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Towards mutually beneficial EU-West African migration cooperation?

Assessing EU policy trends and their implications for migration cooperation

This policy brief assesses the extent to which policy trends in the EU external migration governance framework, as put forward in the New Pact on Migration and Asylum and the new EU Multiannual Financial Framework for 2021-2027, match the Union's commitment to building a mutually beneficial partnership with third countries. This question will be assessed by drawing on EU migration cooperation with West African states. It finds that the rhetoric of a mutually beneficial relationship and a paradigm shift is not demonstrated in the New Pact. The analysis of the budget further highlights that migration funding has a prominent place within the new proposed long-term EU budget and seems to consolidate the approach adopted in recent years rather than signaling a paradigm shift.

Introduction

This policy brief assesses the extent to which policy trends in the EU external migration governance framework, as put forward in the New Pact on Migration and Asylum and the new EU Multiannual Financial Framework for 2021-2027, match the Union's commitment to building a mutually beneficial partnership with third countries.¹ This question will be assessed by drawing on EU migration cooperation with West African states.

The commitment towards building a mutually beneficial partnership was expressed in the EU Africa Strategy adopted earlier this year. The strategy stated that cooperation on migration would be shaped by a 'balanced, coherent and comprehensive approach to migration, guided by the principles of solidarity, partnership and shared responsibility and based on the respect of human rights and international law'². In a similar vein, the

1 We would like to thank Dr. Franzisca Zanker and Prof. Dr. Sergio Carrera for their comments on earlier versions of this brief. All errors remain our own.

2 European Commission. 2020. *Joint Communication to the European Parliament and the Council Towards a Comprehensive Strategy with Africa*. p. 15.

communication on the New Pact stressed that it signals a ‘change of paradigm’ in regard to cooperation with third states, with the aim of ‘deepening, broadening and consolidating the trust already built’. According to the New Pact, partnerships with third countries could deliver ‘mutual benefits’³.

West African states are central to EU external migration cooperation. Following the launch of the 2016 New Partnership Framework (NPF),⁴ four out of five priority countries for EU migration cooperation were in West Africa. The importance granted to West African countries stems from European interest in enhancing cooperation on return and readmission⁵ as well as the high number of irregular arrivals from West African countries.⁶

The EU’s external dimension has centred around restrictive and preventive measures. Restrictive measures entail, for example, projects focused on fighting smuggling, building border capacity and cooperating on return. Preventive measures include development projects aimed at tackling the root causes of migration as well as building migration governance in third states. At a more fundamental level this has

led to a paradox that marks West African migration policy making. On the one hand, EU and West African states’ interests diverge strongly on many issues related to migration, most importantly on questions of return and readmission. On the other hand, most national migration and institution building in the region is driven by European financial and technical support.

Against this backdrop, this policy brief will first assess the domestic and regional stakes for West African countries in the emerging policy trends inherent in EU external migration policy. It will show that the rhetoric of a mutually beneficial relationship and a paradigm shift is not demonstrated in the actual policy content. While the stakes of migration cooperation remain high for West African states, non-cooperation is more costly, due to enhanced conditionality. Further, continuing with an approach tackling root causes risks curtailing ownership of development processes. A limited commitment to legal pathways reflects the fact that a key demand from West African actors continues to be granted only marginal importance. Lastly, analysis of the new budget shows that migration funding has a prominent place within the new proposed long-term EU budget and seems to consolidate the approach adopted in recent years rather than signalling a paradigm shift.

Policy trends and consequences for West African states

The political stakes of migration cooperation at domestic, regional and international levels are crucial when assessing the potential of West African states to establish mutually beneficial relations with the EU. This section discusses the political and social stakes of four key policy trends derived from the New Pact on Asylum and Migration and the budget proposals currently under discussion. The trends include:

- further consolidation of the ‘root causes approach’ and the question of ownership over development priorities

3 European Commission. 2020. *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum*. p. 17.

4 West African countries’ importance in the field of migration had already been reflected in the EU’s first comprehensive framework to govern migration cooperation with third countries, the 2005 Global Approach to Mobility (GAM). See Vives, L. 2017. ‘The European Union–West African Sea Border: Anti-Immigration Strategies and Territoriality’, *European Urban and Regional Studies*, 24:2, p. 209–24; Casas-Cortes, M., Cobarrubias, S., Pickles, J. 2013. ‘Re-Bordering the Neighbourhood: Europe’s Emerging Geographies of Non-Accession Integration’, *European Urban and Regional Studies*, 20:1. p. 37–58.

5 Zanker, F. 2019. ‘Challenges in EU–African Migration Cooperation: West African Perspectives on Forced Return’, Kiel: MEDAM.

6 *Nationality of arrival to Greece, Italy and Spain – monthly – Jan to Dec 2016*, UNHCR.

- stronger mandates for EU involvement in migration control operations “in third states” and West African concerns over sovereignty and the decreasing scope to which policies can be adapted to realities on the ground
- the enhanced use of return conditionality and the high social and political costs of return cooperation for West African states
- the insufficient commitment to safe and legal pathways, a key concern of West African governments.

Overall, migration in the West African context is, as opposed to the European context, not generally considered a politicised issue nor a political priority.⁷ Instead, mobility and migration constitute a normal part of life in many West African societies⁸ and are governed by both formal and informal rules.⁹ Some West African states, such as Senegal and Nigeria, have enshrined the right to migrate in their constitutions.¹⁰ At regional level, the Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (WAEMU) establish and partially implement the rights to movement, residence and establishment. A large proportion of West

African migration is intra-regional¹¹ and most border zones are marked by frequent intercommunal cross-border mobility.¹² The mismatch of European migration programming with realities on the ground has often resulted in projects having adverse and unintended effects. In Niger, for instance, the EU supported implementation of the 2015 anti-smuggling law, which led to an upset in the political economy in the north of the country. This resulted in not only short-term economic losses for those involved in the transport of migrants but also negative economic effects on the wider economy of the north, creating concerns over regional stability.¹³ In addition, such policies have led to more dangerous routes for migrants and more extortion at border crossings, in effect creating an environment in which protection of migrants and respect for their human rights is hard to uphold.¹⁴ Lastly, the negative effects of some EU migration programming have put a strain on regional integration, a key driver of economic development in the region.¹⁵

European–West African migration cooperation is unlikely to be mutually beneficial without consideration of such

7 Lücke, M., Diez, O., Jegen, L., Zanker, F. 2020. *European and African Perspectives on Asylum and Migration Policy: Seeking Common Ground*, Kiel: MEDAM.; Jegen, L., Zanker, F., Arhin-Sam, K., Bisong, A. 2020. *Free Movement in West Africa: Juxtapositions and Divergent Interests*, Kiel: MEDAM.; Adam, I., Trauner, K., Jegen, L., Roos, C. 2019. *West African Interests in (EU) Migration Policy*, Brugge: UNU-CRIS.

8 Lücke, M., Diez, O., Jegen, L., Zanker, F. 2020. *European and African Perspectives on Asylum and Migration Policy: Seeking Common Ground*, Kiel: MEDAM.

9 Jegen, L., Zanker, F., Arhin-Sam, K., Bisong, A. 2020. *Free Movement in West Africa: Juxtapositions and Divergent Interests*, Kiel: MEDAM.

10 Arhin-Sam, K. 2019. *The Political Economy of Migration Governance in Nigeria*, Freiburg: MEDAM, Arnold Bergstraesser Institute and Mercator Foundation.; Jegen, L. 2020. *The Political Economy of Migration Governance in Senegal*, Freiburg: MEDAM, Arnold Bergstraesser Institute and Mercator Foundation.

11 Adepoju, A. 2009. 'Migration Management in West Africa within the Context of ECOWAS Protocol on Free Movement of Persons and the Common Approach on Migration: Challenges and Prospects', *Regional challenges of West African migration: African and European Perspectives*, Paris: OECD. p. 17-47.

12 Jegen, L., Zanker, F., Arhin-Sam, K., Bisong, A. 2020. *Free Movement in West Africa: Juxtapositions and Divergent Interests*, Kiel: MEDAM.

13 Molenaar, F., Ursu, A., Ayoub Tinni, B., Hoffmann, A., Meester, J. 2017. *A line in the Sand: Roadmap for sustainable migration management in Agadez*, The Hague: Clingendael Institute.

14 OHCHR. 2018. *End of mission statement of the UN Special Rapporteur on the human rights of migrants, Felipe González Morales, on his visit to Niger (1-8 October)*.

15 Jegen, L. 2020. *The Political Economy of Migration Governance in Senegal*, Freiburg: MEDAM, Arnold Bergstraesser Institute and Mercator Foundation.; Cleas, J., Schmauder, A. 2020. *When the Dust Settles, Economic and governance repercussions of migration policies in Niger's north*, The Hague: Clingendael Institute.

local realities, and political and social stakes. When examining recent policy proposals, several trends become apparent that put into question the extent to which proposals on the table effectively constitute the announced paradigm shift leading to the ‘deepening, broadening and consolidating’ of trust.

Trend 1: Further institutionalisation of the root causes approach

Addressing the root causes of migration will remain a key component of the EU’s external migration programming, as reflected in the New Pact, which states that development assistance will ‘help people feel that their future lies at home’.¹⁶ The root causes approach is equally present in the external migration dimensions of the new Multiannual Financial Framework (MFF). As the last section of this brief will outline in more detail, 10% of the EU’s external action is expected to be dedicated to migration programming, one priority of which will be tackling the root causes of irregular migration and forced displacement.

The consolidation of the root causes approach raises the question of local ownership of development priorities, as enshrined in the Sustainable Development Goals (SDGs). Numerous studies have pointed to lack of ownership at local level in areas where EU-funded migration programming has been in place over the last few years.¹⁷ This contributes to the risk of undermining a development agenda

according to which the primary objective of EU development cooperation must be the reduction of poverty (Article 208 TFEU).¹⁸ Applied in a context of aid dependency, root causes projects have in the past borne the potential to employ aid conditionality. In Niger for example, external donors constituted a major source of the total state budget in 2016, when EU member states contributed 25% of the state budget and 20% was covered by other external support.¹⁹ On the one hand, the European Union Trust Fund (EUTF) is an additional funding opportunity often perceived as a potential income source; on the other hand, the political nature of EUTF funding has been decried by West African government officials.²⁰ In Senegal, for example, concerns over an implicit return agenda and sovereignty temporarily stalled a project to modernise biometric databases.²¹ In a context of economic asymmetries, using development aid to further European migration priorities carries the risk of reducing ownership over development priorities and inserting policy priorities that do not resonate with key challenges on the ground.

Trend 2: Stronger mandates for EU involvement in migration control operations in West Africa

The New Pact consolidates the trend of reinforcing the operational mandates of European actors in third countries. This includes an emphasis on strengthening direct on-the-ground involvement by European police officers in anti-smuggling investigations through both Joint Investigative

16 European Commission. 2020. *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee Of the Regions on a new Pact on Migration and Asylum*, September. p. 20.

17 Jegen, L., Zanker, F. 2019. *European dominance of migration policy in Niger “On a fait les filles avant la mère”*, Kiel: MEDAM.; Raty, T., Shilhav, R. 2020. *The EU Trust Fund for Africa: Trapped between Aid Policy and Migration Politics*, Nairobi: Oxfam.; Guerry, O., Stocchier, A. 2020. *Partnership or Conditionality: Monitoring the Migration Compacts and EU Trust Fund for Africa*, Brussels: CONCORD.

18 Bisong, A. 2020. *The impact of EU external migration policies on sustainable development: A review of the evidence from West, North and the Horn of Africa*, Brussels, Friedrich Ebert Stiftung and Caritas Europe, p. 3.

19 EEAS. 2016. *Niger and the EU*, May.

20 Adam, I., Trauner, F., Jegen, L., Roos, C. 2020. ‘West African interests in (EU) migration policy. Balancing domestic priorities with external incentives’. *Journal of Ethnic and Migration Studies*, p. 1-18.

21 Jegen, L. 2019. *The Political Economy of Migration Governance in Niger*, Freiburg: Arnold Bergstraesser Institute.

Teams as well as Common Operational Partnerships. Joint Investigative Teams (JITs) have been working in Niger since 2017 and allow for direct involvement of European police officers in human smuggling investigations.²² Meanwhile, the role of European police officers under Common Operational Partnerships, as set up in Senegal in 2018, is more indirect, as they officially hold only a supporting role.²³ In this regard it is noteworthy that a Frontex Status Agreement that would extend the operational mandate of the European Border and Coast Guard Agency (EBCG) under the ongoing Frontex mission Hera, has been the subject of negotiation between the EU and Senegal since 2018.²⁴ Additionally, the EBCG is expected to play a bigger role in reintegration, as will be further refined in the forthcoming strategy for voluntary return and reintegration.

Expanding the operational mandates of European actors on the ground could diminish the scope for policies to be adapted to local contexts by West African actors. Research has shown that in a context where formal and informal rules govern mobility, legal reforms such as Niger's 2015 law on migrant smuggling will be reinterpreted by actors on the ground.²⁵ Further, in Senegal, setting up Common Operational Partnerships led to significant concerns over sovereignty.²⁶

Similar concerns by other West African states are likely to arise if these legal reforms become a central element of cooperation. Additionally, the planned Frontex involvement in reintegration may contribute to the image of external actors taking over tasks of West African ministries – and being self-serving.²⁷

Trend 3: Institutionalising conditionality to increase return leverage

Return has long been a problematic issue between West African states and the EU.²⁸ Negative and positive incentives and aid conditionality have been used as leverage by the EU in migration cooperation with West Africa. While the general emphasis on conditionality is not new – first attempts to introduce conditionality date back to the late 1990s²⁹ – the New Pact proposes for the first time to institutionalise the approach.

The New Pact reiterates a form of direct conditionality via annual visa assessments carried out by the European Commission in line with the EU Visa Code. By means of this assessment, the Commission can 'propose to apply restrictive visa measures and, in case of good cooperation, propose favourable visa measures'.³⁰ In addition,

22 Euro EUTF. 2017. *Création d'une Equipe Conjointe d'Investigation (ECI) Pour La Lutte Contre Les Réseaux Criminels Liés à l'immigration Irrégulière, La Traite Des Êtres Humains et Le Trafic Des Migrants*, June.

23 European Commission. 2018. *Partenariat Opérationnel Conjoint (POC) de lutte contre l'immigration irrégulière, la traite et le trafic de migrants au Sénégal*.

24 Frontex. 2020. *Annual Report on the Practical Application of Regulation (EU) No 656/2014 Establishing Rules for the Surveillance of the External Sea Borders in the Context of Operational Cooperation Coordinated by Frontex*, February.

25 Raineri, L. 2018. 'Human Smuggling across Niger: State-Sponsored Protection Rackets and Contradictory Security Imperatives', *The Journal of Modern African Studies*, 56:1. p. 63–86.

26 Jegen, L. 2020. *The Political Economy of Migration Governance in Senegal*, Freiburg: MEDAM, Arnold Bergstraesser Institute and Mercator Foundation.

27 Trauner, F., Jegen, L., Adam, I. and Roos, C. 2019. *The International Organization for Migration in West Africa: Why its role is getting more contested*, Brugge: UNU-CRIS.

28 Adam, I., Trauner, K., Jegen, L., Roos, C. 2019. *West African Interests in (EU) Migration Policy*, Brugge: UNU-CRIS.; Mouthaan, M. 2019. 'Unpacking Domestic Preferences in the Policy-“Receiving” State: The EU's Migration Cooperation with Senegal and Ghana', *Comparative Migration Studies*, 7:1. p. 35.

29 Cortinovis, R., Conte, C. 2018. *Migration-Related Conditionality in EU External Funding*, Brussels: RESOMA.

30 Note: For countries which already hold visa free entry to the Schengen zone, the new Pact foresees the introduction of a visa suspension mechanism in case of high rates of 'visa abuse'. European Commission. 2020. *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum*. p. 21.

building on previous proposals³¹ the Pact and its proposed Asylum and Migration Management Regulation (RAMM) proposes a mechanism that will foster leverage applied through the integration of diverse policy areas in European migration diplomacy. This proposed mechanism will include a Commission analysis which could suggest measures towards a specific third country in case of insufficient return cooperation. The measures allow for an overall consideration of the Union's relations with the country concerned, and they will be implemented upon agreement between the Commission and the Council.³² This is very much congruent with the proposed regulation for a new Neighbourhood, Development and International Cooperation Instrument (NDICI) which explicitly points to the need to maximise synergies and apply the necessary leverage through the external funding instrument. Additionally, the regulation to establish the Asylum and Migration Fund (AMIF) further cements the importance granted to applying conditionality. Its potential as a political tool is clearly elaborated: 'It is clear that the adoption of measures and the pooling of resources at EU level will increase significantly the leverage that the EU needs to persuade third countries to engage with it on those migration related issues that are primarily in the interest of the EU and the Member States.'³³

The strengthened return conditionality, if applied, is likely to result in more pressure on West African governments to meet European return interests and carries the risk of growing informalisation of return cooperation, diminished trust in governments and adverse effects on household incomes.

The growing pressure paired with the high political and social stakes of return may lead to a growing informalisation of return agreements. This means that they are concluded beyond the scrutiny of parliaments – both in Europe and West Africa – and often remain opaque to the wider public.³⁴ Indeed, West African actors stressed that informal agreements constitute a means to navigate conflicting domestic and international agendas.³⁵ The trend towards informalisation of such agreements could result in less accountability and legitimacy of West African governments. For example, return cooperation in The Gambia has been a topic with serious political implications. Following the democratic transition in 2017, development assistance became crucial support for the government and more than doubled in 2017. Shortly afterwards, the EU and The Gambia concluded a non-binding 'good practice' agreement on forced returns. The way returns have been carried out under the agreement has since been politically contested and has negatively affected the legitimacy of the government.³⁶

31 European Commission. 2015. *European Agenda on Migration*, May; European Commission. 2016. *Commission Announces New Migration Partnership Framework: Reinforced Cooperation with Third Countries to Better Manage Migration*.

32 European Commission. 2020. *Proposal for a regulation of the European Parliament and of the Council on Asylum and Migration Management and amending Council Directive (EC) 2003/109 and the proposed Regulation (EU) XXX/XXX [Asylum and Migration Fund]*, September. Art. 7, Para. 3-4.

33 More implicitly, conditionality will be strengthened through the proposed 'return sponsorship'. This mechanism will allow EU member states to execute deportations on behalf of each other. This, according to the proposed RAMM, entails leading return negotiations with third states, obtaining valid identification documents as well as organising practical arrangement on return. Such an approach has the potential to significantly enhance leverage of European actors, as bilateral

relations towards third states vary significantly and are in many cases crucial to achieving readmission interest. On the other hand, it is questionable whether those European states with good relations with West African countries would be willing to execute 'return sponsorship schemes'.

34 Cassarino, J. 2007. 'Informalising Readmission Agreements in the EU Neighbourhood', *The International Spectator*, 42:2. p. 179–96.

35 Adam, I., Trauner, F., Jegen, L., Roos, C. 2020. 'West African interests in (EU) migration policy. Balancing domestic priorities with external incentives'. *Journal of Ethnic and Migration Studies*, p. 1-18.

36 Altrogge, J., Zanker, F. 2019. *The Political Economy of Migration Governance in the Gambia*, Freiburg: MEDAM.; Jegen, L., Zanker, F., Arhin-Sam, K., Bisong, A. 2020. *Free Movement in West Africa: Juxtapositions and Divergent Interests*, Kiel: MEDAM.

For West African states, remittances help to reduce poverty, as they significantly contribute to the livelihoods of many households. Remittances are thus important elements in discussions on return conditionality.³⁷ In some West African countries, for example Senegal and Nigeria, personal remittances outweigh overseas development assistance as a contribution to GDP.³⁸ In Senegal, remittance flows have proven to be less volatile in times of economic downturn than Foreign Direct Investment and export revenues.³⁹ This shows the sensitivity of successful return conditionality both on a societal and political level. On a societal level, forced return often means losing an important income source. On a political level, this question has become a sensitive issue in, for example, The Gambia and during the electoral period in Senegal.⁴⁰ As summarised by a Nigerian civil society actor quoted by Arhim-Sam,⁴¹ ‘bringing many Nigerians back without anything to offer them may lead to a social crisis, a rise in crime, and a social breakdown and sense of the government siding with the EU’.

Besides these stakes related to return, consolidating the so-called comprehensive approach to migration and its institutionalisation through yearly Commission evaluations results in return interests dominating relations to third countries. Enhancing EU-West African migration cooperation on European terms bears the risk of failing to take West African political and social stakes into account and leaves little room for a truly mutually beneficial partnership.

Trend 4: A strengthened commitment to safe and legal pathways?

The New Pact puts forward a commitment to the opening of safe and legal pathways, stating that this could go hand in hand with a reduction of irregular migration to Europe. It proposes the launch of a Talent Partnership that would provide a framework to combine EU and member states tools on labour migration. The Talent Partnership aims to, first, contribute to better matching migration from third states with EU labour and skills needs and, second, to more strategically engage with partner countries on migration. Additionally, the New Pact stresses the importance of finalising the EU Blue Card Directive in order to facilitate high-skilled migration.

While the opening of legal pathways has been a key demand of West African governments,⁴² the extent to which current proposals take this demand into consideration remains insufficient as such pathways imply a strong focus on labour market needs. Member states’ projects, such as Spanish attempts to open legal pathways in 2016 and 2019 to Senegalese citizens, have often not made it beyond their pilot phase. Further, projects like the Nigerian-German Centre for Jobs, Migration and Reintegration

37 Clemens, M. 2014. ‘Does Development Reduce Migration?’, *International Handbook on Migration and Economic Development*, ed. Lucas, R. Cheltenham: Edward Elgar Publishing. p. 152-85.

38 Numbers for 2017 as quoted in Zanker, F., Altrogge, J., Arhim-Sam, K. and Jegen, L. 2020. *Challenges in EU-African Migration Cooperation: West African Perspectives on Forced Return*. Freiburg: MEDAM.

39 Cisse, F. 2011. ‘Senegal’, *Remittance Markets in Africa*, ed. Mohapatra, S., Dilip, R. Washington: The International Bank for Reconstruction and Development.

40 Mouthaan, M. 2019. ‘Unpacking Domestic Preferences in the Policy-“Receiving” State: The EU’s Migration Cooperation with Senegal and Ghana’, *Comparative Migration Studies*, 7:1.; Jegen, L. 2020. *The Political Economy of Migration Governance in Senegal*, Freiburg: MEDAM, Arnold Bergstraesser Institute and Mercator Foundation.; Altrogge, J. and Zanker, F. 2019. *The Political Economy of Migration Governance in the Gambia*, Freiburg, Arnold Bergstraesser Institute.

41 Arhim-Sam, K. 2019. *The Political Economy of Migration Governance in Nigeria*, Freiburg: MEDAM, Arnold Bergstraesser Institute and Mercator Foundation.

42 Adam, I., Trauner, F., Jegen, L., Roos, C. 2020. ‘West African interests in (EU) migration policy. Balancing domestic priorities with external incentives’. *Journal of Ethnic and Migration Studies*, p. 1-18.

that offers training to access the German job market – despite the chances of accessing the job market being zero to none – result in a sense of ‘unfilled promise’.⁴³ Marginalising West African governments’ demands for legal migration in future cooperation reflects the dominance of European interests in migration cooperation and further puts into question the possibility of working towards mutually beneficial migration cooperation.

Drawing on the policies outlined in the New Pact on Asylum and Migration there are few indications that a paradigm shift towards mutually beneficial migration cooperation is likely to occur in the coming years. The next section will examine the budgetary proposals currently on the table and how far they leave scope for such a shift to take place.

The EU budget for external migration programming

Having outlined the policy trends, a closer consideration of the latest budget proposals shows how the pillars of the EU’s external migration cooperation are further consolidated through its proposed funding infrastructure, and how concerns for a balanced and mutual beneficial partnership derive from this. The European Commission put forward a revised proposal for its new long-term budget in May 2020. An agreement at Council level in July fixed total spending for 2021–2027 at €1,074.3 billion. The proposal is currently under discussion and is expected to be formally adopted by the end of 2020. From an analysis of the proposed 2021–2027 Multiannual Financial Framework (MFF) several observations can be made on where and how the EU intends to set aside funds for migration programming in its budget.

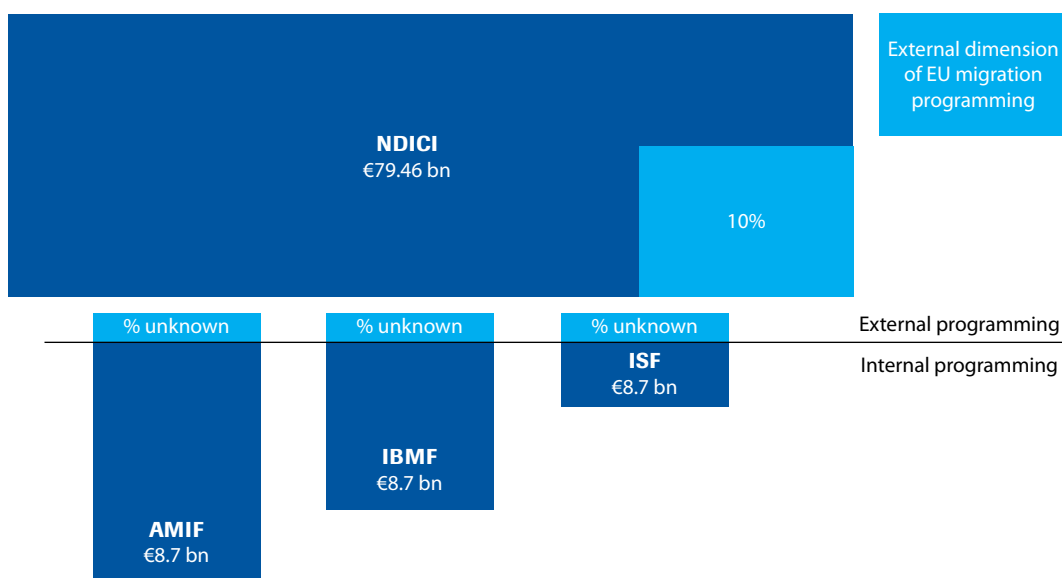
A first observation is that the amount set aside for external migration programming is very high and funds can be sourced from a wide variety of funding instruments. Migration is set to become an institutionalised policy priority for EU external action, funded primarily through the new Neighbourhood, Development and International Cooperation Instrument (NDICI). The NDICI is a newly created funding mechanism that combines several external funding instruments, with the ambition of streamlining funding on external affairs.⁴⁴ The amount agreed upon for NDICI during the July Council negotiations is €79.46 billion. While budgetary details about the exact breakdown of spending under NDICI are not yet known, insights into funding priorities can be drawn based on the prior Commission proposal. The instrument will have a geographic component, a thematic component and a rapid response component. The geographic component is by far the largest part of NDICI; it contains over 75% of the total NDICI budget as per the Commission proposal. Sub-Saharan Africa will receive the largest part of the geographic funds, with the most recent Commission proposal reserving 47% for the region.⁴⁵ The Commission has indicated that 10% of NDICI, including all three components, is expected to be dedicated to migration programming, covering root causes and forced displacement, and strengthening migration governance. Based on the July agreement this would translate to nearly €8bn reserved for migration spending under NDICI alone.

In addition to NDICI, several EU internal funding instruments with a specific migration focus will be able to implement programmes outside the EU borders. The Integrated Border Management Fund (IBMF) for instance, budgeted at €5.5bn, as well as the Asylum and Migration Fund (AMIF), budgeted at €8.7bn are both open to

43 Arhin-Sam, K. 2019. *The Political Economy of Migration Governance in Nigeria*, Freiburg: MEDAM, Arnold Bergstraesser Institute and Mercator Foundation. p. 29.

44 The NDICI instrument will shelter the former EDF, ENI, DCI, EIDHR, IcSP, PI, and Guarantee Fund. Continuing to operate separately from this new mega instrument will be the IPA, CFSP, humanitarian aid, OCTs and EINs.

45 The exact percentage breakdown of the July budget agreement is not yet known. Calculations are therefore based on the May 2020 Commission proposal.



external programming in third countries.⁴⁶ Worth mentioning as well is the Internal Security Fund (ISF), budgeted at €2.5bn, which is primarily geared towards tackling organised crime and security threats. The fund’s proposal includes an external component geared towards tackling migrant smuggling.⁴⁷ There are thus a variety of funding instruments available to implement programming in third countries.

The combination of external and internal funds for external migration programming carries the risk of blurring foreign and domestic policy objectives, which raises questions in regard to policy coherence.⁴⁸ Domestic considerations driven by migration control prerogatives have the potential to dominate EU foreign policy and development priorities that are based, at least on paper, on eradicating poverty and fostering stability and respect for human rights. Such longer-term objectives do not resonate well with a shorter-term ambition of restricting

northward mobility and are unlikely to take into account the concerns of third countries, as outlined in the first part of this brief.

A second observation is the flexibility built into funding instruments. Funds in the EU budget that can be used for external migration programming include large amounts of non-allocated funds that can be used in a flexible manner. NDICI for instance holds a €3bn ‘global challenges’ header that remains largely unspecified and can be used for, among other things, migration programming. This is on top of the fund’s €4bn rapid response pillar, which is inherently flexible in nature and could be used for so-called migration emergencies. But flexibility is apparent not only in the NDICI; internal funds open to third country programming showcase a similar tendency towards non-allocated, and thus adjustable, funding. Forty percent of AMIF, IBMF and ISF funds are sheltered in so-called ‘thematic facilities’ which provide flexible funding for emerging priorities as opposed to the remaining 60% channelled to fixed national programmes.⁴⁹ Flexible funding is not inherently problematic. It represents a willingness to be able to respond to emerging issues that are impossible to foresee in a budget with a 7-year horizon.

46 The extent to which these funding instruments can be used externally is not clarified in their proposed regulations.

47 ISF funding has in the past been used to provide assistance to the Libyan Coast Guard.

48 Bisong, A., 2020. *The impact of EU external migration policies on sustainable development: A review of the evidence from West, North and the Horn of Africa*. Brussels, Friedrich Ebert Stiftung and Caritas Europe.

49 Knoll, A., Veron, P. 2019. *Migration and the next EU long-term budget*, Maastricht, ECDPM.

This type of funding does, however, come with a challenge: funds might be directed to issues receiving the most political attention, for example migration, at the expense of other policy priorities.

It is in this regard that a third observation can be made. In contrast to the many references to migration, other topics receive much less attention in EU external action budgets. In the case of NDICI, sheltering a wide variety of funding instruments under one streamlined instrument built on pillars of root causes and securitised approaches raises the question of prioritisation.⁵⁰ Most notably, the Human Rights Instrument (EIDHR) will cease to exist in the next budgetary cycle and human rights programming will now be integrated into the thematic component of NDICI. While exact numbers are not known at this stage, earlier proposals suggest that human rights issues will see a modest decline in funding compared to the previous MFF.⁵¹ This means that human rights issues lose their prominence within the overall external action of the EU and become less visible and slightly less funded. In a similar fashion, the Instrument contributing to Stability and Peace (IcSP) will cease to exist as a standalone instrument and will instead be absorbed into the thematic component of NDICI, where the funding allocated to it will be significantly lower than the funding made

available to IcSP at its inception.⁵² Once again, streamlining several instruments into one larger instrument is not a problem as such. It does risk, however, certain policy areas becoming less visible and ultimately less well funded while they remain rhetorically high on the EU's external action agenda.

This brings us to the fourth and last observation, which relates to the question of oversight. A welcome change in the new budget is that the European Parliament will have oversight over external funds, the lack of which was a source of contention throughout the last budgetary cycle.⁵³ Under the current plans, however, oversight for internal funding mechanisms will principally lie with internal Committees in the EP (such as, for instance, the Committee on Civil Liberties, Justice and Home Affairs), whereas oversight over NDICI is likely to lie mainly within the Committee on Foreign Affairs (AFET) and the Committee on Development (DEVE). Overseeing programming in third countries financed through internal funding instruments thus risks fragmenting the scrutiny of external migration policies as a whole.

While budgetary discussions are still ongoing these observations show a picture in which the amount of funding available to migration is very high, and comes from a range of funding instruments that have a high level of flexibility built into them. This budgetary setup again puts the feasibility of a paradigm shift into question. It rather demonstrates an ambition to further consolidate an external migration governance based more on continuity of its

50 For further reading on the concerns about prioritisation and concerns about overbudgeting on migration matters in the new MFF see ECRE. 2019. *Outspending on migration? ECRE's analysis and recommendations on funding for migration outside the EU to inform the negotiations of the next EU multi-annual financial framework 2021-2027*, May.; CONCORD. 2019. *Recommendations on the NDICI migration spending target*, September.; Berger, A. 2019. *The Nexus between Migration and Development in EU External Action: No Quick Fix*, Ixelles: Institute for European Studies.

51 In the original Commission proposal, 21% of the thematic envelope are dedicated to human rights, which, extrapolated to the numbers that were released following the July 2020 summit – where € 6.3 was allocated to the thematic envelope would mean € 1.323 billion for the period 2021-2027. The period 2014-2020 saw € 1.332 billion dedicated to human rights.

52 Funding for stability and peace under NDICI's thematic component is in the current, non-definitive version of the MFF projected at €1 bn whereas funding for IcSP in 2014 was fixed at €2.3 bn. See European Parliament. 2020. *Proposal for a regulation of the EP and the Council establishing the neighbourhood, development and international cooperation instrument*, September.; European Commission. 2014. *Regulation (EU) no 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace*, March.

53 The EUTF for instance operated largely without oversight. See Kipp, D. 2018. *From Exception to Rule – the EU Trust Fund for Africa*, Berlin: Stiftung Wissenschaft und Politik.

policies of the past few years rather than on seeking the mutually beneficial relationship it advances rhetorically.

Conclusion

This policy brief shows that in the case of West African states, recent EU policy and budgetary proposals fall short on matching the EU rhetoric of moving towards a mutually beneficial partnership in the field of migration cooperation. Instead, recent developments indicate a continuation and consolidation of policies that have shaped EU external migration governance in recent years. The policy trends outlined in the first part of this brief have shown that current thinking is geared more towards consolidation than the publicly announced paradigm shift. Notably, consolidation of the root causes approach and a greater role for the EU in migration control operations in third countries both signal that Brussels will continue to call the shots in terms of priority setting, with little lessons learned from adverse effects of, or local concerns about, EU policies over the last years. The explicit leverage enshrined in policy documents, as well as the questionable commitment to safe and legal pathways, signal a similar tendency. Such leverage seems very much enshrined in budgetary proposals currently on the table, which reserve significant funding for migration programming in third countries that can be used flexibly and of which the setup in terms of oversight is yet to be clarified.

Overall, there is little indication that a paradigm shift is likely to occur in the coming years. A failure to rethink this approach is likely to lead to further negative impacts of EU migration programming in third states and may in the longer term result in the EU becoming an increasingly unattractive partner. In view of a more strained geopolitical context, it is necessary that the EU safeguards its credibility as an international cooperation partner and its foreign policy as able to meet complex challenges beyond migration. Policy makers should use the new budgetary cycle as an opportunity to tackle these concerns and should ensure that development projects reach their long- and short-term objectives, that there is adequate oversight of both

internal and external funding mechanisms, and that the EU works towards a more towards a sustainable migration policy.

Recommendations

- **Safeguard credibility as an international cooperation partner:** The involvement of the internal financing instruments in EU external policy and the failure to include a strong human rights priority in relevant funding instruments both risk damaging the EU's reputation as a credible partner in the long term. First, the involvement of internal financing instruments, and therefore domestic policy considerations, in the EU's external migration policy risks a reprioritisation of foreign policy goals. This might lead to a diminished attractiveness of the EU as a partner in the long term. A domestic agenda that runs EU foreign policy objectives such as peace, stability and good governance should not be able to consistently take a dominant position. Second, in the context of human rights being under strain in many key regions of EU programming it is noteworthy that the corresponding budget sees a modest decline in funding on human rights issues. Past evaluations of external EU financing instruments pointed to the potential trade-off between human rights considerations and the migration-security nexus, highlighting the need to prioritise migrant rights in future programming. In order to mitigate the risk of credibility loss, migration programming, particularly programmes with a strong security dimension, should include permanent or periodic monitoring of their human rights compliance.
- **Ensure development projects reach their long- and short-term objectives:** The EU's development policies should be designed to meet its international commitments including local ownership under the Agenda 2030,⁵⁴ its own 'Leave

⁵⁴ Such as SDG 8.8 – migrant workers, women migrants; SDG 10.7 – facilitate orderly, safe, regular and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies; SDG 10.c – remittances; SDG 17.18 – data monitoring.

no one behind principle' as enshrined in the 2017 European Consensus on Development, and its commitment to poverty eradication as enshrined in Article 208 TFEU. In addition, the concerns of West African states, should be taken seriously. Additionally, regional migration and mobility realities offer an entry point for programming, and incorporating feedback from past implementers⁵⁵ needs serious consideration. Otherwise projects risk losing local buy in, which is crucial to achieve long- and short-term objectives.

- **Build holistic relations with third countries to be able to meet complex challenges beyond migration:** The political and social stakes of forced return and readmission for West African states are high. Political stakes include risks of losing democratic accountability through the informalisation of return agreements and an associated loss of a government's legitimacy in the eyes of the population. Following an approach in which other policy domains are subordinated to EU return interests carries a high risk of undermining EU foreign affairs policy towards West African states and curtailing the legitimacy of the EU as an international actor. A more balanced approach that takes the return-related concerns of West African states seriously would therefore be beneficial for both the EU and its partner countries.
- **Ensure appropriate oversight of both internal and external funding mechanisms when used in third countries.** The integration of development funds under parliamentary scrutiny is a welcome step towards more oversight and transparency into EU spending on external migration programming. However, different Directorate-Generals of the European Commission, both internal and external,

will be involved in carrying out the external dimension of EU migration policies; that will require oversight to be designed in such a way that it can be carried out in a coherent and comprehensive manner. In other words, the fragmentation of funding instruments should not lead to fragmented oversight. In those cases where internal funding instruments are used in third countries, this should be done within the overall foreign policy objectives and should be able to be evaluated as such by European Parliament Committees with a foreign policy remit, such as DEVE and AFET. Ideally, one Committee will have the lead in overseeing all external migration programming, in particular evaluating whether such programming is compliant with commitments underpinning EU external action, regardless of whether such programming originates from internal or external funding instruments.






- **Work towards a sustainable migration cooperation beyond the crisis mode:** The commitment to safe and legal pathways as enshrined in the New Pact constitutes an important stepping stone towards migration cooperation that works for European and West African governments as well as migrants. However, as shown in this policy brief, labour migration channels proposed under the Pact are likely to benefit only small sections of the West African population. Hence their potential to offer alternatives to so-called irregular migration remains limited. The opening of legal pathways is crucial in working towards sustainable migration management, as without an enhanced political commitment to legal labour migration, EU migration policy will continue to prioritise its efforts against irregular migration, the very problem it creates.

⁵⁵ See for instance Fernandez-Duran, C., Febles Carmona, E. 2020. *Human mobility and resilience in the Sahel: challenges and opportunities*, Brussels: OXFAM.

About the Clingendael Institute

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