Innovation in EU migration policy: towards a truly comprehensive approach to migration

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Abstract

The increased arrival of refugees and migrants in Italy in 2015 revealed that the EU was not prepared to cope with an increased inflow of refugees and migrants into its territory. In 2015, the year that saw an unprecedented number of irregular migrants and refugees crossing the Mediterranean, a comprehensive approach to migration was adopted in the Valletta Action Plan, acknowledging that the management of irregular migration is a responsibility for both African and EU leaders. This report holds that, three years after Valletta, serious challenges remain in implementing the building blocks of the EU's migration approach. Whereas political positions among Member States are converging towards a mode of securitising borders, this report argues that a more sustainable and comprehensive approach is needed, taking into account the interests and stability of countries of origin and transit. Based on field research in Senegal, Italy and Poland, as well as complementary desk research, it seeks to identify best practices from national experiences and bilateral agreements that are feasible within the current European political landscape. We argue that delivering on promised commitments is crucial for all actors involved to make the system work. A failure to implement the comprehensive approach to migration directly affects the EU's external credibility, endangering the EU's negotiating position with third countries. Similarly, a failure to resolve deadlock on the internal dimension negatively affects popular support for the EU, putting at risk the European project as a whole.[1]

1   For this study, the authors conducted a total of 30 interviews with policy makers, diplomats, NGOs, (academic) experts, civil society organisations and other practitioners in Italy (nine interviews, 14 February and 15 and 16 March 2018), Poland (nine interviews, 28 February and 1 March 2018) and Senegal (12 interviews, 19, 20 and 21 March 2018). To ensure anonymity, the identities of those interviewed are not disclosed.

1 Challenges in the comprehensive approach towards migration

Addressing mixed migration flows is high on the European Union's political agenda. In order to better manage mixed migration flows, policymakers have agreed on a comprehensive approach towards migration, thereby acknowledging that every policy-implementing step along the migration journey is interlinked. Consequently, all policy elements of the comprehensive approach have to be implemented correctly to make the entire system work. At the same time, circular migration within the African continent, mostly for economic purposes, should not be hampered. All in all, a complex set of ambitions.

In practice, implementation of the comprehensive migration management approach is not progressing smoothly. To illustrate the complexity: the discussion on the return of third-country nationals has been linked to the discussion on opening up legal pathways to Europe, without real progress being achieved on either topic. This section explains the stalemate that has occurred within the EU migration policy negotiations and elaborates on the interlinkage between different aspects of a comprehensive migration policy.

Mixed irregular migration flows: labour migration and refugee flows

This report discusses EU policies on irregular (labour) migration and refugee flows. Irregular migration pressure on the European Union entails mixed migration flows which comprise both refugees fleeing war or persecution and migrants in search of economic opportunities. In these mixed migration flows towards the EU, there is a profound incidence of the latter. It is important to note that irregular labour migrants and refugees fall under different legal regimes. As such, the legal obligations of EU Member States also diverge between these two categories. Politicians and the wider public often fail to draw this distinction in order to support their normative claims. Irregular labour migrants are in principle not entitled to asylum but in some cases do file an asylum claim, putting an additional burden on the asylum system of EU Member States. Improving the speed and clarity of the procedure for status determination, while ensuring thoroughness and respect for human rights, is a key challenge for the EU and its Member States.

Building blocks and their difficulties

At the Valletta Summit in 2015, migration was recognised as a shared responsibility of countries of origin, transit and destination. European and African Heads of State and Government agreed on a comprehensive action plan based on five pillars: addressing the root causes of migration and forced displacement; enhancing cooperation on legal migration; reinforcing protection of asylum seekers; fighting irregular migration, migrant smuggling and trafficking in human beings; and improving cooperation on return, readmission and reintegration. However, three years after the Valletta Summit, there is a reluctance to implement the building blocks and the elements of the Valletta Action Plan are contested. While the numbers of arrivals of irregular refugees and migrants in EU Member States have decreased over the past year, the public and political discussions on the issue have become even more toxic. In countries of origin, the public and political debates on returns of their nationals have similarly become politically sensitive, complicating the functioning of return policies.

Figure 1   Illustration of the elements of the Valletta Action Plan
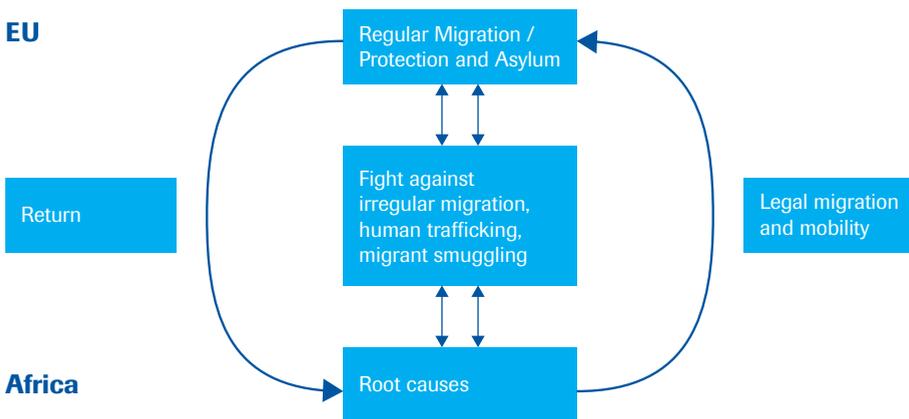
The arrows represent the movement of refugees or migrants between the European Union and its Member States and the African Continent.

As illustrated in Figure 1 above, the building blocks of the comprehensive approach are intertwined. Consequently, a lack of implementation in one field directly affects the successful implementation in another field.

First of all, from the perspective of protection and asylum, the negotiations on the Common European Asylum System (CEAS) reforms have been rough, leading to increasing tension between Member States. Two years after the introduction of proposals for the CEAS reforms, no agreement has been reached and the sense

of urgency is on the rise. Over time, the political landscape in the EU changed as opposition against a mandatory reallocation scheme increased.[2] Reform of the Dublin Regulation is the main obstacle on the road to better migration management. The Dublin Regulation contains the criteria determining the Member State responsible for assessing the asylum claim. In practice, this boils down to the state of first entry being responsible for assessing the asylum claim, putting a disproportionate burden on Member States at the EU external border in the south.[3] Based on this system, the EU is not able to cope with an increased arrival of asylum-seekers into its territory. The June European Council did not provide an answer to the issue. Instead of focusing on the internal issues that need to be solved, it agreed that options would be explored for Regional Disembarkation Platforms and European 'controlled' centres in the EU.[4] As such, the required reform of the CEAS remains a challenge that needs to be solved.

In an attempt at compromise in the reform discussions, Bulgaria introduced an alternative Dublin Proposal towards the end of its EU Presidency. The proposal builds on the traditional hierarchy of the Dublin criteria and hence does not address the fundamental flaws of the system. Indeed, southern EU border states criticised the proposal, arguing that it did not reflect the need for improved solidarity and burden-sharing. The proposal cannot count on support from the Visegrád countries[5] either, since it includes a corrective allocation system. The European Parliament has tried to address the flaws of the Dublin criteria in its Wikström report. The report introduces a radical reform of the Dublin system, moving away from the traditional criterion regarding the state of first entry. Instead, the alternative proposal focuses on a permanent and automatic relocation mechanism, based on the 'genuine links' that asylum applicants

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2   In a response to the high influx of refugees and migrants to Italy and Greece in 2015 and 2016, a temporary
     relocation scheme was implemented: asylum-seekers with a fair chance of asylum (recognition rate +75%)
     were relocated to other Member States to apply for asylum there, in order to alleviate the burden on
     frontline Member States at the southern EU border. From the beginning, the Visegrád countries opposed
     the concept of distributing asylum seekers across Member States through mandatory quotas.

3   Art. 13 Regulation (EU) No. 604/2013 (Dublin Regulation). The Dublin Regulation lists several criteria for
     the determination of the Member State responsible for the assessment of the asylum application, such as
     whether family members of the applicant legally reside in another Member State. However, these alternative
     criteria are often inapplicable, making the state of first entry responsible for dealing with the asylum claim.

4   The proposal entails that individuals intercepted at sea in Search and Rescue operations are to be
     disembarked at Regional Disembarkation Platforms. Upon arrival at these platforms, initial screening
     will take place, distinguishing between those with a *prima facie* case for asylum and economic migrants.
     For those who have arrived on EU soil, 'controlled' centres are to be set up, also providing for a distinction
     between those entitled to protection and those who are not. These centres could be hosted by Member
     States on a voluntary basis. The Council conclusions do not specify who would be responsible for
     'controlling' the centres.

5   i.e. Czech Republic, Slovakia, Poland and Hungary.

may have with particular Member States.[6] Moving away from the traditional set of Dublin criteria, as is proposed in the Wikström report, relieves the burden on countries at the European southern external border. However, none of these elements were included in the Bulgarian Presidency proposal. Reaching agreement on the means to determine a Member State responsible for assessing asylum claims is fundamental for the establishment of a true CEAS and a major hurdle that the Council needs to overcome.

Second, swift return of those who are illegally residing on EU soil is a priority for the EU but forms another difficult piece of the comprehensive puzzle, especially since public attention is strongly focused on the actual numbers of returns. Here, the bottleneck is in the EU's external relations. Readmission of their nationals is a highly sensitive issue for third countries. Migration in African cultures is often rooted in society: the journey abroad is seen as a way to mature and is often the only way to leave the parental home. In addition, families and local communities at home are dependent on the remittances. Often, this is combined with a small or weak local economy that is not able to create jobs in parallel with the rapid demographic growth. As a "carrot" to improve cooperation in the field of returns and to prevent irregular migration flows, the EU agreed to open up the dialogue on legal migration pathways. Unfortunately, the lack of credible progress in opportunities for legal pathways to the EU adversely affected the credibility of EU institutions in conducting foreign policy. As a consequence, third countries' interest in cooperating on the return of their nationals has decreased.

Member States are more aligned when it comes to addressing the root causes of migration and the fight against migrant smuggling and trafficking in human beings. This consensus should not come as a surprise, since these policies are aimed at decreasing mixed migratory flows towards the EU. Most importantly, these policy priorities avoid complex discussions on solidarity and reallocation of asylum-seekers across Member States. Hence, for current EU political leaders the lack of an agreement on how to provide protection for those in need in Europe (internal dimension) reinforces the need to have a clear strategy to decrease irregular migration flows towards the EU (external dimension). However, the assumption that support for economic development in countries of origin removes the incentive to migrate is disputed. Literature indicates that over the course of the transition in migratory mobility, emigration initially rises along with economic development.[7] Moreover, solidarity issues also reoccur in the external dimension of asylum policies: more than half of the total EU Emergency Trust Fund for

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6   European Parliament, Committee on Civil Liberties, Justice and Home Affairs, A8-0345/2017 (Wikström report), p. 66.

7   Clemens, M., A., Postel, H., M., "Deterring Emigration with Foreign Aid: An Overview of Evidence from Low-Income Countries, CGD Policy Paper, 2018. Clemens, M., A., "Does Development Reduce Migration?", IZA Discussion Paper No. 8592, 2014. Haas H., de, "Turning the Tide? Why Development Will Not Stop Migration", *Development and Change* Vol. 38, No. 5 pp. 819-841.

Africa (EUTF) budget available for development projects is accounted for by Germany and Italy. These countries are committing more than 10 times the average Member State contributions.[8] Finally, a strong focus on border controls causes migration routes to go 'underground', leading to more dangerous routes and increasing difficulties in monitoring the composition of mixed migration flows.[9] This undermines another building block of the Valletta Action Plan on the fight against irregular migration, human trafficking and migrant smuggling.

Figure 2   The building blocks of the Valletta Action Plan are under pressure
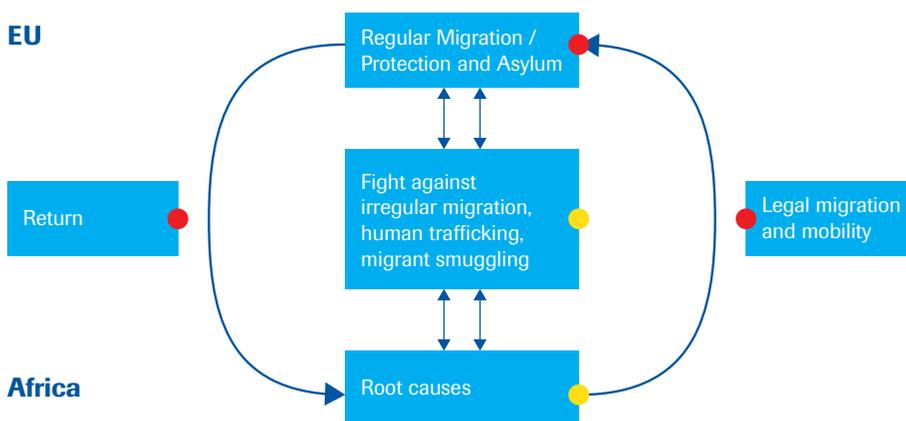
Red dots indicate that there is a heavy strain on implementation of the building block. The yellow dots indicate that there is medium pressure on implementation of the building block. As reflected in the illustration, implementation of all building blocks is under pressure.

The main challenge in the comprehensive approach towards migration is its high dependency on a wide range of actors. As a consequence, the state of play in one building block strongly affects that in the other. Consequently, obstacles in the implementation of one building block have an effect on the implementation of the other building blocks, which in turn affects the rest of the policy circle. As illustrated in Figure 2, all elements of the comprehensive approach are under pressure.

8   The EU Emergency Trust Fund for Africa – EU MS and other donors' contributions (pledges and received contributions) as of 4 June 2018, https://ec.europa.eu/trustfundforafrica/sites/euetfa/files/contributions_2.pdf; however, this does not take into account contributions within the framework of national development funds, or contributions to the European Development Fund.

9   F. Molenaar, A.E. Ursu, B.A. Tinni, A. Hoffman & J. Meester (2017). A line in the Sand: Roadmap for sustainable migration management in Agadez, Clingendael report, https://www.clingendael.org/sites/default/files/2017-10/Roadmap_for_sustainable_migration_management_Agadez.pdf.

These bottlenecks should be overcome to make the system work. Cooperation on return could be improved by offering credible legal pathways for refugees and migrants to the European Union. For example, this would entail enhancement of existing refugee resettlement procedures but also the provision of scholarship opportunities for non-EU students or job opportunities for (seasonal) migrant workers. These legal pathways will only have a decreasing effect on irregular migration if they are of significant size. For legal pathways to become a feasible and attractive option for those eligible, the required procedure needs to be clearly explained in a way that speaks to the refugees and migrants. Once the decreasing effect on irregular migration has been established, this would open up new opportunities for a fair and equitable asylum system, based on solidarity between EU Member States.[10]

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10 Measures adopted to contain irregular migration should not undermine the role, obligations and
    responsibilities of states under international law regarding the protection of refugees, including in
    the case of irregular arrivals of refugees on EU soil.

2 EU relations with countries of transit and origin

To achieve progress in the implementation of a comprehensive migration policy and better manage migration flows, building strong partnerships with third countries of origin and transit is crucial. Cooperation with African countries has been reinvigorated with the EU's partnership framework on migration, but at the same time the interests of countries of origin and transit are not always adequately reflected in EU policies.[11] Conversely, the EU and its Member States need to find ways to engage with countries that often lack strong institutions or policies dealing with migration.

Third-country relations from an EU viewpoint

The European Union currently employs three divergent instruments when it comes to managing relations with third countries concerning migration relevant to this brief. These are: a) the EU Migration Partnership Framework, under which compacts with five priority countries (Mali, Nigeria, Niger, Senegal and Ethiopia) are being implemented; b) EU compacts with Jordan and Lebanon[12]; and c) the EU-Turkey agreement. The EU Migration Partnership Framework and its corresponding compacts seek to manage migration flows from the five priority countries by "breaking the business model of smugglers, preventing illegal migration and [enhancing] cooperation on returns and readmission of irregular migrants, as well as stepping up investments in partner countries".[13] This section mainly revolves around the challenges for the Migration Partnership Framework but draws on insights from all three instruments in the search for potential solutions to such challenges.

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11 European Commission, COM(2016) 385 final, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/proposal-implementation-package/docs/20160607/communication_external_aspects_eam_towards_new_migration_ompact_en.pdf.

12 These compacts form an annex to the general EU-Jordan and EU-Lebanon Partnership Priorities as defined under the European Neighbourhood Policy, specifically laying down commitments to improve the situation of the large number of Syrian refugees in these countries. See: European Commission, COM(2016) 700 final, https://eeas.europa.eu/sites/eeas/files/com_2016_700_f1_communication_from_commission_to_inst_en_v8_p1_english.pdf.

13 European Commission, factsheet: Migration Partnership Framework – A new approach to better manage migration https://eeas.europa.eu/sites/eeas/files/factsheet_ec_format_migration_partnership_framework_update_2.pdf.

One of the biggest concerns of EU and Member State officials is that partnerships with countries of origin and transit will prove unreliable. When discussing what elements should be part of such partnerships, our interviewees pointed to a combination of a focus on root causes, readmission agreements and potentially legal pathways.[14] However, policy makers fear third countries will not comply with the readmission of rejected asylum-seekers. As one diplomat put it: 'We need commitment from the authorities of these countries. If we agree on a number of 50,000 migrants, we need to be sure that we can send back number 50,001.'[15] The implementation of bilateral agreements by third countries indeed requires long-lasting commitment of the actors involved, as well as strong institutions and political stability. Often one or more of these factors are absent. Commitment is especially lacking when it comes to returns as they bear the potential to destabilise the governments and communities of countries of origin. At the same time, the EU might sometimes have unreasonable expectations of third states' ability to perform identity checks and provide documentation.

Countries of transit and origin can keep the EU accountable on its promises as they gain leverage when conducting "deals" with the EU. For example, the EU-Turkey agreement, which covers both refugees and irregular migrants, has made the EU more dependent on Turkey's internal policies. Turkey's government has lived up to its commitments with regard to returns and preventing people from departing its shores to cross the Aegean Sea, but at the same time – for domestic political reasons – has warned on a number of occasions that cooperation could be discontinued.[16] That third countries may misuse their gained leverage to pressure the EU or its Member States was exemplified by the case of Libya under its former leader Gaddafi, who threatened to turn Europe "black" by releasing migrants into the Mediterranean Sea.[17] Niger is a slightly different case: the country is an important partner for the EU, but in early March it suspended the Emergency Transit Mechanism, a scheme evacuating refugees from Libya to Niamey for subsequent resettlement in the EU, which is implemented by UNHCR.[18] The Nigerien government may have been right to do so, as the resettlement part of the programme failed to take off due to a lack of pledges from EU Member States. The example shows

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14   As is also recognised in the 2016 EC communication on the Partnership Framework: See COM(2016) 385 final, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/ european-agenda-migration/proposal-implementation-package/docs/20160607/communication_external_ aspects_eam_towards_new_migration_ompact_en.pdf.

15   Interview, EU Member State Official.

16   https://www.euractiv.com/section/global-europe/news/turkey-threatens-eu-on-migrant-deal-as-erdogan-blasts-spirit-of-fascism/.

17   Traynor, I. (2010). EU keen to strike deal with Muammar Gaddafi on immigration, https://www.theguardian.com/world/2010/sep/01/eu-muammar-gaddafi-immigration.

18   Schlein, L. (2018). Resettlement Program Suspended for African Refugees in Niger, https://www.voanews.com/a/african-refugees-niger-resettlement/4284513.html.

that entering into agreements with third countries is a two-way street, where both parties have to implement their commitments.

In the end, designing an effective, durable and comprehensive migration policy framework requires mutual trust and the identification and recognition of shared interests. The EU should be careful when playing the negative conditionality card (*less for less*), to which African countries, among others, are becoming increasingly insensitive due to the growing availability of other potential partners.[19] Instead, the EU should expand its incentives-based approach, making use of its comparative advantages by offering positive incentives like genuinely opening up legal migration avenues, offering unconditional development aid, assisting in building up institutional capacities, economic support and opening up possibilities for trade. The latter in particular is an instrument that is currently not sufficiently employed. Only then can the chances of cooperation on returns of irregular migrants improve.

Bilateral agreements: thwarting the EU approach?

The governments of countries like Senegal are confronted not only with the EU knocking on their door to cooperate on migration but also with EU Member States. Bilateral agreements between EU Member States such as Spain, Italy and France and third countries are widespread and preceded EU engagement in the region. This raises the question of whether such bilateral agreements are detrimental or beneficial to EU policies. In our interviews, that assessment differed widely. Arguments favouring direct engagement of EU Member States with third countries included that Member States might have better access to third-country governments as a result of historical ties, as is the case between Spain and Morocco. Also, bilateral agreements can be agreed upon swiftly, whereas EU-third country agreements require a more time-consuming negotiating process between the Member States. More fundamentally, the prerogative to offer legal pathways and residency as part of an agreement lies with the nation state and not with the EU. Therefore, an EU agreement with a third country cannot include binding provisions on that matter, contrary to an EU Member State – third country agreement. In practice, it is not as self-evident as is often assumed in the EU that people and governments outside the EU understand the complex political and legal system that the EU constitutes. This leads to third countries being more comfortable when engaging with EU countries directly than with the EU.

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19   For example, the rise of Chinese foreign aid levels to Africa in the past 15 years (as well as the increase in its investment levels and loans to Africa). See: http://www.sais-cari.org/data-chinese-foreign-aid-to-africa. For an assessment of the dynamics of Chinese and EU engagement with the Horn of Africa, see: Ursu, A.E. & Van den Berg, W. (2018). China and the EU in the Horn of Africa: competition and cooperation?, Clingendael CRU Policy Brief, https://www.clingendael.org/publication/china-and-eu-horn-africa.

On the other hand, EU engagement can be more effective if the EU's leverage over third countries is higher than that of a single Member State, as is the case, for example, with Turkey. In such situations, there is clear added value for the EU in being the main interlocutor and speaking with one voice. More importantly, the conclusion of bilateral agreements by Member States potentially leads to a fragmentation of efforts. If third countries have bilateral deals with 28 Member States, they no longer have any incentive to engage with the EU. Bilateral agreements hence lead to coordination problems and potentially make EU-level policies redundant. As our interviews in Senegal have shown, it is difficult to negotiate with a multiplicity of actors for a government that does not have a single migration policy framework in place.

Lastly, the assessment of whether EU or EU Member State engagement is more beneficial differs between various instruments. With regard to trust funds, bilateral agreements are more costly as they bring about losses in economies of scale compared to a single supranational fund. To illustrate this, five individual migration funds would be less efficient than one European fund such as the EUTF, and could lead to either a duplication or fragmentation of effort (or both). EU-level funds, moreover, feature established accountability mechanisms, which is an asset compared to bilateral action. However, labour migration agreements might be better concluded at the bilateral level, as EU Member States have highly divergent labour markets. The conclusion that everything should be arranged at the EU level is hence premature. Member States' historical relations with third countries and experiences with migration agreements should be actively employed where opportune. Nevertheless, a coordinating role for the EU remains crucial to ensure that third countries have a single main interlocutor that speaks unambiguously, which at the moment is not sufficiently the case.

3   The way forward: instruments and caveats

Policy instruments that can contribute to a more sustainable EU migration policy do not have to be reinvented. National policy makers have a host of instruments available that lack political support at EU level. However, on the national, regional and local levels, initiatives do enjoy broader support and show positive results. We argue that there is an overlap, albeit a small one at present, between EU and third-country interests, which can be gradually expanded with the right approach. Instruments regulating (access to) asylum procedures, like humanitarian corridors and reception programmes such as the Italian Protection System for Asylum Seekers and Refugees (SPRAR), can be employed to foster sustainable relations and avert security-related concerns that affect both sides of the Mediterranean. The same goes for those instruments that seek to regularise irregular labour migration, such as legal pathways for (temporary) work and visa sponsorship arrangements.

Improving legal pathways and reforming asylum procedures

Humanitarian corridors are an example of an instrument providing managed and safe access to asylum that remains far from accepted in the European Council but in fact enjoys broad support at different levels of government and society in several Member States. They entail issuing visas on humanitarian grounds at consulates of EU countries in third countries to the most vulnerable of their citizens, and granting them direct legal entry. Humanitarian corridors can deviate from the strict vulnerability criteria of UNHCR resettlement programmes, and thereby offer the potential of better alignment with EU Member State interests.[20] They also result in lower costs for governments as they involve civil society organisations who offer assistance with reception and integration. At European level, they have repeatedly been backed by a majority of the European Parliament, thereby stressing the need for a holistic approach.[21] The European Economic and Social Committee has advocated establishing such corridors for asylum-seekers

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20   For the UNHCR Resettlement Programme see http://www.unhcr.org/resettlement.html. Additional information on humanitarian corridors can be found on the website of the Community of Sant'Egidio: http://archive.santegidio.org/pageID/11676/langID/en/Humanitarian-Corridors-for-refugees.html.

21   E.g. in Parliamentary procedures 2014/2907(RSP), 2015/2833(RSP), 2015/2095(INI), 2018/2642(RSP), and 2018/2666(RSP).

at EU level.[22] Currently three Member States (Italy, Belgium and France) have pilot programmes up and running, as do other countries such as Andorra and the Republic of San Marino, and the Community of Sant'Egidio is exploring possibilities with Poland and Spain as well as Switzerland.

However, pilot programmes such as humanitarian corridors in Italy work because they involve low numbers. There should be encouragement to scale up programmes, but under the current political constraints that is a long-term roadmap. Scaling up humanitarian corridors and other forms of legal pathways, like UNHCR resettlement, requires enhanced administrative and integration capacities at the local level. Decreasing pressure on specific regions like Sicily by spreading asylum-seekers over reception centres across the country (diffused territorial reception) is crucial not only to relieve pressure in the south but also to increase public support for legal pathways. As regards the current reception system, Italy has introduced a decentralised system for second-line small-scale reception in municipalities called SPRAR[23]. However, the system hosts only about 13% of asylum-seekers in the reception system, with the majority as of 1 December 2017 residing in large-scale emergency centres.[24] SPRAR experiences show that social capital to help the reception and integration is available at municipality level in Italy. Our interview findings suggest that the experiences of the IOM's admin4all programme, which seeks to enhance the local administrative legal capacity for the integration of migrants, show that this is also the case in other Member States, including Poland.

The concept of responsibility-sharing reflected in programmes like SPRAR should, moreover, be replicated at European level. In other words, the adjustment of Dublin is crucial in order to alleviate pressure on the EU's southern border states. Consideration should thereby be given to the question of whether solidarity needs to be shown through participation in a permanent EU relocation mechanism or whether it could also be demonstrated by other means. It seems improbable that those countries – Czech Republic, Hungary, Poland and Slovakia[25] – that so far have relocated zero to very few refugees from Italy and Greece and hence remained non-compliant with the issue will agree to or (in the case of QMV) adhere to a permanent mechanism in the near future. Therefore, alternatives like the provision of financial support instead of participation in

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22   E.g. in its Resolution of 10/12/2015 and explanatory opinion of 20/07/2016.

23   *Sistema di protezione per richiedenti asilo e rifugiati* (SPRAR).

24   *Centri di accoglienza straordinaria* (CAS). Source: Chamber of Deputies (2017). Commissione parlamentare di inchiesta sul sistema di accoglienza, di identificazione ed espulsione, http://bit.ly/2tCTOpS, p. 508 (in Italian).

25   European Commission, Member States' Support to Emergency Relocation Mechanism (as of 12 June 2018) https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/press-material/docs/state_of_play_-_relocation_en.pdf.

a relocation scheme should be considered. While this particular alternative would lead to a *de facto* two-speed Europe, repeatedly rejected by current EC president Juncker, it might be a means of avoiding any further deterioration of the image of the EU as an indecisive body. An agreement to disagree, in other words, could break the current stalemate in the intra-European debates on the issue.

Operating within the limits of European political discourses

Currently, security considerations are at the heart of the EU migration policies (alongside domestic political and cultural identity debates, and economic factors). This situation is unlikely to change in the short term. However, there is a need to rethink what security entails: only securitising borders does not lead to security and stability in neighbouring countries or in the EU. In neighbouring countries, the presence of large groups of migrants unable to travel further has increased pre-existing social tensions and human rights violations as illustrated by the detention camps in Libya. In the medium to long run, this can spur instability. Such developments in the long term hence do not lead to security for the EU itself either. The question of whether security should be a crucial objective for the EU is not under discussion. However, the question of what such security entails and how it can be achieved is currently being addressed in a short-sighted manner. The current narrow concept of securitisation furthermore draws attention away from local and national solutions that are already present, but which do not fit in the current European political discourse on migration. However, long-term sustainable policies can be pursued while employing the security discourse.

Take the example of humanitarian corridors. They do not go against securitisation priorities as they are in fact very secure: Member States know exactly who comes in, since refugees are thoroughly screened. Establishing direct corridors actually respects the ideals of pre-emptive security needs: it prevents refugees from having to illegally cross several transit countries, where they are vulnerable to human smuggling and human rights abuses. By circumventing transit countries, humanitarian corridors undermine the economic model of human smuggling networks and decrease risks of social and security tensions in those countries. They prevent the most vulnerable groups of refugees from arriving in Europe more traumatised. As a result, they could, if implemented on a larger scale, lead to more security in both the EU's neighbourhood and the EU itself.

Enhancing EU credibility abroad through regularising irregular mixed migration flows

Regularising mixed migration flows is, moreover, an issue of the EU's credibility abroad. Safeguarding EU borders and preventing irregular mixed migration flows from northern Africa, as the EU will continue to seek to do under the Austrian Presidency, is a defensible position given continuing migration pressure, but it means that the block needs to show, especially to transit and origin countries, that it is reachable through regular channels instead. As such, regularising irregular migration flows is as much about decreasing irregular migration pressure as it is about signalling willingness to cooperate with third countries to ensure cooperation on their part. This relates to irregular refugee flows, to which instruments such as humanitarian corridors could form part of the solution. Providing resettlement opportunities, as well as adequate protection for refugees in the EU, adds to the EU's political weight in ensuring that third countries respect their obligations under international law. In the case of those crossing the Mediterranean irregularly for economic reasons (and hence who are not entitled to asylum status) it is crucial to open up regular labour migration channels for (seasonal) work, like the Italian *Decreto Flussi* ('non-EU seasonal workers flow decree') to ensure cooperation from third countries on returns. Irregular labour migration can be a seasonal, longer-term cyclical or permanent phenomenon, with the main driver being the search for work opportunities. Opening legal routes means acknowledging these dynamics and, again, securing the cooperation of third countries on returns and other policy dossiers. More research should be done to identify labour demand in the European Member States so as to avoid burdening Member States already experiencing high rates of (youth) unemployment. As the EU labour market is still largely fragmented, it is the Member States that should have a central role in developing tailor-made approaches, albeit with a coordinating role for the EU.

Overcoming intra-European stalemate

Although Poland and other EU Member States actively employ the securitisation discourse, it should be kept in mind that for them it is only an instrument to reach their actual objective of keeping their society mono-ethnic. It could be argued that solidarity between EU Member States is not forthcoming precisely because such claims of institutional exceptionalism are not properly accounted for in the EU debates but systematically debunked as showing a lack of solidarity. When it comes to permanent relocation, it is therefore important to bring forward discussions on the terms of solidarity. In practice, that means exploring what differences between Member States should be accounted for in distribution keys, for example. In that respect, it is worth noting the 'genuine links' system of the European Parliament's Wikström report as an example. Second, what form solidarity should take in practice has been insufficiently examined. Considering opt-outs in return for financial support is one alternative that

forms a core part of the proposal on the Dublin Regulation by the Bulgarian Presidency to bridge divides between frontline Member States and those opposed to permanent relocation. While reactions from both sides were fairly critical[26], the exploration of such alternatives opened a window of opportunity, albeit a small one, in the run-up to the June European Council.

Further issue-linking might be another means of overcoming stalemate, as the EC proposal on the EU's Multiannual Financial Framework 2021-2027 seeks to do by establishing financial incentives to prompt Member States to cooperate on migration issues, e.g. by introducing reception/integration of refugees as a criterion for access to Cohesion funds.[27] It remains to be seen to what extent the final MFF will resemble the original proposal. Also, polling in Poland suggests that Polish citizens are against taking in refugees, even when that means losing EU funds.[28] Therefore, as in the external dimension, feeding into Member States' interests and concerns will work better than providing negative incentives.

In any case, all Member States should acknowledge that resolving the deadlock by acquiescing in a suboptimal compromise balancing solidarity and burden-sharing measures is highly preferable over remaining undecided, which plays into the hands of those arguing that the EU is unable to find a solution. It should be kept in mind that the European Commission and Parliament have done their jobs, and the ball is now in the court of the Member States. Hence, it is not the European Union, as popular belief has it, but the Member States that are currently blocking more permanent solutions. EU Member States are advised to commit to a thorough follow-up of the June European Council conclusions, as outstanding issues still need to be addressed. The agreement reached in the Council could offer a relative window of opportunity as it provides some negotiating room for a political compromise.

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26 See https://g8fip1kplyr33r3krz5b97d1-wpengine.netdna-ssl.com/wp-content/uploads/2018/04/Position-paper-Dublin.pdf for the position of Cyprus, Greece, Italy, Malta and Spain, and http://www.kormany.hu/en/ministry-of-foreign-affairs-and-trade/news/the-bulgarian-migration-proposal-is-alarming-and-poses-a-danger for Hungary's position.

27 See COM(2018) 321 final, ANNEX P. 30, https://eur-lex.europa.eu/resource.html?uri=cellar:c2bc7dbd-4fc3-11e8-be1d-01aa75ed71a1.0023.02/DOC_2&format=PDF.

28 Global Security Pulse: Migration & Security, Clingendael Institute (2018), https://www.clingendael.org/publication/global-security-pulse-migration-security.

Third-country relationships: a need for trust-building measures

A vast part of the comprehensive approach is based on relationships with third countries: EUTF-funded projects are implemented in countries of origin to address root causes of labour migration; there is cooperation with and training of border and coastguard authorities in third countries to better address irregular border crossings; and people irregularly residing on EU territory can only be returned in cooperation with countries of origin. This section will focus on the means to improve third-country relationships with the aim of improving cooperation on return.

Although a key priority for the EU and its Member States, cooperation on return with third countries remains a delicate issue: only 36% of irregular migrants are returned from the EU to their countries of origin.[29] The EU's interest in effective cooperation is obvious: illegally residing third-country nationals should be returned to their country of origin. For third countries the issue is more complex. Since migration affects the majority of families in African countries, actively addressing returns by African government officials is a sensitive issue and runs the risk of losing the support among the population for government officials in power. In addition, the amount of development funds received pales into insignificance compared to the remittances being received through diaspora networks.[30] Cooperation on return procedures is not in the interest of third countries. Moreover, countries are proud to have established their diaspora networks abroad – networks that in some cases have their own political representation in the national parliament.[31] What measures should the EU adopt to improve third-country relationships to establish effective cooperation on return?

First and foremost, cooperation should take place with respect for fundamental rights and should acknowledge both parties at the negotiating table. Fruitful cooperation can only come into existence if based on a constructive dialogue on an equal footing and based on mutual trust. The EU should acknowledge local concerns and policy priorities in third countries. This provides a basis for a constructive dialogue. Recognition of local priorities is gaining momentum through small-scale projects, such as the joint project of UNODC and OHCHR on strengthening the justice system in West Africa. The joint project aims to ensure access to justice for all individuals, and trains national officials

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29 European Commission (2017). President Jean-Claude Juncker's State of the Union Address 2017, http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm.

30 In Senegal, remittances account for more than 10% of GDP. See EP DG EXPO (2018). In-Depth Analysis - Senegal: bastion of democracy, migration priority for the EU. http://www.europarl.europa.eu/RegData/etudes/IDAN/2018/570490/EXPO_IDA(2018)570490_EN.pdf.

31 BBC (2017). Senegal expats to be allowed to run for parliament, https://www.bbc.com/news/world-africa-38496786.

on how to correctly apply the law on human smuggling and human trafficking.[32] EU institutions could also invest in the problem of child beggars in Dakar, which was indicated as one of the main concerns during the interviews. However, the EU-Africa dialogue as it is currently conducted focuses mainly on the return of illegally residing third-country nationals in the EU. This is not a constructive position to start off with. By acknowledging each other's concerns and priorities, and by proving that the EU is willing to invest in local issues, trust is being built amongst the partners involved.

Second, capacities in third countries to develop policy on migration should be developed. In Senegal, attempts have been made to establish a comprehensive migration policy but have not succeeded.[33] This is also caused by the fact that the responsibility for migration affairs shifts between ministries. Being aware of the administrative differences, the EU could initiate projects to provide technical assistance or workshop-based training to build capacity at government level for policy development at third-country level. This implementation could also take place in cooperation with Regional Economic Communities, such as ECOWAS.

Third, the EU and its Member States should improve coordination of their actors. Currently, there is a mushrooming of national and European migration LOs. Although the national Liaison Officers (LOs) have their own mandate, the relationship with the European Migration Liaison Officer (EMLO) is not entirely clear. In addition, a Frontex LO will be deployed in the near future. The multiplicity of actors blurs the overview of actors involved and their responsibilities. In addition, the variety of actors has a confusing effect on third-country officials when deciding who they should talk to. To have efficient cooperation, clarity of actors should be established.

Alongside the establishment of mutual trust, capacity development and a clarification of actors, what lessons can be learned from bilateral cooperation models to improve the cooperation at EU level? The cooperation between Senegal and France and Senegal and Spain features a number of elements that differ significantly from the approach the EU maintains in third-country cooperation. The cooperation at bilateral level between these countries is based on mutual recognition. For example, coastguard teams patrolling the Senegalese maritime border consist of Spanish and Senegalese coastguards. This is not a new phenomenon, but was considered of high importance by interlocutors. Also, a regular exchange of personnel between the Spanish and Senegalese coastguard offices

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32 For Senegal, the legal distinction between human smuggling and human trafficking has been made fairly recently. This has led to judges being more familiar with general application of the *Code Pénal* than with the specific laws on human trafficking and human smuggling.

33 Within the partnership framework on migration, Senegal was developing a national migration strategy. However, the document could not be shared with researchers during the field work. Expectations regarding its value on behalf of the interlocutors were low.

was taking place. France frequently conducts high-level visits to the country, to maintain a continuous dialogue with Senegal. Coordinated visitations on a regular basis show acknowledgement and willingness to invest in sustainable cooperation with the country concerned. Both types of cooperation entail a multidisciplinary approach. Cooperation also entails economic development, support to improve democratic governance and institutional development, for example.[34] The EU may be active in these fields as well, but activities are not coordinated and are not brought together within the migration framework. In addition, due to its political sensitivity, most of the cooperation between the countries takes place behind closed doors. The need to publish results may be beneficial for transparency guarantees, but may adversely affect the fragile dialogue being conducted between actors.

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34 Regarding Spain: AECID (2013), Cadre d'association pays Espagne-Sénégal https://aecid-senegal.sn/en/?wpfb_dl=90; For France: https://www.diplomatie.gouv.fr/en/country-files/senegal/france-and-senegal/; Décret no. 2009-1073 du 26 août 2009, *portant publication de l'accord entre le Gouvernement de la République française et le Gouvernement de la République du Sénégal relative à la gestion concertée des flux migratoires.*

Conclusions

This report has elaborated on challenges in the comprehensive approach to migration and has explored means to improve migration cooperation within the EU and between the EU and its Member States. Figure 2 illustrates that improvement in implementation of all building blocks of the Valletta Action plan is required. Based on the above findings, the following policy options should be considered to improve the implementation of a truly comprehensive approach to migration.

Dublin reform

The European Union should determine how it wants to cope with the countries opposing the reallocation of asylum-seekers across the EU. Although political reality shows an increase in conservative, nationalist parties as ruling partners in Member States, this shift in dynamics does not have to be an insuperable burden. Radical reform of the Dublin Regulation is required. As illustrated by the Wikström report, moving away from the traditional set of criteria alleviates the burden on Member States on the EU's southern external border. The definition of solidarity should be codified, in order to clarify obligations of Member States in this respect. As illustrated by Figure 1, failure to reach consensus within the EU puts at risk the credibility of the EU in its external relations.

Irregular migration? Legal pathways!

Irregular migration will not decrease without the establishment of legal migration pathways. This report has elaborated on labour migration and enhancement of humanitarian corridors to provide safe and regular routes to the EU. It has advocated learning from successful cooperation established at bilateral or municipal level. Overall, entering into agreements with third countries is a two-way street, where both parties have to implement their commitments. Without Member State pledges in resettlement schemes and commitments on other legal pathways, no alternatives to irregular migration will be forthcoming.

Third-country relationships based on mutual trust

As illustrated above, agreements with third countries entail obligations for both parties. A constructive dialogue based on mutual trust fosters compliance with these obligations. Both parties should acknowledge and address each other's uncertainties and concerns to better match policy priorities in the dialogue. Second, capacity in third countries to develop a coherent migration strategy should be enhanced. Third, relevant actors

and their responsibilities should be clearly established. A multiplicity of actors hampers coordination of efforts. Introduction of new actors and policy initiatives is counterproductive. Existing mechanisms should be optimally implemented and coherence of actions and local ownership should be ensured throughout the process. The mushrooming of liaison officers in countries outside the EU effectively opposes the idea that cooperation within the EU partnership framework on migration should be based on the expertise of Member States that have long-standing relationships with a particular country. Most importantly, cooperation with third countries should comply with the standards as secured in international refugee law, respecting human rights and the dignity of the person.

Annex 1: Glossary

Migrant	Someone who changes his or her country (region) of habitual residence, irrespective of (1) his or her legal status, (2) whether the movement is voluntary or involuntary, (3) what the causes of the movement are or (4) the duration of stay.
Economic migrant	Umbrella term for people who move from one country to another to advance their economic well-being and professional prospects.
Asylum-seeker	General designation for someone who is seeking international protection. An asylum-seeker is someone who is seeking international protection abroad, including those who may not qualify as refugees but whose personal circumstances may require international protection on a temporary or longer-term basis.
Refugee	A person who, owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, unwilling to avail himself or herself of the protection of that country, as defined in the 1951 Convention and Protocol relating to the Status of Refugees. Based on the reasons cited above, a refugee is forced to seek international protection.
Refugee status	The international protection status granted to refugees, according to the definition of the 1951 Refugee Convention.
International protection	The need for international protection arises when a person is outside his or her country of habitual residence and is unable to return home because he or she would be at risk there, and his or her country is unable or unwilling to protect him or her. Reasons for the need for international protection include, but are not limited to: persecution, threats to life, natural or man-made disasters.
Mixed migration	A complex population movement including refugees, asylum-seekers, migrants, victims of trafficking, unaccompanied minors and stateless persons.
Irregular migration	Movement that takes place outside the regulatory norms of the sending, transit and receiving countries.
Resettlement	Resettlement under the auspices of UNHCR involves the selection and transfer of refugees from a State in which they have sought protection to a third State that has agreed to admit them and to ultimately grant them permanent settlement. UNHCR applies submission categories for resettlement that must be met by the applicant, e.g. women, girls, adolescents or children at risk, legal or physical protection needs, survivors of violence and/or torture. These categories may overlap and should be viewed as inclusive.

Legal pathways	Legal avenues, as opposed to irregular arrivals, from a third country to the country of destination. Legal pathways are often viewed as an important objective to counter irregular migration. From a European perspective, examples of legal avenues include scholarship opportunities for students and researchers, work permits issued based on the EU Blue Card system, seasonal work opportunities, resettlement schemes and humanitarian corridors. Legal pathways can hence be designed for both refugees and economic migrants.
Return and Readmission	Refers to the procedure whereby a person who has received a negative decision on the asylum application, or any other non-national residing illegally on a country's territory, must leave the country and return to his or her country of origin or former country of habitual residence. There is a difference between voluntary and forced return. Readmission refers to the act of authorities of the country of origin taking back persons who were irregularly residing on EU territory.