and this seemed to garner positive interest in the Horn. European officials now perceived that the regional management of migration flows could unleash a similarly positive dynamic. After all, people flows were actually something that the countries of the Horn all cared about, even if the specific issue of migration to Europe was not of central interest. Even Sudan was engaging, and no longer blocked dialogue on human rights, so long as regional migration matters were on the table.

## 6. East Africa: how do you solve a problem like Eritrea?

To achieve this more positive regional migration cooperation, however, it was clear that the EU would finally have to engage at source, in Eritrea: this was the only way that Brussels could avoid being drawn into zero-sum buffering deals with spots like Sudan. When Eritrea came to the table in late 2015, it signalled that it was ready to cooperate on a deeper development relationship. In January 2016, the EU tentatively committed €200 million to spend in Eritrea up to 2020, with a focus on energy infrastructure, financial management and implementing recommendations of the UN-led Universal Periodic Review on human rights. In early 2017, the EU committed €13 million for a job creation scheme there. The European side was under no illusions about the fact that every past attempt at engaging with Eritrea over the past 25 years had ended in disappointment, but the migration issue made engagement better than containment.

## 8. How did the EU finally adapt?

In mid-2016, home affairs officials and diplomats managing the Khartoum Process took the decision to try to combine their work better with the more advanced Rabat Process, and officials from the Horn of Africa began attending meetings to learn from West Africa. The move gave the EU a more or less direct comparison of the political dynamic in the two Processes, and it was clear that neither functioned as first thought. On the West African route, the EU had been perhaps too optimistic about cooperating with source countries on the root causes of migration and too pessimistic about the scope for cooperation with fragile transit states. And, in the Horn, it had been too ready to rely on transit states like Egypt or Ethiopia because it had seen no real chance of dealing with the root causes at source in Eritrea.

As regards cooperation with transit states on the two routes, the EU's experience was most positive in West Africa, with fragile Niger, rather than with the more robust regional powers in East Africa like Egypt and Sudan. This was because, in Niger, development cooperation genuinely made sense as a response to its predicament. Niger was somewhere where the EU could introduce effective job creation schemes: small-scale job creation schemes in regions such as Agadez were capable of creating 'alternative livelihoods' for those citizens servicing the migration and people-smuggling business. These did not really work in East African transit states where it would primarily mean creating 'alternative livelihoods' for corrupt border guards. Nor did job creation schemes really take off in source countries such as Nigeria, where the EU could never hope to create sufficient decent jobs to dissuade young people from migrating.

In a comparison of the source cooperation on the two routes, the situation in Horn was not as bleak as first feared. It became clear that cooperation with a country like Eritrea was possible after all. In Asmara, European officials found a paternalistic regime fretting about population loss. There were reports, too, that the government did permit nationals to return home from Europe, even if only on tourist visits, indicating its dependence on external economic sources. True, Eritrean officials did

remain heavily mistrustful of European interference, but they showed an interest in improving the state of the country, a quarter century after it secured its independence. This compared favourably with the situation in fast-developing West African source countries: according to one EU member state official, political elites would show limited interest in European development spending if ‘this was graft-proofed, and there was no personal gain in it’.

## **9. What is the long-term orientation?**

The EU has recently begun engaging in the politically-isolated states to the south of the EU, in places like Eritrea, but also to the east in the geopolitical hotspots on its doorstep.

The EU has historically had good relations with five of the six states which formally make up its ‘Eastern Neighbourhood’ – Armenia, Azerbaijan, Georgia, Moldova and Ukraine. These countries have proved ready to block the flows of migrants transiting their territory en route for the EU, usually in exchange for concessions guaranteeing their own citizens’ access to the EU. The problem rather has been their own internal border issues – their disputed borders and breakaway regions. Each of the five has such issues, and the EU has struggled to address them within its multilateral neighbourhood policy. If it began to address one border issue, it would need to address all of them. The only member of the Eastern Neighbourhood without such issues, moreover, is Belarus – the most isolated one, and the one with which the EU has historically taken the most hands-off approach.

In around 2014, the EU tentatively decided to bring borders cooperation into the multilateral track of the Neighbourhood, albeit not by addressing head-on the disputed borders. Rather, it tried to encourage cooperation on a relatively uncontentious issue – their shared maritime borders to the Black Sea and Caspian Sea. Almost as soon as this initiative began, Russia annexed Crimea, and Black Sea borders were suddenly disputed. But these events also served to alienate Belarus from Russia and to push it into the EU’s ambit. Belarus, the only one of the six without territorial problems, now expressed its fears to Brussels that its estrangement from Russia posed a threat to its territorial integrity (until then, Belarus had willingly provided part of the land-bridge between Kaliningrad and the rest of Russia; now there were fears that Moscow might seize part of its territory).

As in Eritrea, the EU found surprising opportunities for cooperation. Belarus believed it could use the Neighbourhood multilateral track to spread its own model of migration and border management. It wanted to cooperate on the flow of Vietnamese migrants across its territory. Minsk was keen even to negotiate a Mobility Partnership with the EU, although this would expose it to a degree of political conditionality as well as people-to-people exchanges at the social level. Belarus was eager to gain access

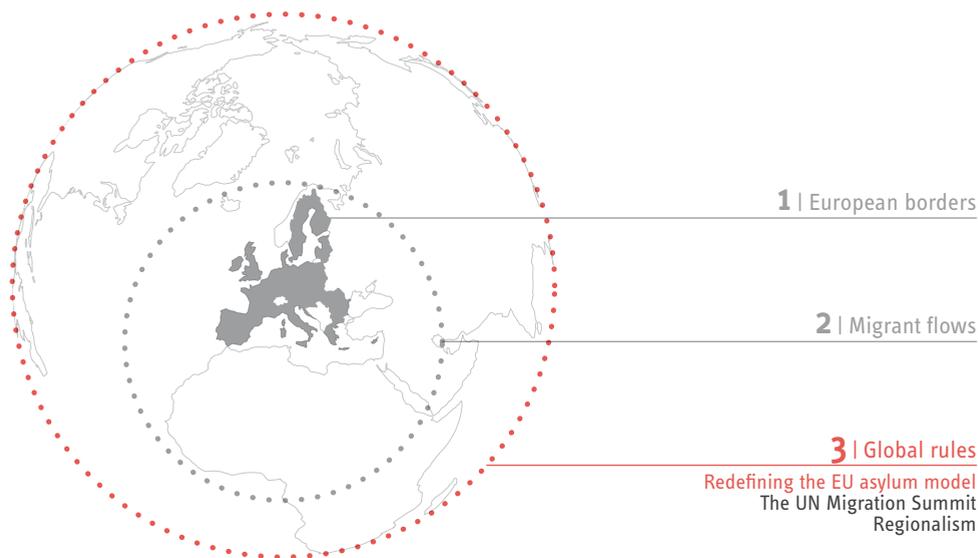
## 6. East Africa: how do you solve a problem like Eritrea?

for its citizens to the EU, because the EU treats migrants well. When its citizens moved to work in Gulf States, Minsk found that their poor treatment there forced it to intervene. In other words, the EU, an advanced post-national body which tried to set standards, was the greatest guarantor of Belarus's style of non-intervention.

Just like in the Horn of Africa, moreover, the EU is finding that its migration diplomacy in Eastern Europe and Asia can provide a means of addressing broader geopolitical tensions. To the East, the EU is party to two migration dialogues – the Budapest Process and the Hague Process. Russian officials have said that they view the dialogues as a vital forum, not so much in order to discuss migration, but rather because they believe that the EU will maintain the two Processes even as it closes other communications channels to Moscow. In other words, the migration dialogues are a means for Moscow to broach a broad range of political issues with Brussels. This, in turn, should allow the EU to prevent Russia from 'weaponising' migration – that is, from leveraging the dependence of Eastern European states on remittances on its labour market.



# 7. The EU asylum model: turning global rule-takers into rule-makers



## 1. How did this problem manifest itself?

Throughout the migration crisis, UNHCR was heavily critical of the EU, culminating in a demand that Europe address the ‘scenes of chaos at the borders and a breakdown in the public’s trust in the capacity of governments’.<sup>23</sup> Brussels’s own weekly situational reports echoed this loss of faith in EU asylum standards. In a typical week in November 2015 children were reportedly being used to ferry migrants across the Aegean, as smugglers found new ways to escape prosecution; asylum-seekers were not being properly identified on arrival in the EU, not least because there were no fingerprinting machines; nearly two thirds of Frontex and EASO’s requests for seconded national personnel remained unfilled; and just 140 asylum-seekers had been relocated from Greece and Italy, as refugees continued making their own independent choices over where in the EU to go next.

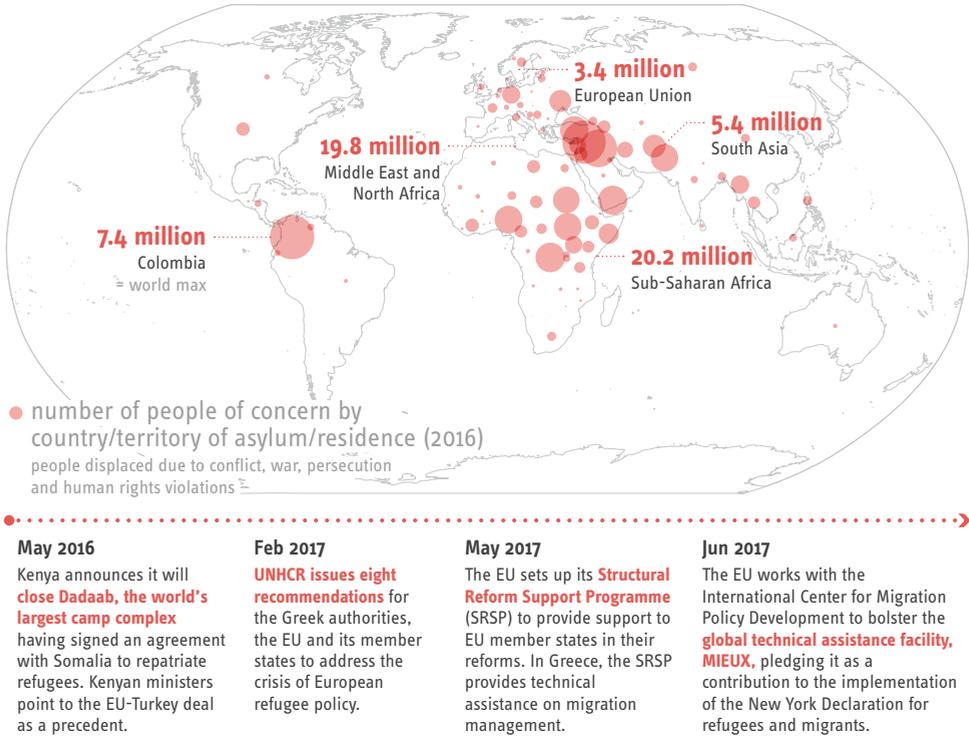
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23. UNHCR, ‘Better Protecting Refugees in the EU and Globally: UNHCR’s proposals to rebuild trust through better management, partnership and solidarity’, December 2016, p.2.

**Nobody move! Myths of the EU migration crisis**

This all marked a stark contrast to the situation in Turkey, which now hosted more than 2.7 million registered refugees. UNHCR officials were as lavish in their praise of Turkey as they had been critical of the EU. They talked up the ‘Turkish model’ of refugee reception, and indicated that the usual relationship between Brussels and Ankara – the old relationship between a rule-maker and rule-taker – was reversing. The Turkish government duly began to publicise its reputation as a global humanitarian leader, making hay with the refugee issue in New York, where the UN refugee talks were hotting up; in Jeddah, where it used its chairmanship of the Organisation of Islamic Cooperation to highlight the treatment of the Rohingya; and in Istanbul, where it hosted the world humanitarian summit. But this raised questions about why Turkey was not preventing refugees from making the dangerous journey across the Aegean.

**Figure 7: Re-establishing Europe’s normative power: refugee reception**



Data: UNHCR

The situation was ripe for a deal between the EU and Turkey: Turkey would agree to prevent the flow of people, but in return for financial support. In early 2016, as negotiations were in progress, Turkish authorities began demonstrating their control

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of the flows. Turkish coastguard vessels increased their patrols in the Aegean, then relaxed them. In February 2016, the number of entries at the EU's south-eastern border dropped to 8,597; a week later it was back up to 19,383. And then, in late February, Ankara communicated to European governments the sheer scale of its migration-related spending, signalling total spending since 2011 of €8 billion and a current shortfall of €950 million merely for guarding its sea border. The EU, which badly needed a respite to get its asylum standards in order, was ready to foot the bill. In March, the two sides signed their joint agreement.

Ankara had already, under a November 2015 deal, secured €3 billion in humanitarian support from the EU as well as an undertaking from European member states to resettle refugees directly from Turkey when the flows dipped; in return Turkey had begun securing its southern borders and cracking down on smugglers there. Now Turkey committed to better regulate the flow of people across the Aegean and to accept asylum-seekers back from the Greek islands. In return for securing its northern border in this way, Turkey received a further pledge of up to €3 billion as well as a commitment from the EU to accelerate the disbursement of the initial €3 billion. Flows to Europe duly dipped, but at what cost to the EU's reputation?

This had more than the whiff of a dirty deal about it. On paper, the deal was in line with Turkey's national interests (it helped to get its borders under control) as well as with international norms (a 1989 UN declaration permits states to return asylum-seekers to safe countries they crossed). But, if that was so, then why had the EU had to give Turkey a large amount of money to sign the agreement?

If the deal had gone on to spur an improvement in European reception standards, this might have silenced the critics. But UNHCR pointed out that the EU's internal model continued to struggle, while also raising concerns about *refoulement*: the wording in the deal about returning 'all new irregular migrants' to Turkey raised fears about indiscriminate expulsions. The EU was returning Syrian, Iraqi and Afghan asylum-seekers to Turkey where there was no guarantee that they would not be expelled.

In short, Europe's vaunted 'market power' had apparently been reduced to buying off third countries to uphold its values. And, worst of all, it was a candidate country for accession – Turkey – which had shown it up.

## 2. What was the EU's initial diagnosis?

The EU perceived that it was in danger of slipping from global standard-setter to bad example. In Africa and Asia, major refugee-hosting countries now seized upon the EU's actions as a precedent, and there was a clear danger that refugee standards worldwide might tumble, domino-like. Kenyan regional security officials said that the EU-Turkey deal was emboldening them to downgrade their country's own reception

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capacities. They announced plans to close Dadaab, the world's biggest complex of refugee camps, on the grounds that it posed a threat to security. Kenya's cabinet secretary was reported as saying that returns are 'the standard practice worldwide. For example in Europe'. If the wealthy EU would not shoulder the global refugee burden, why should Kenya?

Various countries on the migrant transit route to Europe also tried to monetise their status as a buffer zone and demanded a price for hosting refugees. Egypt pointedly remarked that it was not as well-rewarded as Turkey for holding back the flow of refugees to Europe, while Niger asked for an additional €1 billion for migration initiatives. Sudanese officials brazenly calculated the contribution to the economy from people-smuggling, and demanded the same sum from the EU. Meanwhile, Pakistan began expelling Afghan refugees at just the moment Turkey was seeking to repatriate Afghans who had been returned to it from the EU – and then demanded international cash for hosting those who remained.

Domestic governance standards across Africa took a hit, too. Various regimes of questionable standing tried to prop themselves up by offering the EU an equivalent deal - Sudan, for instance. Sudan, despite receiving an additional €100 million in migration-related funding from the EU in April 2016, soon demanded additional resources for border-control initiatives including computers, cars and an aircraft – resources which might be used for military purposes. Sudan then requested the EU help train its border guards – a bid to use its new 'partnership' with the EU to re-establish its international reputation and to end international sanctions.

And then, of course, Turkey came knocking on the EU's door again, looking to improve the terms of the deal. Ankara accused the EU of using the humanitarian resettlement scheme as little more than a giant labour recruitment programme. Turkey appeared to be looking for a justification for filtering out the best-educated refugees and diverting them into its labour market. Then, in July 2016, Turkey complained that it had so far received only €2 million of the promised €3 billion of funding from the EU, raising pressure on the EU to further increase its spending. In fact, by this stage the EU had committed and contracted a massive €925 million, and had disbursed at least €64 million, but Turkey saw advantage in inflicting further reputational damage.

Or, more precisely, it saw an advantage in blackmailing the EU into giving its official stamp of approval to illiberal policies. This played out in the discussion about whether the EU should designate certain states 'safe countries of origin', a label which allows EU states to subject asylum-seekers to expedited procedures.

This discussion focused initially on the six countries of the Western Balkans. They were, together, still the third biggest senders of asylum-seekers to the EU in late 2015. But unlike the Syrians or Afghans who topped the table, the vast majority of claimants were deemed bogus. EU members were also taking a long time to process their claims, because Kosovars and Albanians simply were not a priority for European authorities. This was giving them time to work informally in the EU. Brussels believed it would be quite justified to designate the Western Balkans as

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safe: the six had, after all, undertaken years of liberalising reforms on their path to joining the EU and could not, therefore, be serial abusers of human rights. The trouble was that Turkey, another accession candidate, was lobbying to be included in this list of safe countries of origin.

It was pretty obvious why Turkey would seek out this designation: it would be a mark of approval from the EU at a time when there were serious concerns about Ankara's treatment of its citizens. The designation might even deter Turkey's opposition groups from seeking asylum in Europe, because they were likely to be returned home in double-quick time. The EU had reason to comply with Ankara's demands, moreover, because it needed Turkey to live up to a slightly different designation, as a 'safe *third* country' – that is, a transit state to which the EU could safely return refugees. This was contentious and asylum officials in the EU were now refusing to carry out the terms of the EU-Turkey deal and send refugees back to Turkey, precisely because they were worried about their treatment there.

### 3. What was the EU's first policy response?

Faced with all these problems, the EU decided that modesty was the best response. Whereas it had previously aspired to define global refugee standards, now it sought help to live up to them: it effectively declared itself a site of humanitarian disaster.

The UNHCR had made the first move in this direction when, in mid-2015, it declared a state of emergency in the EU. Until that point, the UN refugee agency had maintained a presence in the EU primarily for advocacy purposes, as a means to lobby this global policy hub on matters such as refugee reception and humanitarian practice. But now UNHCR began operations in Europe on a grander scale, expanding its small sub-office in Greece and sending in a Humanitarian Response Unit more used to operating in hotspots in Africa.

The EU found it hard not to follow UNHCR's lead, and member governments eventually conceded that the EU could be – and indeed was – the site of a humanitarian disaster. The EU's capitulation marked a watershed – the EU was, in effect, conceding that there could be examples of state failure on its own territory. Until then, most lawyers had believed the EU's own treaties prevented it from spending its humanitarian funds at home: humanitarian aid is needs-based, and it had simply been assumed that the situation inside the EU could never be as bad as outside. Moreover, humanitarian aid is often used in spots where the local government cannot be trusted to help – the EU's government-led civil protection mechanism is the tool for crisis response at home.

But now, via Council Regulation 2016/369, the member states activated a little-known treaty clause on financial solidarity and diverted its humanitarian spending to its

own territory, immediately freeing up €100 million and authorising up to €300 million more. With this move, the EU was not just according a far greater role to international organisations to manage the crisis inside its borders: it was actively handing them a mandate to operate at arm's length from the authorities in Europe.

## **4. What was expert opinion?**

Experts suggested that the EU was still not being nearly modest enough. The EU was still refusing to behave like any other crisis-hit region and fully submit to UNHCR and international NGOs. The European institutions instead seemed intent on re-running their approach to the eurozone crisis: they were trying to mediate the work of international organisations, interfering in UNHCR's reform efforts and carving out exceptions for its member states on the basis that, well, this was Europe and it was the EU.

Not by coincidence did migration experts make the comparison to the financial crisis: at just this time, IMF officials were going public with their frustrations about the political and administrative arrangements imposed on them by the EU during the eurozone crisis. Their bugbear was the 'troika system' which had allowed EU institutions to insert themselves into the IMF talks with European debtors, and which IMF officials said had disrupted their work. Migration experts echoed the complaints of the IMF, and suggested that the EU was now diluting UNHCR's intervention – indeed, that it was even using the same structures as during the eurozone crisis to do this. The European Commission had appointed its own refugee coordinator on the ground in member states: the European Structural Reform Support Service (SRSS). And the SRSS was a kind of permanent successor to the EU Task Forces helping crisis-stricken member states adapt to IMF rules.

The SRSS's role in the migration crisis was now taken as a worrying sign that the EU was once again carving out a right to claim exception from international norms. Experts demanded that something fundamental needed to change in its thinking. For the past two decades, the EU had (in the words of one academic) 'had its cake and eaten it': it had claimed to be both an exceptional, *sui generis* power and a power which conformed to universal norms; in other words it claimed to be both unique and normal. It had squared this circle by placing itself at the very forefront of global norm-setting – it had acted as a model which others should try to emulate. Now, said experts, it must simply settle with being normal. It should stop trying to set norms, and should meekly comply.

## **5. How did the EU accommodate expert opinion?**

The UN and international NGOs duly took on an even greater role in managing the EU's refugee systems at home and abroad. UNHCR published a roadmap for

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overhauling the EU's common asylum system and took a lead role in building up national asylum systems. The UN agency also brought pressure to bear on the EU to seek a written assurance from Turkey about the treatment of refugees returned there. But the really symbolic turn-around in the EU's relations to the UN probably came in October 2016. The EU, having committed to accelerate the disbursement of the €3 billion humanitarian aid in Turkey, now launched its flagship programme in Turkey – a €348 million debit card scheme for refugees. And it handed its running to the UN. This may not seem like much of a turn-around, but that is because the genesis of the debit card scheme is not widely known.

Shortly before the crisis, a number of EU governments had been growing impatient with the UN, viewing it as sclerotic and profligate. They were looking for a means to bypass its agencies and empower refugees directly. They were tired of watching the UN take a 7% cut of all aid disbursed – a fee system which had perhaps made sense when most aid was disbursed through costly aid convoys and refugee camps. But now, many refugees were based in urban centres with access to a banking system, and the debit-card scheme had seemed a means of cutting out the UN middleman.

By March 2016, all talk of the EU bypassing the UN, and leveraging its massive humanitarian aid budget to cajole the UN to reform, dried up. The EU meekly handed control of its scheme to the UN World Food Programme and Red Crescent, asking them to act as intermediaries in transferring the €28 monthly payment to refugee families.

## 6. What was the reality-check?

The reality-check for the EU came when it actually saw UN and other humanitarian organisations in action, up close. Seldom had the member governments witnessed them operating in such forensic detail. They were used to seeing them at a distance, far off in Africa, Asia and Latin America, where their mistakes were less obvious.

By the end of 2015, UNHCR officials had unwittingly highlighted the absurdity of treating the EU as any other failed state or warzone. They had been pressing the EU to properly submit to international intervention and behave as it would demand any poor African region to do. But UNHCR seemed to take its own advice too literally, and tried to apply inside the EU the same refugee policies it would deploy in Africa or Asia. This led to such basic misfires as the failure to 'winterise' refugee camps in Europe, where winter temperatures can dip to -20 degrees Celsius.

Winterisation is a banal example, perhaps, but it highlights some of the deeper contradictions in the UN agency's strategy – a strategy which had involved talking up Turkey's refugee model, for example, but at the same time raising serious questions

about whether the refugees being returned there would be treated well. UN officials soon had to concede that – at the very least - they were operating in a very different context than that to which they were used, and that the EU was far from a classic emergency zone.

It now turned out that UNHCR had in fact called a state of emergency in the EU as much because of its own rather sclerotic administrative structures as because of the situation on the ground: UNHCR needed to expand its presence in south-eastern Europe, this much was clear, but the most expedient way to upgrade its sub-office was by declaring a state of emergency. This administrative sleight of hand, however, had some negative side-effects. It undermined the EU's reputation, and it also damaged the quality of UNHCR's response. It meant replacing the local officials who had been heading the sub-office with international representatives, as well as seconding UN staff there on emergency postings.

This, again, was leading to absurd situations. Worldwide, UN staff had begun applying to transfer out of real hardship postings in Africa, Latin America and Asia in order to move to Europe where they would work two months on, two months off, as if in a real crisis zone. By the end of 2016, long after the crisis had abated, UNHCR had hired a massive 332 staff for Greece; by then, there were only around 62,000 refugees in the country. By way of comparison: in Kenya, at the end of 2016, there were more than 500,000 refugees, 250,000 of them alone in the Dadaab camps; but UNHCR had just 63 international staff there.

The EU interpreted its apparent attractiveness as a destination for humanitarian workers as a mark of confidence in conditions here.

## **7. What did the real problem turn out to be?**

Wherever the UNHCR operates, it has to reconcile the practical solutions it adopts on the ground with its norm-setting role. This requires adaptation at both levels – it needs to adjust its practices until they fit its norms, but also to adjust its norms and advocacy so that these reflect new practices. In Europe, UNHCR found this adaptation particularly strenuous. Many of its staff had raised questions about whether the refugee agency would risk antagonising its major funders in Europe with strident advocacy. Three years on, they feel that their fears came true – that the UNHCR was indeed too ready to drop its standards in order to accommodate the EU's practices. They can point to many examples – for instance the hotspot system in Greece and Italy – where the EU apparently pushed UNHCR into compromising situations.

EU officials tend to see this problem differently. During the crisis, they were looking for practical ways of realising their asylum obligations in Greece and the hotspots. But when they turned to representatives of UNHCR and international NGOs for tips, they received little help. Bodies like UNHCR and the International Red Cross are large and complex, and it is not always easy to make the transmission belt between

## 7. The EU asylum model: turning global rule-takers into rule-makers

headquarters and the ground level function. Until now, this did not much matter: advocacy work took place in headquarters in Western Europe and North America, while operations mainly took place in far-off Africa, Asia and Latin America. The two sets of activities could co-exist, with the field officers doing their thing and the advocacy officers doing theirs. But with the European migration crisis, they were in much closer proximity. Furthermore, the EU had become aware of the mismatch between the abstract norms the UN and international NGOs were advocating in Brussels and the practical demands on the ground in the Balkans.

Early on in the crisis, for instance, the EU had set up Sherpa structures in Brussels to coordinate member state responses and give reliable situational analysis and practical guidance to national authorities about the Balkan Route. EU officials invited the Brussels representatives of the UN and international NGOs, expecting them to be plugged into the work of their field officers on the ground. But member state officials complain that, instead of giving practical information, these representatives tended to simply read out lists of abstract demands and recriminations. They were not invited back again. And EU policymakers, feeling bereft of good practical advice, probably did make some messy compromises which in turn put the UNHCR officials out in the hotspots in difficult situations.

So the fault, in reality, lies with both sides. In hindsight, for example, it is clear that some of the problems in Europe really did come about because of the way the EU had inserted itself into UNHCR's operational work. For instance, UNHCR had been given some responsibility for carrying out a recruitment search for experts who could be drafted in to bolster member state asylum systems. Six months later, the EU was disappointed to find that these newly-hired staff were now refusing to return refugees from the EU to Turkey. But this problem in fact came about because of the EU's own austerity conditions which had made it extremely hard for UNHCR to recruit and transfer staff from within the member states' already strained civil services; as a result, UNHCR had stocked up on activists from the NGO sector, and it was they who were now refusing to return refugees to Turkey.<sup>24</sup>

Other problems were probably down to UNHCR's unwieldy administrative rules. These rules apparently demand that the agency hire new staff mainly in the period from January to April, meaning the bulk of the new personnel arrived in Greece long after the refugee numbers had dipped. This situation was quickly addressed, and the disparity between staffing levels in the EU and in, for example, Kenya was reduced.

And yet, the core of the problem really does seem to have been the transmission belt in the UN: UNHCR was understandably struggling to match the new realities on the ground in Europe with its own norm-setting and advocacy role. UNHCR field officers in the Balkans asked for guidance from headquarters on numerous practical dilemmas. For instance: should they help refugees cross borders to get to their preferred destination, or should they intercept them at the border and

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24. Interview with local activist, Athens, 15 December 2016.

move them to the reception centres which the EU had spent years building across the region? The answer would have implications for international law and for the practical application of that 1989 UN declaration. But apparently no real answer came from headquarters.

Instead UNHCR zigged and zagged. UNHCR pulled its field workers out of the EU's administrative hotspot system protesting that the practical conditions there compromised the principles of refugee law; but it then quietly resumed its work having struggled to come up with alternatives. It pressed hard for the EU to resettle Syrian refugees from Turkey, but was not open enough about the fact that both Australia and the US had already suspended similar programmes on practical grounds. It established a principled stance on the general risk of *refoulement* under the EU-Turkey deal, when the real problem was probably the specific treatment of Afghan refugees in Turkey and could be better remedied by practical oversight arrangements than the exchange of letters between Brussels and Ankara.

## **8. How did the EU finally adapt?**

It became clear that many developing countries also felt that the UN was out of step with realities on the ground. Kenya appears, for instance, to have felt boxed in, lacking practical solutions to its camp system and facing international criticism at every turn.

Dadaab genuinely did pose a security threat. But Nairobi felt it lacked practical alternatives to the camp system, and feared international opprobrium if it followed through on its intentions to close it. The obvious solution would have been to adopt an 'out-of-camp' policy which integrated refugees into the local Kenyan population. But, way back in the 1990s, UNHCR had advocated against the urban approach: back then, it was facing budgetary cuts, and had presented UN-run camps as a cost-effective approach for states like Kenya, while urban refugees would be a drain on national finances. Twenty years later, UNHCR had completely reversed this thinking, and had begun promoting urban solutions as a means to reduce costs by allowing refugees to support themselves. But practical ideas for urban integration, such as a refugee debit-card scheme, probably came too late for Dadaab.

Kenya seems to have reasoned that, if international refugee norms no longer provided practical solutions, then it could at least use them for naming and shaming other countries. If Kenya was not able to live up to its refugee commitments, then other countries too would likely be struggling. Kenya had threatened to close Dadaab on a number of occasions, each time using the publicity in order to highlight other states' lack of refugee solidarity, in order to gain concessions in a related field. In the latest case, Nairobi appeared to be using the international attention on Dadaab to

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name and shame the EU, in a bid to reverse the EU's decision on a related matter – the cut in European funding for the African Union Mission in Somalia (AMISOM). If Kenya succeeded in forcing an about-turn on AMISOM from the EU, it could at least hope to receive fewer Somali refugees in future.

This realisation inspired the EU. As the EU began to recover its own self-confidence and appetite for norm-setting, it looked for means to learn from other parts of the world and the practical refugee approaches they adopt. This meant getting its own transmission belt running. It reached out to developing countries, in particular through mandate-free organisations. The EU has deployed these mandate-free bodies abroad for at least the past decade, be it EU-owned agencies like Frontex or international organisations like the Vienna-based International Centre for Migration Policy Development (ICMPD). But, until now, the EU had used them mostly as vehicles to convey its standards abroad. Increasingly, the EU finds itself using them to learn about conditions abroad, and to establish workable new policy practices in migration and refugee matters.

Since 2009, for instance, ICMPD has been helping to run MIEUX, a system for sharing 'MIgration EU Expertise'. As the name suggests, MIEUX was designed as a mechanism for third countries, states from Kenya to Kyrgyzstan, to request expertise from EU member states on migration issues. Increasingly, however, the EU is using the MIEUX system to learn from other countries. Various governments, be it Indonesia or Belarus, have requested MIEUX delegations as a means to sensitise the EU to the challenges they themselves are facing, to impress the EU by the progress they have already made, or to influence EU policy. Brussels has begun to recognise the usefulness of this system. Ideally, these networks can add a layer to the global migration regime, a transmission belt for practices and norms.

## 9. What is the long-term orientation?

Long term, the EU will need to accept the world's traditional 'rule-takers' as 'rule-makers', and to plug a global political vacuum which is provisionally being filled by the UN and its refugee agencies. One European official describes the need to move from a strictly 'norm-based' approach, to a more pragmatic one based on success – more experimental and collaborative, and drawing on practices that work. This, in a way, was what the UNHCR had been trying to achieve – but UNHCR advocacy officers had grown increasingly wary of reform, fearing that the whole legal edifice would collapse. Its conservative mind-set became clear after the September 2016 UN summit on large population movements. UNHCR was put in charge of the Compact on Refugees, and quickly made clear that the discussion would be rigid.

The UNHCR has long been nervous about opening up discussions on the reform of the global refugee framework, fearing that rich Western countries might exploit the process in order to downgrade their commitments. This time, however, the problem was different. The UNHCR was struggling to accommodate a group of assertive,

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middle-income countries which were now hosting large numbers of refugees – states like Lebanon. These countries were no longer ready to passively take lessons from UNHCR, and wished actively to shift international norms. Moreover, these countries were calling in a whole range of other UN and non-UN bodies, which now encroached on UNHCR's turf. The World Bank, for instance, was getting involved in refugee issues. So too was the UN Development Programme.

At the September summit, however, another important decision was also taken – to create a parallel global compact on migrants. This would not be under UNHCR's purview, and thus opened doors for innovative rule-setting in that field at least. It also vastly increased the political role of the International Organisation for Migration, the big mandate-free non-UN migration organisation.

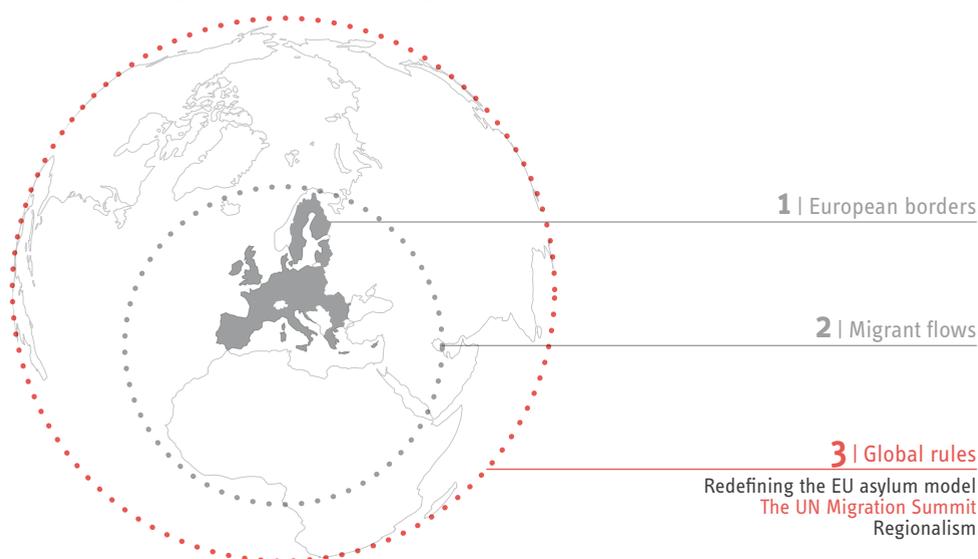
At this time, IOM was trying to manage multiple delicate agendas of its own – including recalibrating its relationship to the UN, and guiding talks about who should replace its Director General, the American diplomat William Lacy Swing, when he retired. Various governments around the world now perceived that the stars were aligning for a fundamental shakeup in the global migration system. They began lining up candidates to replace Lacy Swing, seeing this as a means to plug the global political vacuum left by the US's growing disinterest in international migration norms. They hoped also to harness IOM's emerging relationship to the UN, which had just given it a formal right to inclusion in its field offices. Governments with a strong migration agenda – Mexico, Morocco or Bangladesh – perceived an opportunity to redefine migration norms and practices.

At first, the EU appeared to have missed the boat. As the important debate in the UN about the 'modalities' for deciding on the global migration compact began, the EU member states had seemed to be preoccupied with minutiae – they were focusing on the narrow procedural question of whether preparatory conferences should be held only in New York, at UN HQ, or also in Switzerland and Austria. But it turned out that the member states were in fact interested in bigger strategic issues. This was about getting the technical services headquartered in Europe – IOM in Geneva, and ICMPD and the UN Office on Drugs and Crime in Vienna – linked into the highest norm-setting level, in New York, the UN headquarters. They even saw the opportunity to propose a common European candidate to head IOM, and to shepherd in a practical new global migration system.<sup>25</sup>

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25. Interview with EU member state representative, New York, 25 January 2017.

# 8. The UN migration summit: new friends in an unexpected place

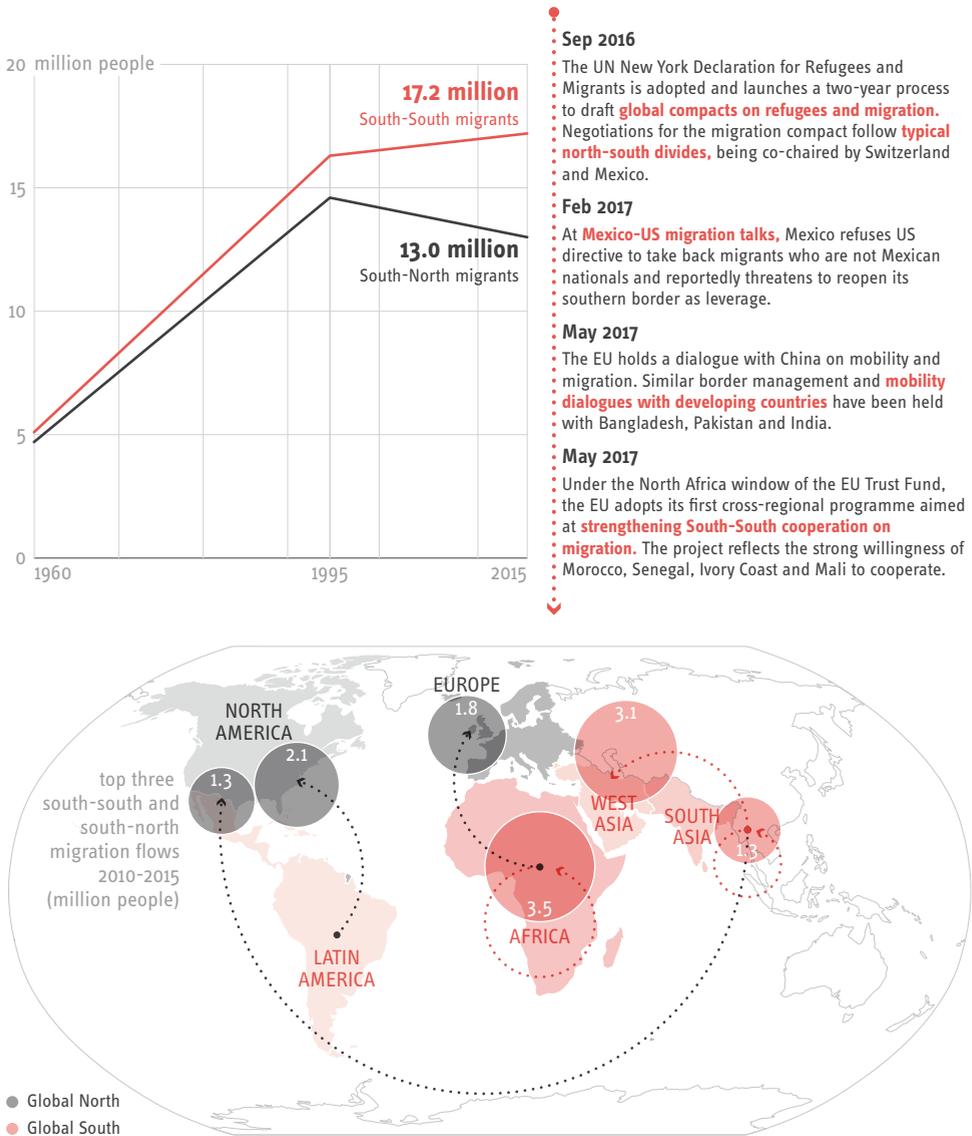


## 1. How did this problem manifest itself?

For two decades, there had been global deadlock about the rules governing international migration. In September 2016, in New York, that deadlock loosened. The EU, which had been consistently sceptical about creating liberal global rules, risked finding itself on the losing side of the argument.

For two decades, the debate on migration had been a grudge match between poor and rich economies. Poor economies pushed for liberal migration rules; rich economies blocked. Poor economies had scored an early win when they pushed the richest ones into a UN Migrant Workers Convention. But the victory was only partial. The Convention guaranteed decent treatment for workers abroad, but it did not give them access to rich labour markets in the first place. Europe had been happy to guarantee good treatment to resident migrants, but it had been careful not to give any rights of access or quotas. International migration rules were still dictated by economic demand in rich countries. The calls by poor economies for a ‘supply-driven’ system fell on deaf ears.

## Figure 8: Bridging the North-South migration divide: UN Summit to address large population movements



Data: G.J. Abel, 'Estimates of global bilateral migration flows by gender between 1960 and 2015' (November 2017)

Rich economies had blocked migration talks with a simple argument. They claimed that migration liberalisation was unnecessary: jobs and wealth were spreading, so there was no need for people to migrate. Successive US administrations had argued that the world should focus not on labour flows but on trade and capital liberalisation. The EU had argued something similar about the job-creating effects of development

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aid. To no avail had countries across Africa, Asia and Latin America demanded migration opportunities for their citizens while they waited for this supposed economic miracle to occur. The only place where they had found a sympathetic ear was among high-level officials in the UN – in the Population Division of the UN Department for Economic and Social Affairs and in the International Labour Organisation; but rich countries were careful to keep the debate out of the UN.

In 2016, this all changed. What had once been a successful transatlantic brain trust – a blocking coalition comprising the US and EU-28, and drawing on the technical input of the World Trade Organisation (WTO) and Organisation for Economic Cooperation and Development (OECD) - crumbled. For the past decade, they had blocked UN initiatives for a global migration summit – including when the US scuppered a personal 2005 initiative by the UN Secretary General, in a humiliating move which probably dissuaded his successors from investing in the issue. But now, with the migration crisis in the Mediterranean, an outgoing Secretary General of the UN persuaded an outgoing US President that there was nothing to be lost from reopening migration talks. A date was set for the world's leaders to discuss large population movements: September 2016 in New York.

EU governments had, perhaps unwittingly, ensured that these talks would have an ambitious liberal flavour. The September 2015 summit had just agreed a set of Sustainable Development Goals (SDGs), and these had veered into migration issues: in a break with the past, European governments had ceased presenting development support as a kind of 'cure' for migration, a means of creating jobs in poor countries. They had faced up instead to the fact that migration was an integral part of global development. The SDGs therefore included a commitment to 'facilitate orderly, safe, and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies'. This outcome now gave developing countries a kind of mandate to lobby to create liberal global rules on migration – one which UN officials seized upon.

## 2. What was the EU's initial diagnosis?

The EU felt it needed to face up to the fact that it was on the wrong side of history, at least on this issue. The EU was being outgunned as global power shifted from the advanced economies to emerging powers, from Bretton Woods to the United Nations Plaza, and from the so-called Global North to the Global South. In the run-up to the September 2016 Summit, developing economies in Africa and Latin America were making the most of this apparent shift of global power. As talks began, they coordinated quite effectively between themselves, and lined up behind countries with a long track record of migration activism – Mexico, Bangladesh, Nepal, Morocco, the Philippines and, to a degree, the current chair of the Group of 77 developing economies, Thailand.

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The EU, by contrast, struggled to expand its old coalition of wealthy economies. Tellingly, the EU's only real new allies were such luminaries as Eritrea – living up to its reputation as a small, isolated and repressive regime, Asmara wanted recognition for the EU's Khartoum Process, with its focus on border control and law enforcement. The Commonwealth of Independent States (CIS) also aligned somewhat with the EU, albeit for the dubious reason that CIS countries were looking to create a regional labour market in a bid to shut off immigration from other parts of the world. The EU's old ally, the US, was seemingly caught unawares by the sheer speed of the talks which it had called into existence, and was slow to respond. Australia and Canada tempered their old focus on migration restriction with a new attempt to curry favour with emerging economies in Asia.

The UN, and its New York HQ, also gained in gravitas. Power was seeping away from the IMF, World Bank, WTO and perhaps even the OECD – bodies which had made trade and capital liberalisation, and economic development, the defining features of world affairs for the last two decades. Bodies affiliated with Bretton Woods and US-style globalisation were falling out of favour. Indeed, the International Monetary Fund was actually being blamed for increasing the massive irregular migration flows around the Mediterranean: the IMF had recently pressed Iraq and Libya to undertake drastic reforms to slim down their public administrations, fuelling the instability there. Meanwhile, the WTO was criticised for allowing trade liberalisation to cause inequality and displacement. In short, the 'neo-liberal' Western policies associated with Bretton Woods went out of favour.

Astonishingly, until the September 2016 summit, the World Trade Organisation had in fact played quite a central role in global attempts to liberalise migration – even more central, perhaps, than the UN's in-house agency, the International Labour Organisation (ILO). On the surface, the ILO would seem to be the natural body for dealing with global migration issues. But its focus on labour rights had alienated the US. The WTO had instead framed migration in terms of 'the provision of services by natural persons' (Mode 4 Trade in Services). Western states, having pushed migration issues towards the Bretton Woods institutions, had used the WTO to block progress on the issue since 1995. Now it was the WTO's turn to be sidelined. The UN, with its more political take on labour mobility and migrants' rights, was in the ascendant.

A kind of global political reshuffle was underway, illustrated by the way core Bretton Woods organisations, like the World Bank, appeared to be gravitating towards the UN. The World Bank was now working with UNHCR to provide financing for refugees in the Levant. The WTO had begun to work with the UN's in-house development agency, the International Trade Centre, to create a global trade agenda 'for all', in an attempt to end the disproportionate benefits for the few. And the International Organisation for Migration also seemed to be gravitating towards New York. IOM had faithfully served the cause of its major Western backers for half a century, spreading border controls in a non-ideological way. Now, IOM was looking to become a part of the UN family, and to gain itself rights of inclusion not least in UN missions on the ground.

### 3. What was the EU's initial policy response?

The EU's response was to try to reduce the scale of the global political shift, and to build new alliances with important developing economies. It reached out to big economies in Africa and Asia about giving their citizens better access to Europe and its labour markets. But this meant reinvigorating the EU Mobility Partnership format.

When they were launched in the mid-2000s, Mobility Partnerships – and the Mobility Dialogues which preceded them – had been touted as the EU's flagship migration format. The formula was simple: the EU would identify a suitable partner – usually a country which had a large supply of surplus labour, as well as something to offer Brussels when it came to border control and repatriations; then, a coalition of willing EU members would club together and pledge national migration quotas for that country; and, in return, the new partner would pledge to cooperate with the EU on migration control. In the following decade, deals were agreed with small nearby states like Moldova, Armenia or Cape Verde.

However, the format fell short of the initial level of ambition. Member states had proved reluctant to create new immigration quotas simply to strengthen the EU's bargaining hand. Some member states faced domestic legal and political constraints, and were not permitted to agree to quotas. They could offer only technical support on border management to the partner. Those member states which were permitted, tended simply to recycle the existing bilateral labour-supply deals they already had in place with that state – the EU then drew these together and relabelled them as a 'Mobility Partnership'. As a consequence, the Commission's choice of partner countries for Mobility Partnerships had been largely confined to nearby states and those where the member states already had labour-supply deals – small countries like Moldova.

The EU now reached out to Nigeria, Ethiopia and India, and asked the UN's International Labour Organisation to facilitate cooperation with them on mobility under a new format – the Common Agenda for Migration and Mobility (CAMM). It also revamped a series of Mobility Partnerships which it had concluded with Middle Eastern and African economies shortly before the migration crisis, but which had been overshadowed by the humanitarian catastrophe: the EU conceded that it had been too quick to shift the focus there to helping them host refugees and create jobs. These states remained major labour-exporters. Finally, the EU also created a pot of money – the Mobility Partnership Fund – to properly finance the format. The aim here was to prevent a heavy burden falling on the clusters of member states behind each individual Mobility Partnership.

The EU was not just pursuing its global interests here. True, the EU wanted to use the Mobility Partnership and CAMM formats to build new alliances in the UN among the world's emerging powers, in the hope of taking the sting out of demands for a global supply-driven migration system. But its decision to reinvigorate the Mobility Partnerships was also a response to day-to-day problems which were making

themselves felt outside the UN negotiating chamber: simply, the EU lacked internal cohesion. The Mobility Partnership format relies on coalitions of willing member states, and these were proving more difficult than ever to put together. At least one large member state had recently completed an internal review, in which it decided that the format was redundant.

Economic disparities between the member states were making it increasingly hard for them to take a cohesive position towards the more fragile of the potential partner countries. Irregular migrants were often targeting EU members where the economy happened to be performing well and where they might have a chance of finding a job, rather than because of more established cultural, linguistic or historical links to their homeland. Thus the EU member states which received the most irregular migration from, for example, Mali, often had a limited history of engagement there. Meanwhile, the member states which did have historical ties were reluctant to use their labour relations when they could be exploited in the service of a broader array of cooperation, such as on accessing natural resources. Afghanistan, Pakistan and weak states in West Africa were all a source of division.

This lack of cohesion in Brussels was even more acute when it came to attractive emerging economies, like India or Nigeria: member states struggled to choose which they should reach out to in pursuit of a Mobility Partnership or CAMM. The EU was currently locked in a series of bigger strategic reorientations as regards the choice of partners for policies such as development cooperation. Some member states wanted to branch out from Africa: after the UK vote to leave the EU, they felt it was time to revisit relations to the continent, given how heterogeneous it had become economically. And, as Donald Trump's election campaign took off, and his rhetoric about building a wall to Mexico received attention, there were signs that Latin American states might reorient towards the EU. Perhaps the EU should boost its development cooperation there or in Asia?

## **4. What was expert opinion?**

Experts shared the EU's assessment that it needed to reach out to developing economies, but criticised its approach. Experts worried that the EU was using the Mobility Partnerships to pick off individual states like Morocco or India. Instead, they argued, the EU should take a properly global approach, and prepare for a grand bargain between the world's rich and poor countries. Experts now called for the EU to help lay the foundations at the September summit for a 'Global Compact' on migration. The EU had applied just such an idea of a grand bargain in its Mobility Partnerships and in the Europe-Africa Valletta Summit in late 2015, and experts said the EU needed to reproduce the original spirit of Valletta, with its focus on opening up channels for regular migration in return for fighting irregular migration, but this time on a far grander scale, and with greater follow-through.

## 8. The UN migration summit: new friends in an unexpected place

They were worried, too, by the EU's sudden assertiveness in New York: the EU-28 were promoting their migration agenda quite cohesively on the world stage, and experts believed this would prevent the bloc from reaching out sympathetically across the global divide to developing countries. Until quite recently, the global migration and humanitarian debate had been centred in Geneva, where the EU only loosely coordinates member state positions: the stakes are lower in the technical debates there and, besides, the member states are operating on home turf in Europe. As New York became the hub for global migration discussions, the EU had begun coordinating the European position far more actively. This shift from Geneva to New York had considerably improved the EU's political cohesion – worryingly so, according to some experts.

## 5. How did the EU accommodate expert opinion?

The EU duly signed up to the September 2016 Declaration – and committed to help develop a Global Migration Compact between the world's developed and developing economies.

Member states thus committed to look at ways of facilitating legal migration, and to treat with respect anyone who migrated to Europe, even by irregular means. Furthermore, they committed to a parallel discussion on a Compact on Refugees, to run alongside the Compact on Migration. The UN's decision to launch this parallel process was, strictly speaking, unnecessary: there already exists an extensive body of international law on refugees, and the UNHCR had no intention to open this up for discussion. The true purpose of this parallel discussion on refugees appears to have been largely political: it would provide a benchmark against which to measure the Migration Compact. This would create pressure on rich economies like the EU-28 to agree to a robust Migration Compact, and one which displayed a high degree of international solidarity.

As to the process for negotiating the Compact, the EU agreed that this should be prepared, jointly, by a developed and a developing country – and that the developing country should be robust. A year earlier, the September 2015 UN Summit had been prepared by Ireland and Kenya, resulting in those ambitious migration-related SDGs. Kenya had played quite a strong role, and the workload had been distributed perhaps 65%-35%, according to one close observer.<sup>26</sup> The New York Migration Summit had again been prepared by Ireland, but this time acting with Jordan, which had proved disappointingly placid. The workload had been divided 85%-15%, with Ireland responsible for many of the more progressive outcomes. So now the EU agreed that Mexico, with its long-standing pro-migration agenda, should be given co-leadership with Switzerland for the global process on labour migration.

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26. Interview with EU member state official, New York, 25 January 2017.

And, finally, the EU faced up to the need to transfer authority for global migration decision-making to New York, and to overcome its own anxieties about the UN's rather ideological take on migration. When the EU supported Switzerland to co-lead the Compact talks in New York, therefore, it was because Switzerland would be able to integrate the Geneva-based International Organisation for Migration (IOM). IOM had just become part of the UN family. However, it remained in the outer circle of relations, and did not become a full UN agency akin to the UNHCR: the US State Department had dug in its heels on this. Thus IOM would continue to be funded by contributions from its 166 member states, rather than from the budget provided to the United Nations by its 193 members. The EU's goal was to align it more closely with the UN.

In short, the EU had broadly met the demands of experts and UN officials, and had compromised with developing countries. Yet, the EU had been frequently surprised at how easy this had been and by the support among emerging economies for migration control. The Declaration underlined, for instance, that states were responsible for looking after their citizens abroad. This was a clear warning to countries which left their citizens in precarious situations – the West African governments who left their citizens trapped in Libya, for instance. Moreover the Declaration obliged states to live up to their existing returns obligations and to create procedures for orderly readmissions. It was a sign that the division between 'Global North' and 'Global South' was not as large as UN officials or migration experts seemed to believe.

## **6. What was the reality-check?**

As the technical negotiations on the 'modalities' for the subsequent UN negotiations began, it became clear that there was in fact no global North-South divide – and had not been for many years. The difficult debates in Brussels about the choice of Mobility Partners reflected a deeper global shift: wealth was spreading away from the most advanced economies to the rest of the world. This meant that old labour-supply countries in Asia, Africa and Latin America were now becoming labour-receivers. Mexico, a pro-migration mouthpiece, gradually revealed its true interests. These turned out to be similar to those of the EU: border control and returns cooperation.

Initially, Mexico used its prominent position in the Compact process to play up its credentials. It acted as a standard-bearer of the Global South. It criticised the US in the name of the GRULAC group of Latin American countries. And it aligned with its southern neighbours Brazil, Argentina and the Central American states. In reality, the Mexican government was pursuing its own individual agenda: when Mexican officials bashed the US, they were in fact focusing international attention on President Trump's proposal to build a wall on the southern border. Speculation now grew that Mexico was in fact seeking a backroom deal with the Trump Administration – one in which it would close off its own southern border. Mexico would hold back the flow of people from Central America, in a bid to keep the US-Mexican border open.

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More surprisingly, such a deal would actually be in their mutual interests. Already in 2014, the US had pressed Mexico into restricting its southern border via a *Programa Frontera Sur*: most irregular migration into the US was coming from Central America. Mexico had become a country of transit for migrants heading north from Honduras, El Salvador and Guatemala. In 2016, fewer than 200,000 Mexicans were apprehended crossing US borders, down from 1.6 million in 2000. Mexico had also become a country of destination for US citizens: State Department figures indicate that at least one million US citizens were now resident in Mexico. In the five years from 2009 to 2014, it is estimated that as many as one million Mexicans and their (US-born) families left the US, while only 870,000 Mexicans arrived. Both the US and Mexico had good reason to keep their shared border open.

Such shifts in migration patterns were not unique to the Americas. Emerging economies across Asia and Africa were also becoming major countries of transit and destination. It was a simple sign of the way wealth was spreading. Moreover, the countries situation on the old dividing line between Global North and Global South were having to build relationships in both directions. These include countries like Mexico.

## 7. What did the real problem turn out to be?

In many ways, the UN was the problem – or at least the way in which it had framed the migration debate. The world had changed, and UN was still trying to resolve the north-versus-south fights of thirty years earlier. This was encouraging countries – including Mexico – to play a double game. They misrepresented their position in the spotlight of the world stage, and pursued a different set of interests in private when the grandstanding was over.

Governments like Mexico and Morocco, which had played the most prominent role in the UN process, were often the most conflicted in private. Mexico has benefited from the 1994 NAFTA deal with the US and Canada. Morocco has benefited from a 2000 trade deal with the EU. But both countries were now engaged in a delicate reorientation. They both wanted to secure trade and investment opportunities in the south, while trying to maintain good relations with the north. They had an interest in opening themselves to migration from the south – and an equally strong interest in restricting migration on behalf of northern neighbours.

The EU buys more than 50% of Morocco's trade exports. For political reasons, however, Morocco is keen to diversify to southern markets – to its traditional partners in Senegal; to new partners like Nigeria where it is seeking cooperation on gas lines; and in ECOWAS, where it could play king-maker between old rivals Côte d'Ivoire and Nigeria. Morocco has a massive diaspora in Europe, and it relies acutely on a chain of EU states to manage the return home each year of Moroccan expats. But it has expended increasing diplomatic resources on establishing visa-free relations

with its southern neighbours, which its own businesspeople exploit. The King of Morocco has taken to criticising the EU in the African Union for its conduct during the migration crisis. But he will need the EU's support if he is to achieve his deeper aims in the AU – resolving the dispute about Morocco's southern border.

The logical solution has been for Morocco to improve its immigration policies. It has tried to establish itself as a destination for migrants from Sub-Saharan Africa. It has made a particular effort to improve its treatment of vulnerable migrants from the south. This allows Morocco to build relations to its south, while acting as a sort of buffer for its northern neighbours. The trouble, however, is that Morocco is pursuing a geo-strategic agenda – an immigration policy that is driven, top-down, by Rabat. Morocco's people and municipalities are growing hostile. The EU, moreover, is blaming Morocco and its visa-free relations for an uptick in irregular migration across the Mediterranean.

The options facing the Global South are becoming more complicated. But the same is true of the Global North. The US has had to face up to the fact that it is no longer just a country of immigration, and that its citizens are emigrating to places like Mexico. So too, the EU has had to start unlocking emigration opportunities for its citizens. One idea discussed in Brussels has been to pursue *mutual* mobility partnerships – mobility pacts for foreign citizens in the EU but also for EU citizens in the partner economies. The EU could use the Erasmus student scheme, and apply it to Singapore, Thailand or South Africa - states which just happen to pursue an agenda aligned to the EU's at the UN.

## **8. How did the EU finally adapt?**

One longstanding option has been to return to the WTO, and to try to expand the Mode 4 classification of 'service-providers'. This would provide a channel for migration regulation within the WTO framework. But the WTO talks are blocked, so the EU has borrowed the concept of 'trade in services' and begun using it in bilateral and multilateral negotiations outside the WTO.

The EU is currently in talks on a Trade in Services Agreement (TiSA) with 22 economies, ranging from Australia to Pakistan. It has proposed that any state which joins this huge new services market should commit to take back nationals illegally residing elsewhere in it. If it is adopted, TiSA would allow self-employed people or employees of multinational firms to migrate more freely. The EU has effectively argued that TiSA is equivalent to a migration agreement and it is thus pressing signatories to include a repatriation clause. The EU has thereby made a link between trade in services and mainstream migration cooperation which had not previously existed. The next step would be to embrace the link fully – to start liberalising trade in services as a means to liberalise migration.

## 8. The UN migration summit: new friends in an unexpected place

The trouble is that this would only further complicate multilateral trade talks, and so the EU has pursued bilateral cooperation too. In 2014, India lobbied EU states as they negotiated a European directive on 'Intra-Corporate Transferees'. This directive would regulate the treatment meted out to employees who are transferred to Europe between branches of a multinational firm. The EU was surprised and even a little nervous about New Delhi's interest in the matter. Member states feared that India, a massive services economy, would lobby to drive down European employment standards to give its low-wage multinationals an advantage in Europe's services market. This echoed fears which arose over the 2006 'Bolkestein directive': the Bolkestein directive laid down rules about the EU's internal services market, and there were fears that eastern member states would exploit the rules to flood the European labour market with cheap workers.

In fact, India did the opposite: it lobbied the EU to provide high standards for foreign services providers in the EU. Its goal was to ensure that high-skilled Indian workers were treated well when operating abroad in Europe. Having confirmed that the EU shared its concerns about the welfare of its citizens, India began to cooperate on trickier migration questions such as the repatriation of irregular migrants. This has given a new impetus to the EU-India Mobility Dialogue.

The cooperation with India also showed that old international rules on the treatment of migrant workers have new significance for developed and developing economies cooperating on service provision. The EU currently legislates rights for certain categories of migrant workers – highly-qualified workers, researchers, seasonal workers and intra-corporate transferees – codifying the rights to which they are entitled to. As middle-income countries like India grow less interested in questions of access and more interested in the question of how their citizens are treated abroad, this provides a base for migration cooperation. As European citizens themselves become more mobile, moreover, the EU has gained a whole new commitment to the UN Convention on Migrant Workers: the bloc must ensure that its expats are treated well.

## 9. What is the long-term orientation?

Long-term, the EU clearly needs to reach out to emerging economies – countries which are undergoing a transformation from labour-suppliers to labour-receivers. Very often, these transition countries are also transit countries. They are on the cusp of becoming more advanced economies. Often situated on the fringes of wealthy developed blocs like the US and EU, these countries no longer supply those blocs with large amounts of labour, but neither are they attractive labour destinations in their own right. They are, in other words, countries like Mexico or Morocco. Rather than focusing on some grand bargain between the world's developing and developed economies, it makes sense for the EU to single out and help these transit countries.

Transit countries are a blind spot: their predicaments are not properly covered either under international law or the EU's own migration foreign policy. But there is now

## **Nobody move! Myths of the EU migration crisis**

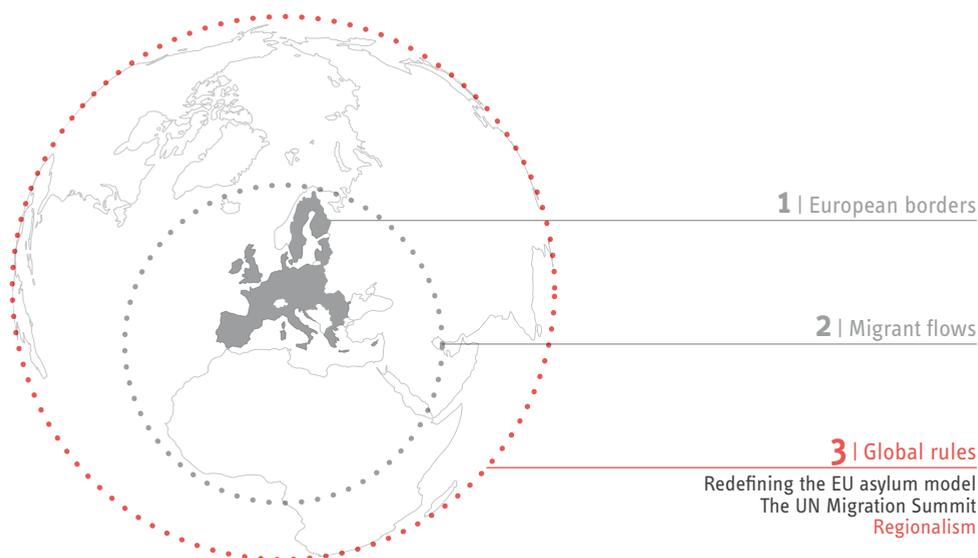
a drive inside the EU to focus on them, particularly among eastern and southern member states which themselves have sometimes functioned as transit states for migrants heading to north-western Europe. They feel that they have expertise in this field, of a kind that the older Schengen states may lack.<sup>27</sup> Coalitions of willing EU member states are clubbing together to manage the annual return flows of Moroccans to the south.<sup>28</sup> They are also clubbing together in the EU's south-east, through groupings such as the Central European Defence Group, a six-strong grouping which discussed creating a non-executive CSDP mission to support Bosnia-Herzegovina during the crisis.

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27. Interview with EU member state official, Prague, 31 October 2016.

28. Interview with EU member state official, Madrid, 18 November 2016.

# 9. Region-building: reinventing divide and rule



## 1. How did this problem first manifest itself?

The lobby group of the Global South – the so-called G77 coalition of developing countries – had crumbled even before world leaders published their Declaration on ‘large movements of refugees and migrants’. Regional groupings stepped up to the plate. This was not just *pro forma*. Regional groupings have been pushing forward multilateral trade talks when the WTO track failed, and many were now looking to turn themselves into integrated labour zones. The regional level is seen as the missing jigsaw piece in international cooperation on migration, a means of overcoming the tired old debate between the ‘Global North’ and ‘Global South’. During the final weeks of UN discussions, however, the Regional Economic Communities (RECs) largely replicated the bipolar split between Global North and South.

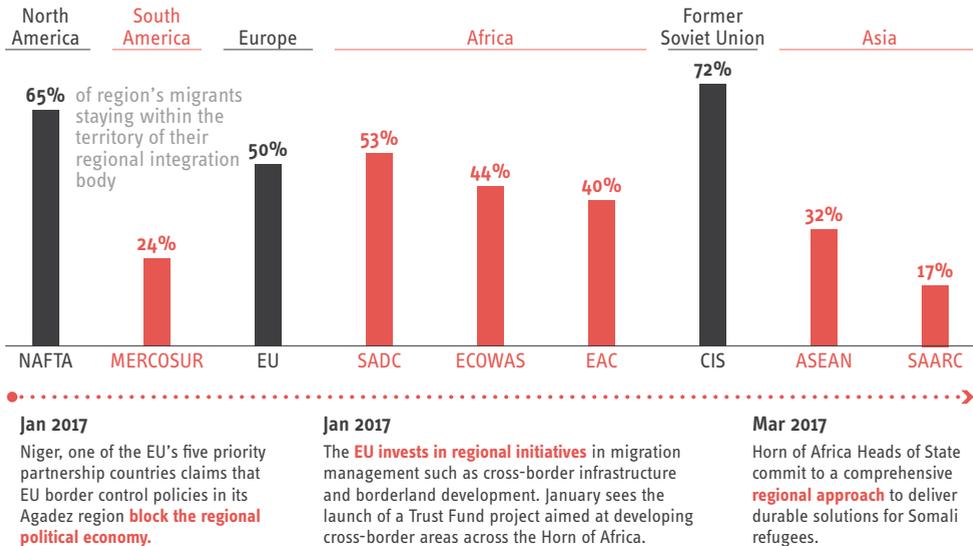
The world’s most developed regions – North America and South America, Russia and Eastern Europe – achieved more or less cohesive positions in the UN consultations. Africa, where the need for such zones was intense, failed. This even though the African Union has been pushing its eight regional sub-groupings to cooperate on free movement since its 1994 Abuja Treaty, and in 2015 had even set a concrete deadline for realising free movement with its Agenda 2063 Strategy. West Africa

## Nobody move! Myths of the EU migration crisis

agreed a Protocol on Free Movement as far back as 1979. For African RECs, it has been a source of long-running embarrassment that Western visitors can travel through them almost visa-free, while locals cannot. On this occasion, however, the AU was able to point the finger elsewhere: the EU, the world's most cohesive region, had been playing divide and rule.

The EU stood to benefit directly from the emergence of free-movement zones in Africa, in theory. These could reduce irregular migration by making it easier for Africans to seek jobs closer to home, as well as re-establishing the EU as a model for international governance. Yet the EU was proving ambivalent about encouraging Africa on this path. Whereas the International Organisation for Migration had enthusiastically engaged in projects like MIDWA (the Migration Dialogue for West Africa), the EU had been cautious at best. The EU-28 seemed to be instead using their collective weight to pick off individual African states and oblige them to restrict migration. And it is true that some EU governments saw free movement in Africa as a problem. Africa was undergoing jobless growth. Creating free-movement zones there would simply allow African governments to shunt migrants from country to country without ever providing them with employment.

**Figure 9: Intra-regional migration: from country partnerships to region-building for migration management**



Data: G.J. Abel, 'Estimates of global bilateral migration flows by gender between 1960 and 2015' (November 2017)

Africans argued differently: free movement was not some zero-sum game, it was the key to regional job creation. Youth unemployment in West Africa hovers at around 12%, and the rate of working poverty a young people is 40%. And this is

clearly a problem when 56% of Ghana's population is aged 25 or under; when the figure is 60% in Nigeria and Mali; and in Burkina Faso, 65%. Regional migration would not only serve as a safety valve for countries like Burkina Faso as they try to cope with a large young population and constantly-degrading land. It could also spur new 'economic miracles' like Côte d'Ivoire's, which had initially been triggered by an inflow of Sahelian migrant labour. The social cohorts most prone to youth unemployment – women and ethnic minorities – would be able to draw on kinship links or more sympathetic cultural conditions, and access work in nearby states.

ECOWAS was already working in this direction, having identified free movement as a means to kick-start an otherwise sluggish process of regional economic integration. The West African trading bloc is split by geography (between the Sahel, the Savannah and coastal forest) and by trading zones (between the Nigerian sphere, the Atlantic zone, and the agriculturalist land-locked states). Migration would thicken the region's supply and value chains, just like in the EU, as free-movers demanded products from their home countries. Unlike in the EU, however, language would be no barrier to their mobility or labour-market integration: ECOWAS comprises a large group of Francophone states and a handful of English-speaking ones. Already between 1960 and 1990, an estimated 30 million West Africans had moved between countries of the region, laying down strong kinship networks for the new generation of free-movers.

## 2. What was the EU's initial diagnosis?

The critics in Africa had a point: the EU did need to engage positively with African RECs – ECOWAS in particular – if it was to recover its global standing. For Brussels, this meant going back to the future. Back in the 1970s and 1980s, European policymakers had in fact dreamt of parcelling the world up into regional free-movement zones. An older generation of EU officials still had a mental map of the world with a polka dot motif: in this vision, ECOWAS would nestle up against African RECs like the Intergovernmental Authority on Development (IGAD) in the Horn, and then to the Central American 4, the Caribbean Community (CARICOM) in the Caribbean and perhaps even the Gulf Cooperation Council (GCC) and the Association of Southeast Asian Nations (ASEAN). When a migrant left one regional bloc, the border-exit data would be transferred to another, serving as entry data to the next zone.

To make this vision reality, however, the EU would have to focus its attention on the point of interface between these regional regimes – their outer borders. At prep meetings in the run-up to the 2015 Europe-Africa Valletta summit, the AU had actively pressed African representatives to portray migration as Europe's problem and to try to capitalise on the flow of people northwards. There were fears in the EU that the poorly-regulated RECs in Africa and Latin America might be tempted simply to use free movement as a means to lift borders and spew unemployed workers into neighbouring regions. Only if the RECs' external borders were properly under control, and member states subjected migrants leaving each bloc to proper exit controls, would they have a proper incentive to regulate internal mobility.

ECOWAS was a case in point. At present, ECOWAS was a zone of free movement *de facto*, a space of 5 million km<sup>2</sup> where member states did not have proper control of their internal or shared outer borders. This was a space which 330 million people could slip across with relative ease, often moving into neighbouring regions. In the EU's reading, its prime task in West Africa should not be to encourage more regional migration, so much as to bring existing flows within a proper legal and economic framework. The EU needed to help ECOWAS become a proper *de jure* free-movement zone. And this would not happen if the bloc's northern border remained so porous. The combined labour markets of the EU-28 could not help but exert a 'gravitational pull' on irregular migrants from the region.

EU officials were confronted with worrying research which suggested that this gravitational effect was precisely what was occurring. EU member states which had undergone a 10% increase in the size of a particular African diaspora over the past five years were now experiencing a 3% annual increase in asylum applications from those source countries. Large numbers of West Africans in Italy reported that they had left home without a destination in mind. They had not been informed about their rights to live and work locally under the ECOWAS protocol, and so just drifted northwards. There was little to deter them. Ironically, indeed, only those highly-strategic migrants who left home with a plan to reach Europe and support their families and villages were getting intercepted en route – they were easy prey for kidnappers who knew their families depended on them.

### **3. What was the EU's first policy response?**

EU migration specialists therefore bolstered their capacity-building work in West Africa, particularly along ECOWAS's northern border. Already in 2015, the EU had launched 'FMM West Africa', Support for Free Movement of Persons and Migration in West Africa. FMM's goal was to bring greater order to ECOWAS's nascent free-movement regime. It would boost the ECOWAS free movement Secretariat in Nigeria as well as coordinating the work of three international migration organisations which are more used to competing for influence there (IOM, the International Labour Organisation and the Vienna-based International Centre for Migration Policy Development).

Now, the EU's focus on ECOWAS's external border regime sharpened for a simple reason: the West African trade bloc was set to enlarge its membership. ECOWAS's neighbours Mauritania, Tunisia and Morocco were seeking variously to boost their relations with the southern trade bloc, or even accede to it. This would effectively shift ECOWAS's porous outer border even further towards the EU. Besides seconding a Frontex expert to the crisis-management mission in Niger, and a European Commission Migration Liaison Officer to the EU delegation, therefore, the EU heavily lobbied ECOWAS's three-person Free Movement Directorate to get their common border regime under control, and increased the FMM secretariat to 17 staff.

## 4. What was expert opinion?

The effects of the EU's intervention were quickly apparent in the migration flows out of ECOWAS. On the two major routes northwards out of Niger, the numbers of West African migrants dipped, and there were few signs that major new routes had emerged. The EU claimed success. Academics, however, disagreed: every short-term 'success' achieved by the EU in Niger came at a long-term price for ECOWAS's regional cohesion.

The EU had boasted, for instance, that Nigerien authorities were readily prosecuting smugglers, and that the numbers of Sub-Saharan migrants crossing into Libya through Agadez had dipped dramatically from 72,000 in May 2016 to around 11,000 per month at the end of the year. For the academics, however, the EU had merely succeeded in criminalising West African businesses which had been providing legitimate regional migration services. The EU had boasted that West Africans intercepted in Niger were returning home to spots like Nigeria in ever greater numbers – more than 3,020 in the first 8 months of 2016, up from 1,721 in the whole of 2015. For academics, this only proved the EU was undermining ECOWAS's free movement protocol by bullying Nigerien authorities to intercept legitimate free-movers far to the south of ECOWAS's outer border.

In short, the EU's work in West Africa had done nothing to convince academics of its commitment to inter-regionalism. Academics pointed to the Trust Fund. On paper, the EU's Emergency Trust Fund takes an avowedly regional approach. But it had achieved its specific focus on West, East and North Africa only by diverting EU development funds away from Africa's other Regional Economic Communities (RECs). These RECs now complained that they had not been properly consulted on the move, with RECs in southern Africa particularly aggrieved. They badly needed support in the field of regional migration management but had the bad luck of straddling a migration route which hardly interested Brussels.

More problematically, academics saw signs that Brussels was using the regional Trust Fund as blunt leverage, a transmission belt to upload migration initiatives which West African governments had already rejected in their bilateral cooperation with the EU. The Trust Fund, as a legal format, gives the EU a greater say than does the usual bilateral, government-to-government channel of development cooperation. African governments now complained that the EU was exploiting this loophole to put issues such as *laissez passer* documentation back on the agenda, even though it had earlier been forced to drop them by the AU and individual West African governments. *Laissez-passer* documents allow the EU to return irregular migrants even in cases where no African state has formally identified them. They have been bitterly opposed in the region for years.

The final straw for academics came when the EU increased the pressure on fragile Niger. The EU had chosen Niger as one of its five special Migration Framework Partners, alongside four bigger economies. Niger is a poor economy, and it too

produces migrants. But few head northwards towards the EU, and as many as 80-90% of these migrants circulate exclusively to the south and west. Niger does not even feature in the Top Ten of sending countries on the Central Mediterranean route. It was an obvious candidate for the EU to use as a buffer: Niger could be expected to respond well to the carrot of development aid to cut off the flow of people from further south. But if Niger cooperated with the EU and intercepted Ivorians or Nigerians, these regional powers would surely retaliate. Nigeriens would be expelled from West African economies, and the ECOWAS regime would be further strained.

Academics accused the EU of creating a regional security problem in Niger. The north of the country already has a strained relationship with the south, where the capital city is situated. Niger had been undergoing a process of political decentralisation precisely in order to boost the authority of the northern region and give it the responsibility to provide local services such as healthcare and utilities. This was a delicate transition designed to secure the country's territorial cohesion, as well as asserting local state structures over traditional ethnic ones. But the EU's handling of West Africa's migration problems undermined it: Agadez's population had grown hugely due to migration, then had quickly contracted due to the smuggling crackdown, and then expanded again as a resort for European development professionals and journalists. Building services there was proving impossible.

Worse: the EU's border efforts had not prevented disorder seeping down from Libya, in the form of a spate of migrant-kidnappings and tensions between Tuareg and Toubou groups. The Toubou in Libya had been emboldened by their role in migrant smuggling; the Toubou in northern Niger felt disproportionately hit by Niamey's crackdown. Meanwhile, a European 'conversion plan', which would focus on providing Nigerien smugglers with alternative sources of income, covered just 300 out of the 7,000 candidates identified. Instead of the hoped-for demobilisation, local criminal elements showed signs of spreading out across West Africa, and local smuggling kingpins largely remained in place, too ingrained in Nigerien politics to be uprooted. Academics believed the EU's border policies in Niger could trigger conflict.

## **5. How did the EU accommodate expert opinion?**

The EU duly adopted a more sensitive approach to West Africa – apparent in simple corrections such as, in October 2016, when the EU singled out Nigeria, rather than Niger, for its first migrant readmissions deal in the region.

The choice to focus on Nigeria may seem logical of course – after all, Nigeria was the major country of origin for West African migrants in Europe. Having a deal with the source country would be a natural goal. Yet this marked a major change in the way the EU operates. Until that point, the EU had tended to seek repatriation deals with the states closest to it, countries of transit like Morocco or Tunisia, Turkey or

Ukraine. The EU transferred to them the obligation of dealing with major countries of origin. It included a unique clause in its repatriation deals, obliging signatories to accept back from the EU not just their own nationals but all migrants who had crossed their territory en route to Europe, be these Russians, Afghans, or Vietnamese.

Until now, indeed, the European Commission had presented this transit clause as the main justification for governments to give the EU a mandate in this field: individual EU member states could not achieve such expedient terms if they acted individually and so should use their heft as a region. But now officials had to acknowledge that the EU was abusing its weight and shifting the burden to transit states. Turkey, in the wake of its March 2016 returns deal with the EU, had been left scrambling to negotiate its own returns agreements to source countries like Bangladesh and Afghanistan. If the EU had singled out Niger for a repatriation deal it could have dealt a final blow to ECOWAS: Niger would close its borders to all West African migrants moving northwards, fearful of having to take back those few who transit its territory and moved on to the EU.

## 6. What was the reality-check?

In December 2016, the first results of the EU's Partnership Frameworks were presented to the European Council. One thing was clear: ECOWAS members, far from being victims of divide-and-rule, were in fact practising this technique on the EU itself.

Partly, this was a result of the EU's heavy spending in the region: West African states had genuine concerns about their 'absorption capacity' – they were unsure of their ability to properly soak up the EU's migration money. This meant they could cherry-pick the projects they liked. The Trust Fund format had simply helped African states compare and contrast various European projects and pick the best deal. But it also seemed some West African states were actively trying to pick off individual EU states. They had sent border officials to selected EU members ahead of the December European summit offering to re-document their nationals and repatriate them. This broke the member states' common resolve on the issue.

The EU was most worried about reports that its cooperation with Niger on border controls had simply been absorbed into ECOWAS's grey political economy. ECOWAS's major economies were reportedly putting Nigerien officials under pressure to turn a blind eye to their citizens and allow them to move up towards the EU. In return, ECOWAS's major economies would permit Nigeriens to enter their labour markets. The tool for this would be the 'voluntary returns hub' which the EU had created to help Nigerians and Ivorians stuck in Niger to get home. Nigeriens would thus pose as – say – Ivorians, and would be accepted by Côte d'Ivoire as such, perhaps even gaining from the EU a sum of cash to help their 'reintegration'. The absence of civil documents in ECOWAS member states and the melting pot nature of the region encouraged this kind of abuse.

EU officials began to realise that ECOWAS was not so much a regional bloc as a platform for West African states to compete and barter. Shortly before the EU's December summit, for instance, the head of the ECOWAS free-movement directorate was summarily replaced. There were suggestions that his position had become untenable due to his close cooperation with the EU on providing a proper judicial framework for free movement. But it seems he had also attempted to move the MIDWA project from the management of IOM to Cote d'Ivoire, where it would be run under an ECOWAS label. Nigeria, which was keen to keep the centre of gravity of ECOWAS in Abuja, had apparently demurred, with IOM's help. The EU was being tugged into regional rivalries, in particular between Anglophone Nigeria and Francophone Côte d'Ivoire. Regional free movement was the victim.

## **7. What did the real problem turn out to be?**

The real issue here was moral hazard: ECOWAS members were indeed using regional cooperation to shift responsibility for their problems. The EU found itself caught in a trap of its own making. West African states could point to the EU as a precedent, portraying regional free movement as some kind of a right – and one, moreover, denied them by the EU. But creating a regime for mobility in West Africa is less a right, and more something of a responsibility: unregulated migration is one of the major threats to the stability of this region plagued by war, environmental change and weak government. ECOWAS members had a whole list of agreements to this end – their Protocol on the Prevention, Management and Resolution of Conflict, the Convention on Small Arms and Light Weapons and the Counter Terrorism Framework. This is even before mentioning complicated issues like climate change in the Sahel. And yet, ECOWAS had scarcely implemented these. If the EU cooperated with Niger on buffering against these regional threats, then that was legitimate.

## **8. How did the EU finally adapt?**

The EU began to turn its attention to IGAD, in the Horn of Africa. Back in 2015, the EU had rather disregarded IGAD – it did not even make it a formal member of the Valletta talks. Its migration agenda had concentrated not on IGAD headquarters in Djibouti, but on the string of countries on the migration route from Eritrea right down to Tunisia. This made all the difference now, when IGAD did signal that it was interested in cooperating on migration: the EU was able to bring an unusually broad range of countries to the table. Eritrea, which had been excluded from IGAD's structures, is now shadowing regional migration initiatives; Uganda, which belongs to both IGAD and the East African Community, and had long viewed IGAD as a body for military cooperation only, provides regional best practice; Tunisia, which is not really on the route but hosts the EUBAM Libya mission, now provides a model for migration policies which Francophone Djibouti can follow.

As one European diplomat says: our goal is less to use the regional framework in the Horn to manage migration and more to use migration to create a proper regional framework.<sup>29</sup> Regional alliances and practices are being reformed from the bottom up. Still, the disparity in power between the EU and IGAD remains a sticking point, and the key is likely to be ‘triangulation’ between the two organisations. Instead of the EU trying to press IGAD to engage in border control, the pair can team up to pressure a third region – such as the Gulf States to open their labour markets and treat African migrant workers better. The GCC countries are a far more important labour market for IGAD states like Ethiopia or Eritrea than are the EU-28. The EU is thus set to play a different kind of regional power game, a more inclusive kind of divide-and-rule.

The whole point of regional cooperation is to boost member states’ international power. This is why the EU has often proved bad at building regions – its impulse, rather, is divide and rule. ECOWAS was pursuing its own version of this, albeit from a position of weakness, and was using the West African regional framework to export its problems abroad or to set international donors against each other. ECOWAS did not seem genuinely interested to learn from the EU or indeed from the AU, whose border and free movement strategy for RECs it had only ever name-checked. Oddly, the EU’s cooperation has functioned much better with IGAD, despite the fact that few academics believed there was any chance of region-building there. The IGAD countries are too weak to engage in this kind of game.

## 9. What is the long-term orientation?

Following its experiences in West Africa and the Horn, the EU appears to have dropped its classic idea of inter-regionalism – of making regional free movement zones which dot the world the central layer of global governance. Or at least, the EU has tempered it with a new concept to make regional zones just one layer in global migration management.

Migration naturally scales up over time: the distances a migrant typically covers become greater and greater. Thus small local migrations from the countryside to the city, become migrations between cities in the same country, then become migrations between cities of neighbouring countries, then between world regions (from Africa, say, to Asia) and then finally from developing regions to the wealthiest regions like North America or the EU. African workers who have first migrated regionally and inter-regionally can be expected to integrate best and quickest into the EU’s labour markets. And the EU is looking to better manage this natural ‘scaling up’ of migration flows, so that African workers are not moving directly from their local village to the big cities in Europe.

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29. Interview with member state official, London, 3 November 2016.

## **Nobody move! Myths of the EU migration crisis**

In Brussels, in 2017, political discussions happened to be underway on how to reform the Blue Card – that is, the EU framework for attracting workers with useful skills to Europe. Experts now spotted that the Blue Card might provide just the right tool to harness ‘upscaling’ and encourage region-building. Back in 2009, member states had created the Blue Card in order to attract to Europe migrants with the right qualifications and skills. Applicants for a Blue Card were judged on their formal vocational qualifications and earning power. In a bid to attract the best-qualified workers, the member states had clubbed together, offering high-qualified migrants access to the EU’s region-wide labour market.

The Card had not, however, included soft qualifications like migration history as an attribute. Experts discussed the need to change this. Applicants for a Blue Card would gain credit for having migrated and worked legally through their home region and other world regions. The underlying goal of the reform would be to encourage migrants to press for change at home. Migrants who hoped one day to come to the EU would put pressure on their home regions to provide them with regular migration opportunities, and implicitly punish those which did not.

*SECTION 3*

**After the crisis**



# Flows, pools and bridges

Dilemma: the EU wants to secure a functioning repatriation arrangement with Afghanistan. Should it oblige its member states to inform Kabul when returnees are criminals? After all, the EU does not want a reputation for dumping dangerous individuals onto Afghanistan. But Afghanistan lacks such things as a sex-offender register, so it is unclear how Kabul would practically benefit from the information. What matters more to Europe – a functioning returns deal or gold-plated cooperation standards?

Dilemma: the EU wants to prevent migrants and terrorists flying to Europe from Beirut. Should it press Lebanon to reform its airport security standards? After all, right now, very few irregular migrants and Sunni combatants come via Beirut. But this is probably down to the close relationship between the Lebanese Directorate for General Security and Hezbollah: the Shiite militia reportedly wants to keep flight channels open for its own purposes. Should the EU stamp this out?

These dilemmas, and thousands like them, have plagued Brussels every day of the past three years. The EU's instinctive response to each has been the same: break the problem down, depoliticise it, shrink it. This is the EU's signature way of problem-solving – 'neo-functionalism', a low-key name for a studiedly low-key approach. Neo-functionalism basically involves throwing three things at problems: regulatory know-how, smart technology and money. The EU began life as a market, after all, and this mentality is still what fuels its enlargement, neighbourhood and development policies.

In the field of migration, however, this technocratic *modus operandi* has showed its limits. Migration is a politically sensitive field, and the EU's low-key decision-making when dealing with Afghanistan or Lebanon habitually attracts mistrust. Migration is also a bellwether for bigger shifts in world politics. Behind the EU's enlargement, neighbourhood and development policies there sit a set of implicit geostrategic choices - choices about what to do and where. A major migration crisis may point to the need for a major re-think.

The reforms the EU has made over the past two years have been about linking this talent for technical problem-solving with a far sharper diplomatic sensibility. Diplomats have taken the money and know-how of the internal market and injected an interest-

led approach usually associated with the member states. This shifted the mental geography of the EU. And, today, the contours of a more geostrategic approach to migration are becoming clear. The EU's migration diplomacy still contains a heavy dose of know-how, technology and money, but it has a new edge to it.

## **Agencies, technology and money – and their limits**

As the crisis unrolled, the EU resorted to its usual formula of money, know-how and tech.

The EU has used technology to reduce its reliance on third countries to manage its borders for it. The EU is joining up its existing mass of home affairs databases. It will work to create a common search portal for its crime, visa and asylum databases, to adapt to mixed flows of refugees, labour migrants and criminals. It will create a Passenger Names Record to flag up suspected criminals on incoming flights. And it is pursuing a smart borders package to individualise border controls, meaning that each traveller receives treatment at the border which is tailored to their profile. Home affairs are becoming automated.

As for know-how, the EU is exporting this abroad as never before. As the dust settles on the migration crisis, Frontex has emerged as a major player in the EU's near abroad. It has liaison officers and a new generation of intelligence-sharing agreements in the Balkans, Eastern Europe and soon also North Africa. It helps provide the initial risk assessments when EU crisis-management missions are established, technical assistance as they operate, and perhaps will even take them over as they are wound down. Frontex could soon begin operating as a kind of development agency, too: it would integrate the old crisis-management missions into region-wide SSR work in Africa and Eastern Europe.

And then, of course, there is the money. The EU has redoubled its efforts at global market integration. During the crisis, national diplomats joked that they dreaded each new round of summitry: every time the European Council met, they said, a member state could expect to cough up €100 million in new pledges. The Trust Funds have considerably accelerated the dispersal of EU spending in the Middle East and large parts of Africa. And the External Investment Programme mobilised millions of euros from the development pot (its famous Pillar 1) and will support private enterprise in unstable countries where development agencies cannot always set foot.

But the three horsemen of the internal market have their limitations. Technology, for instance, does not automatically solve the EU's border problems. If the EU's internal databases became disjointed from each other in the first place, it is because they were permitted to develop without overall strategic guidance. Today, this internal system could become disjointed from the outside world: the EU's technological superiority may create new borders. European diplomats had been working hard to lighten old-

fashioned visa requirements for the nations of the Middle East and North Africa; but travellers without expensive new travel documents, or simply with the wrong profile, may now lose out. EU-LISA, the EU tech agency, has no real mandate for international cooperation.

Likewise, money: when the External Investment Plan (EIP) was launched, Pillar 1 was supposed to have two supporting Pillars – to improve investment conditions in unstable countries, and to help governments there create bankable projects. Diplomats were keen on this: they feared the EU would concentrate only on freeing up spending for Pillar 1. They wanted the EU to hold some of its spending in reserve, so that it could play a lead role in the reconstruction of unstable countries like Syria: this spending power would give it political leverage even before the conflict ended. By focusing on Pillar 1, and neglecting the difficult reform work, the EU is in danger of pouring money into already-stable environments – Turkey or Azerbaijan, for example.

As for know-how, there is huge potential for the EU to deploy this for the greater good of global migration regulation. The European Commission's DG NEAR is already positioning Frontex as an agency which can resolve shared migration problems in North Africa, rather than simply exporting European norms there. Frontex can now bring its know-how to a hugely diverse array of policies, stretching even to fisheries regulation. But, without strategic decisions in Brussels, the result could fall prey to incoherence and expedience.

A decade ago, people-smugglers were using fishing boats in West Africa to transport thousands of migrants to the Canaries, and Frontex was criticised for its response: the borders agency was said to be giving the African coastguard vessels orders, and using them as proxies to push back the migrants. Under its new mandate, Frontex could coordinate a 'multipurpose operation'. While monitoring migration flows in the Gulf of Guinea, for instance, it could theoretically also take action to combat illegal fishing there. That means that Frontex could steer the same African coastguards in a different direction - to confront Japanese or Korean vessels fishing illegally, thereby helping West African fishermen sustain their livelihoods in the first place. But such policies will not occur without strategic decisions.

## North-South: the new strategic axis

The EU has experience of the kind of big strategic re-think now required: it has carried out a complete policy overhaul once before. Between 1989 and 1994, an average of 480,000 asylum-seekers lodged their claims in Europe each year, reaching a peak of more than 600,000 in 1992. The impact of this migration crisis on its foreign policy only gradually became clear: the EU needed time to digest the crisis and transform its emergency response into a more systematic engagement with the geopolitical changes which had resulted in the migration flows.

## Nobody move! Myths of the EU migration crisis

The foundations of today's foreign policy were in fact laid in the wake of that first migration crisis. It was then that the EU adopted its doctrine of 'concentric circles', whereby the EU attempted to radiate a transformative kind of order abroad: that last migration crisis resulted from the collapse of the Cold War cleavage between East and West, and the way the Commonwealth of Independent States and Yugoslav Republic were messily entering the global economy. The legacy today is the way the EU encourages deep structural reforms foremost in a nearby arc of Western Balkan countries, then in a longer and more varied arc stretching from Belarus to Morocco, and restricts its engagement in an outer ring of Eurasian, Latin American and African countries to classic development policies.

If that setup is now being challenged, it is because today's migrants and refugees come largely from Sub-Saharan Africa – from that distant swathe of countries where EU engagement consists of little more than development cooperation and is least driven by Europe's own narrow interests. In other words, they come from places where the EU has the fewest tools to stem the flows. As noted in the Introduction, these migrants are also ignoring the EU's carefully-demarcated concentric arcs, moving from the outer arc in Africa, through Europe's near abroad in North Africa, and into the EU itself. The EU, in short, has been hamstrung by the reforms it made to its foreign policy two decades ago.

The last three years have therefore seen a considerable degree of improvisation on the part of the EU as it tries to break down barriers between the three arcs, refocus policies on job creation and border management, integrate humanitarian and military engagement, and above all give them the added bite of diplomacy. This response seems far less systematic than the clear-cut European approach which emerged from the 1990s. And yet the migration flows today, just as they were before, are merely a symptom of deeper geopolitical shifts. The contours of a new strategy are emerging.

Back in the 1990s, the migration flows were fuelled by the collapse of the cleavage between east and west; today it is the collapse of the cleavage between north and south. Back in the 1990s, global power shifted to the west from the east; now power is shifting from north to south, as wealth spreads to poorer economies and new powers emerge. In the 1990s, the EU had actively encouraged that shift; likewise today, the EU is feeling the effects of its long-standing trade and development policies in Africa. And lastly, in the 1990s, the EU would have undermined decades of international engagement had it sealed itself off from the migration flows. This is again the case today.

It is helpful to recall the old mental map of 'concentric circles', because the new strategic orientation alters it in three distinct ways. The EU's foreign policy is now based much more on three features: flows, pools and bridges.

## Redirecting economic flows

The most obvious impact on EU foreign policy is that it now comprises a far greater component of what has been called ‘flows diplomacy’. European diplomats focus on ‘strings of countries’ rather than ‘concentric circles’ – they concentrate on the countries crossed by the migrants, rather than trying to roll out reforms across whole arcs of states. So far this new policy has had a blunt motivation. The EU aims to manage the tricky relationships between the states on the routes out of Africa, to contain the flow of people, and where possible to provide migrants with better livelihoods close to home.

EU member states had been hoping for some quick wins, particularly when it came to West Africa. After all, the migrant source countries there are relatively wealthy and democratic. The EU could reasonably hope to spur job creation in Nigeria or Côte d’Ivoire, and to quickly take the burden off poorer transit states like Niger and Mali.

However, as was detailed in this *Chaillot Paper*, this early optimism was misplaced. These West African source countries have an interest in maintaining the flow of their people into European labour markets. Their goal is often to build up their diaspora in Europe, and to secure the continued flow of remittances. At the EU-Africa summit in late 2015, West African representatives delivered a stark warning to Brussels: migration is your problem, not ours. Since then, they have reportedly pursued a range of tactics to keep the path to Europe open, including reducing the opening times of their consulates in transit states like Libya, in a bid to push even vulnerable citizens onwards into Italy.

As for the flows from the Horn, the EU has been tempted to cooperate with the inward-looking governments to stem the flow of people. But the situation is complicated by a new class of predatory investor in Africa – emerging economies like China or Saudi Arabia. Beijing has not only set up logistical and military hubs at key trade chokepoints such as Djibouti, it has invested heavily in Africa’s cross-border transport networks through its Silk Road Infrastructure Fund, played divide and rule among littoral states to sew up their fisheries concessions, secured contracts in countries like Sudan by wining and dining political elites and – most notoriously – sent in its own citizens to fill many of the jobs created.

Given the situation in both major source regions, no wonder some in Brussels reached a bleak conclusion: that development and economic flows in Africa are the problem, not the solution. The EU had been hoping that Africa’s growing prosperity, industrialisation and urbanisation would shrink family sizes and give people a reason to stay at home. Instead, the growth of economic flows seems to be spreading chaos and priming a demographic time bomb, allowing Africans to afford big families and to move them abroad. Nigeria alone is destined to have more citizens than the US by 2050, and many of them will travel abroad by regular or irregular means.

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The EU could easily have fallen into a zero-sum response. In the Horn, it could have exploited the region's chronic *under*-development to stem migration, working with the Eritrean politicians who worry about population loss and want to close their country off from the world. In West Africa, it could have exploited the weakness of poor transit states: it could have turned a blind eye to smuggling networks for tobacco, petrol or subsidised goods, hoping to allow Nigerian or Guinean migrants to get rich during transit and saving them the need to come to Europe.

Instead, the EU has tried to take a positive approach towards the economic flows. The migration paths from the Horn and West Africa broadly follow economic superhighways such as the Red Sea and Salt Route. To truly succeed with its 'flows diplomacy', the EU has recognised that it must help replace the disorderly economic flows of irregular migrants, drugs or arms with orderly flows of resources, finished goods, investments and, of course, regular migrant labour. This provides a guiding rationale for the EU to coordinate its development, trade, agricultural, fisheries and labour migration policies in the region.

The EU has also perceived that the spread of economic flows brings certain benefits – notably that not all migration routes lead to Europe. Emerging economies like China are themselves becoming attractive destinations for African migrants. This realisation gives the EU's diplomacy a constructive international flavour, and the Union is slowly reaching out to countries like China or Saudi Arabia, with positive results.

When the EU launched its new programme to boost investment conditions in Africa, for instance, it worried about China free-riding on its efforts. But the EU soon discovered that China's predatory practices, such as courting African elites or sending its citizens to carry out work contracts, were in fact about mitigating investment risks. If anything, these practices should be assuaged by the EU initiative – a further strategic reason to strengthen the regulatory Pillars of the EIP.

## Creating regional pools

The EU is further tempering the old notion of 'concentric circles' with a new vision of 'interlocking circles': across Africa, it is helping to build up regional economic organisations, in particular those which provide options for local migration. European diplomats use the image of reservoirs or pools: by supporting the integration of Africa's regional labour markets, they will provide a pool of jobs for migrant workers close to home.

In West Africa, ECOWAS already has an advanced free movement regime, covering major sending countries like Nigeria. In the Horn, the Intergovernmental Authority on Development (IGAD) has shown interest in the idea, although it freezes out major source country Eritrea. The EU is incentivising ECOWAS and IGAD's efforts by exporting its Schengen know-how. It has also talked about helping reduce the cost

of remitting money across Africa (currently as much as four times more expensive than between the EU and Africa) and about rewarding, under its Blue Card scheme, African migrants who had previously worked legally in their home region instead of heading straight for Europe.

In the long run, the EU's hope is that these 'new Schengens' will border each other and operate in unison, so that one zone's migrant entry system would be corroborated against another's exit system – hence the vision of interlocking circles. Or this at least was the initial hope. But it is now becoming clear just how difficult the undertaking is. These regional labour markets will only integrate, for instance, if they overlap with Africa's biggest national economies, and with the continent's manufacturing and agricultural value chains. But Africa is a real noodle bowl of regional groupings, each with a major sponsor state.

Under the umbrella of the African Union (AU), there are 15 regional African organisations. Thus IGAD's eight member states between them belong to three further groupings, COMESA, the EAC and CEPGL. Meanwhile, ECOWAS members hold overlapping memberships of CEN-SAD, MRU, WAMZ, UEOMA, and LGA. African states tend to shop between their various memberships, depending on where their interests are best met.

Even if ECOWAS and IGAD do succeed in developing EU-style free movement zones, moreover, there is no guarantee that they will actually remain open to EU know-how. ECOWAS members have, for instance, criticised the EU for its recent migration controls in northern Niger, portraying this as a contravention of the ECOWAS regime. ECOWAS has been slow to do what every free movement zone should do – develop its own external border policy, including in northern Niger. EU member states have ended up pouring ever more personnel into the region to take on border functions.

These, and other, difficulties have led some in Brussels to ask whether the free movement of people in Africa is the problem, rather than the solution. Even in a relatively cohesive region like West Africa, border-free travel exists more *de facto* than *de jure*, and its poor regulation could become a major source of international tension. Most countries in Africa lack decent civil registries for foreigners, and only a handful of Africa's 54 states operate an automated finger-printing system. Migrants caught working irregularly across ECOWAS tend to claim that they come from a vibrant economy like Côte d'Ivoire: they are keen to be deported to a country with good job opportunities.

Ahead of the November 2017 EU-AU summit, however, EU policy has received a necessary correction. The EU is being obliged to aim for an all-of-Africa approach on migration and regional free movement. Due to the EU's heavy focus on IGAD and ECOWAS as the main baskets for its free movement policy, it neglected other key migration routes and organisations. Ahead of the summit, however, the EU

has earmarked the sum of €10 million to manage the flow of people away from the EU, to the south. The EU has also begun lifting the distinction it makes between Sub-Saharan Africa and its arc of North African neighbours – a simple reflection of regional migration flows.

## **Building bridges**

The EU has long been under pressure to rethink what it does, and where. Cooperation partners everywhere have been calling for the EU to drop what they see as the artificial distinctions between various arcs and to mix and match its toolbox in new places. Southeast Asian states like Laos have, for instance, pressed for the kind of deep structural engagement which the EU reserves only for its closest arc of neighbours. Ukraine has expressed frustration that the EU does not encourage transport routes through the eastern neighbourhood, in the same way as it does in Africa, merely because these would cut across one or more arcs.

The migration crisis in the Central Mediterranean has spurred the EU to act on these impulses. It has encouraged the EU to move a little away from its old policy of radiating its norms outwards and to focus more on global economic flows and partnership with other regional groupings. This seems a fitting response to the expansion of the global economy and the onset of global multipolarity. And, in Brussels, the discussion has now turned to setting its crisis policies on a firmer footing. The EU might try to transform its border-management activities in northern Niger, for instance, into a more rounded customs hotspot approach, whereby it helps ECOWAS filter the region's flow of labour and goods.

But it is worth recalling that there are reasons why the EU has resisted shifts of this kind in the past: they are often the expedient option. Passing responsibility to regional organisations – be it in Africa, the Balkans or the eastern neighbourhood – can be a smokescreen for diminishing the EU's responsibilities abroad. During the migration crisis, this temptation to shift the burden to other parts of the world has only increased.

For that reason, the third feature in Europe's new foreign policy thinking will probably be the litmus test of how well it manages any deeper strategic shift. This is the discussion in Brussels about building up 'bridging states'.

Morocco in particular has positioned itself as a bridge between Europe and Africa in recent months. It is reintegrating itself into the AU, applying to join ECOWAS, and offering Brussels a bridgehead to the south. Such a bridging role would indeed make sense in terms of the EU's new foreign policy approach, as Morocco both offers a link to a nearby region and is pursuing new infrastructure projects to improve economic and resource flows from West Africa to Southern Europe.

And yet, in reality, Rabat's main point of attraction for the EU probably comes down to blunt migration control: Morocco is graduating out of its old status as a sending and transit country, and is becoming a country of destination for African migrants. If the EU pursues a special partnership with Morocco solely to exploit this fact, it risks breaking the bridge and turning Morocco's attention southwards.



# Annex



# Abbreviations

AMISOM	African Union Mission in Somalia
ASEAN	Association of Southeast Asian Nations
AU	African Union
CEAS	Common European Asylum System
CIS	Commonwealth of Independent States
CPM	Civil Protection Mechanism
CSDP	Common Security and Defence Policy
DCI	Development Cooperation Instrument
EAC	East African Community
EASO	European Asylum Support Office
EBCG	European Border and Coastguard Agency
ECOWAS	Economic Community of West African States
EDF	European Development Fund
EEAS	European External Action Service
EIP	External Investment Plan
ENP	European Neighbourhood Policy
EWS	Early-warning system
GCC	Gulf Cooperation Council
GDP	Gross Domestic Product
GNC	General National Congress
GNI	Gross National Income
HQ	Headquarters
ICMPD	International Centre for Migration Policy Development
IcSP	Instrument contributing to Stability and Peace
IGAD	Intergovernmental Authority on Development
IMF	International Monetary Fund

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IOM	International Organisation for Migration
LPA	Libyan Political Agreement
NAFTA	North American Free Trade Agreement
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
ODA	Official Development Assistance
OECD	Organisation for Economic Cooperation and Development
OSCE	Organisation for Security Cooperation in Europe
RECs	Regional Economic Communities
SADC	Southern African Development Community
SatCen	EU Satellite Centre
SDGs	Sustainable Development Goals
SRSP	Structural Reform Support Programme
SRSS	Structural Reform Support Service
SSR	Security Sector Reform
TiSA	Trade in Services Agreement
UAE	United Arab Emirates
UN	United Nations
UNHCR	Office of the United Nations High Commissioner for Refugees
UNSMIL	United Nations Support Mission in Libya
WFP	World Food Programme
WTO	World Trade Organisation



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