Chapter 2

EU's Trans-Saharan Migration Challenges

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Abstract

The Trans-Saharan region has become the new frontier of EU's security and development policies. With mounting instability due to the Libyan and Mali conflicts and food insecurity, the EU has developed a new Strategy for its border Southern neighbourhood. This Strategy however overlooks key migratory challenges that are partly side negative effects of EU's border management policies in the Maghreb. Exploring the prospect of furthering cross-regional migration cooperation between the Maghreb and Sahara-Sahel countries, I argue that several challenges need to be considered. First, the Western Sahara conflict hampers dialogue on trans-Saharan migration. Second, the rights of migrants in Maghreb region need to be addressed. Third, the current EU return and readmission policy presents some political and legal deficiencies that would need to be addressed internally.

Keywords

Migration- Border Management- Readmission- EU- Sahel – Sahara – West Africa –
Maghreb- sub-Saharan migrants

List of abbreviation

EU	European Union
ENP	European Neighborhood Policy
AQIM	Al Qaeda in the Islamic Maghreb
EEAS	European External Action Service

DG   Directorate-General

ECHO   European Civil and Humanitarian Office

CSDP   Common Security and Development Policy

EUCAP   European Union Capacity Building Mission

EUTM   European Union Training Mission

IDP   Internally Displace People

UNHCR   UN Refugee Agency

RFI   Radio France International

ISIS   Islamic State in the Islamic Levant

AU   African Union

Introduction

Since 2011, the 'Arab Spring' and the Syrian crisis have significantly transformed the scope of migratory challenges in the European Union's (EU) broader southern neighbourhood and in particular in the Sahara-Sahel region. This region, which spans from Mauritania, Mali and the Western Sahara to the Horn of Africa, is the new 'arc of instability' for the EU and its Mediterranean neighbours, in particular Maghreb states.

Historically, the Sahara-Sahel region is a borderless area where nomadic populations such as the Tuaregs evolving across borders imposed by colonisation. Trans-Saharan migration linking the Maghreb to the Sahara and Sahel regions was linked to Trans-Saharan trade and has shaped the region. Since the seventies and eighties, sub-Saharan migrants have provided labour force to Maghreb countries, to work in the oil industry in Libya for instance (de Haas, 2006). Sub-Saharan and African migrants are today settling in Maghreb countries for work and to study. In the past however the EU has overlooked or purposely ignored the impact that its regional or bilateral initiatives such as the Barcelona process and the European Neighbourhood Policy (ENP) towards EU's Mediterranean neighbours could have on the broader Southern neighbourhood and how it could capitalise on cross-regional cooperation. The overemphasis on border control and irregular migration cooperation with EU's Southern neighbours has had some negative impact on the Sahel-Sahara region. Surveillance techniques and joint patrolling at EU's external borders have disrupted migratory routes leading migrants

to embark on longer and more dangerous journeys. The co-optation of Maghreb law enforcement authorities to stop migrants to cross the Mediterranean has had some negative impact on the practices of return and readmission to African countries.

Today however, EU policy-makers suddenly realize that the borders between Mediterranean countries and their neighbours have become 'disaggregated and partly porous frontiers of [the EU]) "empire" where 'all things destructive, illegal, and potentially dangerous are coalescing' (Del Sarto and Tholens 2013). The intervention of France in Mali in 2013 is a testimony of the weaknesses of nation-states in the region confronted to borderless criminal and terrorist movements. The rise of the Islamic State of Iraq and the Levant (ISIS) and its activities in Iraq and Syria clearly demonstrates the prolongation of this 'arc of instability' to the Middle East. According to the Tunisian Ministry of Interior, 2,400 Tunisians went to combat in Syria, and around 80% of them are fighting for ISIS (Jeune Afrique, 2014). Moroccans foreign fighters would be around 1500 people (Masbah, 2014). Next to security threats to states and businesses, the security and safety of migrants is also at stake since they are the first victims of human being trafficking and organised crime. The Sahara-Sahel states have been unable to offer 'protection to states and people from the changes that were taking place in the region' in the aftermath of the 'Arab Spring' (Del Sarto & Tholens 2013).

Conceived as a 'new frontier' of the EU, this chapter argues that the Sahara-Sahel region is not a distant abroad anymore and ponders the challenges of integrating a cross-regional dimension in EU's policies towards its broader Southern neighbourhood. Paying more attention to the neighbours of EU's Southern neighbours would provide the EU with more leverage in designing and implementing its migration policy instruments such as EU Readmission Agreements, mobility partnerships, border management cooperation or visa liberalization and facilitation dialogues.

The first part of this chapter reviews how the Sahara-Sahel region has become a new frontier for EU policy-makers with the conceptualisation of a Strategy for Security and Development which on paper comprehensively attempts at bridging the security-development gap. So far though, this strategy has been used more as a crisis management tool than a real development instrument and overlooks migratory challenges in the region. The second part of the chapter discusses the policy option to support further Maghreb integration and to encourage cross-regional cooperation on migration with sub-Saharan countries. Political challenges to its

implementation include the Western Sahara conflict and the difference of migration policies between Maghreb and African countries. From a legal point of view the strengthening of a solid legal protection of refugees, asylum and migrants' rights in the Maghreb is another key challenge. In the third part of the chapter I argue that the current EU return and readmission policy presents some political and legal deficiencies that would need to be addressed internally. Engaging the EU's Broader Southern Neighbourhood on migration issues would therefore need to account for those different factors. This chapter only tackles the issue of refugees, internal displaced people, asylum-seekers and irregular migrants. A comprehensive strategy would necessarily include discussing the legal migration opportunities for the EU's broader southern neighbourhood.

The Sahara-Sahel region: the 'new frontier' of Europe

EU's Southern neighbours are confronted to immense security and migratory challenges in the Sahel-Sahara region. This new arc of instability is a shared concern by the EU which has designed an EU Strategy for Security and Development. This Strategy conceptualise this region as a new frontier for Europe's security. This securitization of the Sahara-Sahel region without being accompanied by strong development policies could have some adverse effects on the treatment of migration as an end in itself and not a means of EU security interests. Addressing migration as positive mechanisms in the resilience of societies in the Sahel-Sahara region and cross-regionally with Maghreb countries would nonetheless be welcomed.

The EU Strategy for Security and Development: still comprehensive?

In the past five years, the international community has been prolific in drafting various strategies for the Sahara-Sahel region. The 'Sahel strategies' designed at EU, regional and international level are mostly addressing security issues, the lack of governance capacities, the restoration of the nation-state as well as the provision of humanitarian and development aid. They all display different understandings of the Sahel, 'a way for stakeholders to 'map' the Sahel region to fit their own purposes and policies' (Barrios and Koepf, 2014). The authors refer to the African Union Sahel Strategy of 11 August 2014, the ECOWAS *Programme de cohérence et d'action régionale de l'Afrique de l'Ouest pour la stabilité et le développement*

des espaces saharo-sahéliens. The Alliance Globale pour l'Initiative Résilience (AGIR) is an international partnership that was launched in 2012 with support of the European Commission to build resilience in the Sahel region (Council of the EU 2013). The 2013 Sahel UN Regional Strategy that brings together UN agencies and NGOs is the only one that identified early on the refugee and internally displaced people issue.

The EU mobilized early on its resources to draft its own Strategy, marking a rupture with prior conceptualisation that had treated Sub-Saharan Africa and the Sahel as a 'distant abroad' (Bach 2011). Authoritarianism and relations with friendly regimes in Northern Africa acted as a buffer zone. The EU could count on those regimes, with experience in containing radical Islam, to handle security in the Sahel. The multiplication of European hostage takings notably by Al Qaeda in the Islamic Maghreb (AQIM) combined with poverty and a severe food crisis nonetheless compelled Europeans to design a 'Strategy for Security and Development in the Sahel' (Council of the EU 2011). The hostage-taking in the gas facility of Amenas in Algeria in January 2013 would only confirmed the spill-over of the security threats from the Sahel to Maghreb countries, and therefore the need for a cross-regional approach to the challenges.

Originally drafted with a strong development component, the Strategy was bridging the gap between security and development and provided a comprehensive approach that pooled different resources and expertise in the EU.[1] The comprehensive nature of the strategy has nonetheless been undermined with the 2012-2013 Mali crisis.

The four axes of the 'Strategy for Security and Development in the Sahel' include: (1) development, good governance and internal conflict resolution; (2) political and diplomatic action; (3) security and the rule of law and (4) countering violent extremism and radicalisation. Migration issues are a silent horizontal issue to the four axes and yet migration is not a prominent feature of the Strategy. Positive aspects of the Strategy include the involvement of local civil society and the setting up of a 'Task Force Sahel' within the European External Action Service (EEAS). Directed by the EEAS Department for West and Central Africa, it has adopted a horizontal approach and gathers Geographic Departments and crisis management structures as well as other DGs such as DG Devco, DG ECHO (European Commission's Humanitarian aid and Civil Protection) and the EU Counter-Terrorism Coordinator (Pirozzi, 2013: 12) In March 2013, Michel Reveyrand-de Menthon was appointed EU Special Representative for the Sahel (Council of the EU, 2013). The EU has

initially mobilised instruments across the board with €1.5 billion allocated to Mali, Niger and Mauritania in the areas of good governance, rule of law, justice, decentralisation, etc. (EEAS, 2014) through the 10th European Development Fund (2007-2013). The Instrument for Stability was also mobilised to support a project on the fight against money laundering in Ghana, Nigeria, Senegal and Cape Verde (European Commission, 2013a).

Inherent weaknesses of the Strategy include a lack of indicators to monitor progress, the predominance of an EU internal security focus (including on drug trafficking) and the underestimated role of development factors (Wolff 2011). Following the Mali conflict, Strategy has fallen short of the initial expectations and has become mostly a tool of crisis management focusing on Common Security and Defence Policy (CSDP) aspects with the launching of several missions (Pirozzi, 2013). The EUCAP SAHEL Niger mission aims at improving the capacities of the Nigerian security forces (Gendarmerie, Police nationale, Garde nationale) to fight terrorism and organised crime. The mandate of the mission specifies that this capacity building should be undertaken 'in an effective and coordinated manner, with a view to contribute to enhancing of political stability, security, governance and social cohesion in Niger and in the Sahel region' (Council of the EU 2012). Following the Operation Serval of the French army in Mali, an EU Training Mission (EUTM) was launched to rebuild the Malian armed forces. This has been complemented by an EU Capacity-Building (EUCAP) Mali mission that lends support to institutional reforms and the restoration of the authority of the Malian state in the whole country (Council of the EU, 2014a). Security aspects of border management have led to the establishment of 'an inter-service working group to strengthen the implementation of the Sahel Strategy and to develop proposals of greater integration of EU instruments and the EU Member States activities' (Council of the EU, 2014b). The suggestions made by this working group include developing cross-border management cooperation between Maghreb and Sahel-Sahara countries by strengthening inter-agency work. This could already be done by linking up the work of EUCAP SAHEL Niger and EUCAP SAHEL Mali missions to the EU BAM Libya mission. The document calls for coordination with regional initiatives such as the G5 initiated by the leaders of Mauritania, Niger, Mali, Tchad and Burkina Faso to anchor security and democracy in the region and create a 'space of solidarity' (RFI, 2014).

Given the strong French involvement and the appointment of a French defence officer to manage this dossier in the geographical unit of the EEAS, observers have been worried that

the Strategy's collective European dimension could be weakened. African observers have also voiced a series of concern which range from the lack of consultation of African countries when drafting the Strategy to the overemphasis on security issues over development issues. One of its recommendations formulated towards the EU is to redefine the European Neighbourhood Policy given its obsolescence towards the challenges in the Sahara-Sahel region. One of the ways would be to specify how it could be integrated in the post-2020 Cotonou agreement (African Institute of Governance, 2013).

Migration and mobility in the Maghreb-Sahel-Sahara region

The comprehensive nature of the Strategy remains therefore mostly at the rhetoric level. While the security situation legitimately required the mobilisation of crisis management instruments, the EU also needs to think about the development of the region, including trans-Saharan migration challenges.

The Sahara-Sahel region presents profound changing migration patterns. If the Touaregs have always been mobile, today other migratory fluxes go through the desert. If some reach for better economic opportunities in the Maghreb or Europe, other populations have been forced to migrate due to a series of security and food crises. In the aftermath of the Libyan conflict, many Sub-Saharan families were faced with the disruption of remittances. About 43'000 Chadians returned back home, and money transfers decreased by 57 per cent (Ammour 2012). In combination with the food crisis in the Sahel, future internal displacements and refugees' crisis are likely to become a common feature.

In 2012, the conflict in Mali led to the displacement of about half a million Malians to neighbouring countries or internally. Internally displaced people (IDPs) are quite vulnerable when it comes to protection as they do not cross a border but are refugees in their own country, fleeing a war zone or hunger. They remain under the legal responsibility of their governments who are often facing rebellion and lack the capacities to deal with the crisis. As this chapter goes to print, 230'000 people chose to return back home between June 2013 and April 2014, while 278'000 remained displaced internally or in neighbouring countries (European Commission, 2014). Developing strategies for people who return home is key especially as the conflict also coincided with a food crisis which has left about 24% of the Malian population in a state of food insecurity (3.7 Million people). Also around half a

million children under five years old are likely to suffer from acute malnutrition in 2014' (European Commission, 2014).

The dramatic consequences of the instability in Northern Africa and in the Sahel-Sahara make it difficult for the EU external migration policy to ignore its broader Southern neighbourhood. In 2011, the UN Refugee Agency declared that the Mediterranean Sea was the most deadly stretch of water in the world, yet the crossing of the Sahara has been as dangerous and the situation could worsen (UNCHR, 2012). In 2013, Frontex reported the deaths of 92 migrants, mostly women and children in northern Niger, which has become 'a major corridor for illegal migration and people-trafficking from Sub-Saharan Africa into north Africa and across the Mediterranean into Europe' (Frontex 2013: 20). In the last quarter of 2013 detections of irregular West African migrants by Frontex decreased except for Nigerians. However detections of Eritreans in Italy steeply increased in 2013 and were as high as Syrian refugees (Frontex 2013: 58). In fact Eritreans became the second group of irregular migrants detected by Frontex, after the Syrians. The migratory route that they take once again highlights the relevance of the Maghreb-Sahel-Sahara region: 'the vast majority of Eritreans were detected on the Central Mediterranean route (9 926, or nearly 90%), after departing from Libya. Following a similar route, Somalis were also detected in large numbers in 2013 (5 624), which level is comparable to 2012 (5 038). Altogether, detections of Eritreans and Somalis totalled 16 922, or 16% of all detections. This relatively large share shows the importance of the migration flow from the Horn of Africa to the EU, a flow that is often perilous as migrants have to cross the Sahara, transit through Libya, where they are often ostracised, and then cross the Mediterranean Sea' (Frontex, 2014: 30).

Mobilising cross-regional cooperation in the Maghreb-Sahara-Sahel region seems an obvious recommendation to make. Given the above-mentioned challenges in the Sahel-Sahara region, many are putting forward the added-value of cross-regional cooperation with the Maghreb, an issue which has been absent from the ENP and later on from the Union for the Mediterranean. Commission President Barroso has stressed the importance of cooperation with the Maghreb to face the challenges of instability, and the '5+5' group has been put forward as one of the best forums to discuss those issues (Agence Europe 2013). A Joint Communication of the High Representative and the European Commission called in 2012 for supporting closer cooperation and regional integration in the Maghreb (EEAS, 2012). If such regional cooperation could be reinvigorated, the Maghreb countries could be better anchored in the

Joint-EU Africa Strategy and ongoing initiatives in the field of migration and border management. The Joint Communication also called for a reinvigoration of the Arab Maghreb Union and the possibility to develop the following initiatives in the field of migration and mobility:

- 'make further efforts towards the full implementation of existing ministerial declarations and action plans in the area of migration and development between all relevant actors, notably the Euro-African Migration and Development Process (the 'Rabat Process') and the Africa-EU Partnership on Migration, Mobility and Employment;
- support legal migration schemes among Maghreb countries as well as between the latter and Sub Saharan states;
- make more systematic use of the opportunities to enhance mobility offered by the EU Visa Code, including for categories such as youth, students or civil society;
- increase understanding via information exchanges on the existing visa regimes;
- promote regional cooperation in the field of border surveillance and the fight against irregular migration in the Maghreb and the Sub-Saharan region including
- through information-sharing at the regional level, common risk analysis, joint border management and surveillance and police cooperation including on trafficking in human beings and drugs;
- promote cooperation between the countries of the region in readmission matters, both as regards readmission among Maghreb countries as well as from Maghreb countries to Sub-Saharan countries in full respect of migrants' fundamental rights' (EEAS, 2012)

Trans-Saharan Migration Cooperation: EU's external and internal challenges

Integrating the EU's broader Southern Neighbourhood requires considering several challenges though. First the Maghreb is a region of closed borders compared to high intra-African mobility, in particular in the case of ECOWAS countries. Second, legal challenges in relation to the rights of irregular migrants are multiple.

Maghreb's closed borders vs. ECOWAS intra-regional mobility

The Maghreb is a region where borders are closed and where intra-regional mobility is very low. This is partly explained by the Western Saharan conflict, which has poisoned the relations between Algeria and Morocco and affected cooperation with the African Union. The border between the two countries has been closed since their independence, with a few exceptions and diplomatic row has aroused in summer 2014 with the construction of a fence by Morocco officially for counter-terrorism purposes (France 24, 2014). Maghreb countries are indeed wary of the return of nationals fighting with ISIS in Syria. But the border has been closed for many years and as of 2013 Algeria had waived visa requirements for other Maghreb nationals except Moroccans, Malians and Nigerians (EUI, 2013). Except for the 5+5 Dialogue,[2] there is no other regional framework to discuss migration amongst Maghreb countries since Algeria vetoes the membership of Morocco to the African Union (AU). The Arab Maghreb Union has also not been active for years and Algeria is not a full member of the Rabat Process in 2006 (Collyer, 2012, p. 10), a regional consultative process launched in 2006 to discuss migration management and launch concrete initiatives.

This situation of 'closed Maghreb' contrasts sharply with the dynamism of intra-African migration. While since the eighties there has been an acceleration of migratory fluxes from Africa to developed countries (Castles & Miller 2009: 156), African migration remains mainly intra-regional. Emigrants from Benin, Burkina Faso, Ghana, Guinea, Mali, Mauritania, Niger and Togo go primarily to destinations in West and Central Africa (Awumbila 2009). Like their North African counterparts, some countries such as Ivory Coast, Ghana, Senegal and Nigeria have become the main countries of immigration in Africa (ibid.). The Protocol of Free Movement of ECOWAS allows for 90 days of visa-free stay. Cross-border ethnic groups also explain why mobility is so high in Africa: 'ethnic groups such as the Soninké (of Mauritania, Mali and Senegal), the Mossi (Burkina Faso) and the Dogons (Mali) have traditionally seen short-term migration as a rite of passage or as an important part of personal development' (Westh 2011: 7). Yet if migration is free in West Africa, there is often the problem of a lack of 'comprehensive migration management schemes' (ibid.).

African regional instruments display some best practices in the field of migration. To respond to the African intra-migration flows triggered by internal displacement due to environmental disasters or internal conflicts, the Kampala Convention entered into force in 2012 in the AU countries. It is quite a pioneering legally binding instrument, which protects internally

displaced people on an entire continent. The AU has also engaged in implementing a series of capacity-building and standard-settings initiatives, notably in the field of legal migration and in partnership with the EU. Yet, due to the asymmetry of the AU's relationship with the EU, an evaluation of AU migration initiatives concludes that 'the EU has influenced the development of African frameworks and also influences the type of initiatives the African Union can take, because of the limited amount of funding provided by African member states. This raises questions of ownership and accountability' (Klavaert 2011: 4). The AU has also adopted key texts on migration such as the 'Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment' in parallel to the development of an African Common Market. In 2006 a Common African Position on Migration and Development was adopted (Partenariat Afrique-Europe, 2013). However, most of those frameworks are not legally binding, except for the Kampala Convention.

Irregular migrants and refugees: ignored and at risk?

Faced with economic difficulties and democratic transitions, Northern African governments have tended to focus more on migration issues related to their own nationals than caring for their neighbours' migration problems. In Tunisia, one of the first priorities of the Secretary of State for Migrations and Tunisians abroad after the revolution was to set up a commission to investigate the case of the 'haragas', literally 'those who burn' their lives by crossing the Mediterranean. In the discussions on the Mobility Partnerships concluded with Morocco in June 2013 and with Tunisia in March 2014 have also mostly concentrated on opportunities and rights for nationals and only a few projects deal with the rights of sub-Saharan migrants. In Morocco, evidence of mistreatment of sub-Saharan migrants has been documented (GADEM, 2010, Keygnaert and al. 2014) and has led to the departure of Médecins sans Frontières following the publication of a report denouncing violence and abuses against sub-Saharan migrants (MSF, 2010).

Further cross-regional cooperation on migration and any EU policies in this regard, need to take into account the rather weak legal framework for migrants, refugees and asylum-seekers in the region. Also if Maghreb countries are strong advocates for their diasporas abroad and are signatories to the Geneva Convention, practices across the region show considerable divergence.

During the 'Arab Spring', 'persons fleeing generalised violence or armed conflict, such as occurred in Libya for example, will frequently fall outside the Convention's definition because of their inability to establish a link between the risk of harm they face and one of the five stated grounds of persecution' (Wood 2012: 8). Other regional instruments have been adopted such as 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (1969 OAU Convention) 'to address aspects of African refugee protection not adequately addressed by the 1951 Convention'(ibid.). Yet, the migrants crossing the Mediterranean Sea only fall under the more restrictive 1951 Geneva Convention. According to the UNHCR (2013a), only Mauritania has a finalised draft national asylum law, which has not yet been adopted, and poses serious issues for intra-regional migration. Supporting EU Southern countries to develop migration and asylum legislation should be at the heart of the EU's strategy in supporting democratic transitions.

Following the Libyan conflict, which generated around 700'000 migrants, around 212'331 returned to their home countries in Burkina Faso, Chad, Ghana, Mali, Niger and Senegal. 'The vast majority of West African returnees were males (98-99%), mostly aged between 20 and 40 years old, of whom a high percentage held low-skilled jobs in Libya, such as labouring, farming and construction' (Naik 2012). In Egypt, there are more than 50'000 refugees and asylum seekers from Syria, South Sudan and Sudan. Egypt is also a country of transit towards Israel, which has 'more than 64'000 people of concern to UNHCR, 90 per cent of whom are from Eritrea and Sudan' (UNCHR 2013b). Accordingly, '[t]he number of new arrivals in Israel has declined significantly as a result of deterrence measures which have been put in place, while reports of human rights abuses by smugglers and traffickers in the Sinai desert persist' (UNHCR 2013b). In Morocco for instance, not only has irregular migration been criminalised by law no 02-03, unanimously voted by the Parliament after the 16 May 2003 attacks on Casablanca (Wolff 2012: 75), but return of Sub-Saharan migrants is regularly taking place. Following the 2005 events of Ceuta and Melilla, Morocco recruited 9'000 supplementary agents into the army and adopted a new policy to improve its border control capacities (ibid.; Lahlou 2007: 75).[3] In 2003 Nigerians were returned from the Oudja airport (416 people), Nador (on 3 November 2003, 207 people), Fes-Saïs (480 people on 20 December 2003), as well as from Tangier and Rabat.[4] Several other instances have been reported by the Groupe Antiraciste d'Accompagnement et de défense des étrangers migrants (GADEM).[5]

Northern African countries have had difficulties to evolve from their image of 'emigration countries' and are only slowly moving towards the domestic reform of migration. Nonetheless since 2014 Morocco has embarked upon a reform of its immigration law which should lead to the regularisation of sub-Saharan migrants and has led to the processing of refugee application by the Protection Office for Refugees and Stateless (de Haas, 2014). Although this reform has not halted violence against sub-Saharan migrants (Human Rights Watch, 2014), it demonstrate that Morocco has acknowledge the importance of integrating them in society and responded to international pressure to reform. It also coincides with the geopolitical ambitions of the Kingdom that would like to become a key regional economic player in Africa.

A Commission-led task force on the Mediterranean, created in the aftermath of the increase of migrants' fluxes to Lampedusa in autumn 2013 looked into possibilities of further cooperation between Northern African countries and their counterparts in the Sahel to combat traffickers' network:

> 'In particular, Egyptian authorities should be encouraged to put more attention and to combat more effectively the activities of the traffickers of human beings in the Sinai region; Sudanese authorities should be invited to combat against the criminal organisations operating on their territory and facilitating the smuggling and trafficking of migrants and refugees from the Horn of Africa towards the Mediterranean region; Nigerian authorities should be engaged and assisted to better protecting their most vulnerable nationals to fall victims of the traffickers in human being' (European Commission 2013b:6).

The task force also recommends revising Regional Protection Programmes so that they can include Sahel countries (ibid.:12). Environmental causes of migration have also been underestimated. In the coming years, a country like Mali could lose up to 40 per cent of its agriculture capacity and Sudan up to 50 per cent (Hummel and al. 2012: 5). The link between climate change and migration has been acknowledged as early as the 1990s and the beginning of the discussions on climate change. Environmental migrations will increase considerably in the near future. Yet, there are little projects on that.

The challenge of EU return and readmission practices

Migration challenges in the EU's broader Southern neighbourhood cannot be assessed without addressing EU's inconsistent practices of return and readmission. Return and readmission is

governed by the 2008 EU Return Directive, which lays down the minimum conditions for detention and return of irregular migrants. It constitutes the legal basis for Frontex to organise joint return operations. Readmission of irregular migrants is organised through the conclusion of readmission agreements which require a third country to readmit its nationals that have been intercepted in the EU as well as third country nationals having transited through the third country territory. Readmission agreements are since 1999 a Union competence, with several mandates delivered in the 2000s to the European Commission by the Council to open readmission agreements negotiations with third countries. So far, the mandate has been issued for 19 third countries.[1] Yet, the main incentives to sign an EU Readmission Agreement are often of a financial nature and of obtaining visa liberalisation or facilitation. In the Southern neighbourhood this has not yet been the case, except for Turkey. This lack of credible incentive has been a real obstacle to the conclusion of readmission agreements and mobility partnerships. The latter are global agreements organising temporary migration and temporary visa facilitation as well as border management and development aid. Obstacles to the signature of an EU-Morocco readmission agreement were lifted with the signature in 2013 of a 'mobility partnership'. Visa facilitation for certain categories of travellers such as students, researchers and businessman is part of this political agreement. The conclusion of a readmission agreement is a central element of the agreement on a mobility partnership (Wolff 2014).

Given those difficulties EU Member States have preferred to rely on informal instruments to return and readmit third country nationals. Those informal practices are at times competing with the negotiation of EU-wide readmission agreement and hamper their negotiations. Through a myriad of *ad hoc* and informal agreements, which resemble more police cooperation and law enforcement memorandum of understanding or exchange of letters with little legal value (Cassarino 2010). Informality and flexibility at the bilateral level imply less parliamentary scrutiny in all countries as well as escaping the 'legal' venues of international and regional conventions. A 2011 evaluation of EU readmission agreements highlighted several issues in implementation, amongst which the fact that Member States do not necessarily resort to this EU instrument and prefer to use older bilateral instruments (European Commission 2011). While the negotiations on the EU-Morocco readmission

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[1] Hong Kong, Macau, Sri Lanka, Albania, Russia, Ukraine, the Former Republic of Ex-Yugoslavia, Bosnia & Herzegovina, Montenegro, Serbia, Moldova, Pakistan, Georgia, Turkey, Morocco, Algeria, Cape Verde, China, Belarus

agreement have not led yet anywhere despite several rounds of negotiations, Morocco has signed several readmission agreements with EU Member States: Germany (1998), Spain (1992, 2003), France (1983, 2001), Italy (1998), Malta (2002) and Portugal (1999).

This internal competition at EU level when it comes to readmission has had the negative consequence of externalising such informal practices beyond the EU's Southern neighbourhood. Similarly, EU Member States have concluded readmission agreements with African countries, co-opting them in the control of migration. A Spanish-Malian readmission agreement entered into force in 2005 helped the Spanish authorities to increase considerably the returns to Mali: before the agreement entered into force (2002-05) a total of 5 Malian migrants were returned from Spain in 2002-05, while this number increased to 2'567 returnees in 2006-08) (Trauner & Deimel 2013: 25).

This externalisation of EU return and readmission practices raises some concerns about fundamental rights. The 2012 case of *Hirsi Jamaa and Others v. Italy*[6] condemned Italy for breaching the principle of non-refoulement[7] by intercepting in the South of Lampedusa and returning to Libya eleven Somali nationals and thirteen Eritrean nationals. Returning Sub-Saharan migrants in a country where their life can be at risk was thus condemned by European judges. However border management practices sometimes defy legal principles and EU fundamental rights. In February 2014, the Spanish civil guard fired rubber bullets on migrants who were attempting to enter Ceuta and Melilla, two Spanish enclaves on the Moroccan territory. This left 14 migrants dead (Agence Europe 2014).

The EU practices of return and readmission in its Southern neighbourhood has therefore had some direct consequences for sub-Saharan migrants. Yet the absence of an efficient 'transregional migration governance' (Delcour, 2013) has had a negative impact on the trans-Saharan region. Integrating this dimension in EU's migration policy instrument would certainly help to forge more efficient migration partnerships in the trans-Saharan region.

Conclusion: towards comprehensive cross-regional cooperation

This chapter has reviewed migration challenges in the EU's broader Southern neighbourhood and beyond. The EU has underestimated the need to address these issues comprehensively and cross-regionally. The Sahel-Sahara region has become the 'new frontier' for security issues and controlling the EU's borders and irregular migration. Political and challenges are immense and include

Migration is nonetheless an issue that should compel the EU to address the topic horizontally across climate change, development, employment and to be more assertive on the role of migration in the EU growth strategy. Further work between the EU, the Maghreb and African countries can be done to promote the entrepreneurial role of migrants and diasporas, especially when it comes to development in sending countries. In Africa, remittances have quadrupled between 1990 and 2011 representing around 2.6 per cent of African gross domestic product in 2011 (Rattah 2011: 4). Yet, remittances are still quite heavily taxed.

Another hurdle for turning migration into a top UN issue and linking it to the post-2015 Development Agenda is that the international migration agenda is 'politically unfeasible and too contentious' (Kroll & Klavaert 2012). In spite of the huge impact that a better use of remittances in development aid could have, especially on the eradication of poverty (which is also an EU objective), security-oriented and national approaches to migration remain huge obstacles to a comprehensive global and regional governance of migration. This could be a future agenda addressed by the Strategy, together with the ENP countries and the neighbours of the EU's neighbours.

Bibliography

African Institute for Governance (2013), Note on the European Union Strategy for Security and Development in the Sahel, http://www.westafricagateway.org/files/Policy-Brief-N-4-Sahel-Development-EU-Security.pdf, accessed on 16 September 2014.

Agence Europe (2014), 'JHA: Spain will fire no more rounds of rubber bullets against migrants', *Bulletin Quotidien Europe* 11027, 26 February.

Agence Europe (2013), 'Morocco: Barroso - significant and diverse cooperation opportunities', *Bulletin Quotidien Europe* 10798, 5 March.

Ammour, A. L. (2012), 'The Sahara and the Sahel after Gaddhafi', *CIDOB Notes Internationals* 44, Barcelona: Barcelona Centre for International Affairs, January.

Bach, D. (2011), 'The European Union and Africa: Trade Liberalisation, Constructive Disengagement, and the Securitisation of Europe's External Frontier', *Africa Review* 3(1), pp. 33-46.

Barrios C. and T. Koepf (2014), *Re-mapping the Sahel: transnational security challenges and international response*s, Paris: EUISS, Report 19.

Cassarino, J.-P. (2010), 'Unbalanced Reciprocities: Cooperation on Readmission in the Euro-Mediterranean Area', Special Issue *Viewpoints*, Washington, D.C.: Middle East Institute.

Council of the EU (2014a), *EUCAP Sahel Mali: EU support mission for internal security in Mali,* Press Release 8773/14, Luxembourg, 15 April.

Council of the EU (2014b), *Options for CSDP Support to Sahel-Saharan Border Management,* Brussels, 4 July, 11601/14.

Council of the EU (2013), *EU Special Representative for the Sahel appointed*, Brussels, 18 March 2013, Press Release, 6653/13.

Council of the EU (2011), *Strategy for Security and Development in the Sahel*, Annex to the Council Conclusions on a European Union Strategy for Security and Development in the Sahel, Brussels, 21 March.

Delcour, L. (2013), 'The European Union: Shaping Migration Patterns in its Neighborhood… and Beyond'? in D. Kochenov and F. Amtenbrink (eds), *European Union's Shaping of the International Legal Order*, Cambridge: Cambridge University Press.

Del Sarto, R. & S. Tholens (2013). 'Conflict at the EU's southern Borders: the Sahel crisis', *Open Democracy*, 1 February, http://www.opendemocracy.net (accessed 7 April).

De Haas, H, (2006), 'Trans-Saharan Migration to North Africa and the EU: Historical Roots and Current Trends', Migration Policy Institute, http://www.migrationpolicy.org/article/trans-saharan-migration-north-africa-and-eu-historical-roots-and-current-trends/ (accessed 19th September 2014).

De Haas, H (2014), 'Morocco: Setting the Stage for Becoming a Migration Transit Country?' Migration Information Source, 19 March 2014.

EEAS (2012), *Joint Communication on Supporting closer cooperation and regional integration in the Maghreb: Algeria, Libya, Mauritania, Morocco and Tunisia*, Brussels, 17 December, JOIN(2012)

EEAS (2011), *Strategy for Security and Development in the Sahel*, http://eeas.europa.eu/africa/docs/sahel_strategy_en.pdf, (accessed on 15 August 2014)

European Commission (2014), *Mali crisis*, ECHO factsheet, June 2014, http://ec.europa.eu/echo/files/aid/countries/factsheets/mali_en.pdf (accessed on 16 September 2014).

EUI (2013). *Migration Fact Algeria*, Migration Policy Center http://www.migrationpolicycentre.eu/docs/fact_sheets/Factsheet%20Algeria.pdf (accessed on 18/09/2014)

European Commission (2013a), *The EU steps up its response to fight money laundering and drug trafficking in West Africa*, Brussels, IP/13/230, 18 March 2013

European Commission (2013b). *Communication on the work of the Task Force Mediterranean*, COM(2013) 869 final, Brussels, 4 December.

France 24 (2014), 'La clôture frontalière, nouvelle pomme de discorde entre le Maroc et l'Algérie', http://www.france24.com/fr/20140730-maroc-algerie-cloture-frontiere-fermeture-diplomatie-mur-barriere-oujda/, (accessed on 19 September 2014).

Frontex (2014), *Annual Risk Analysis 2014*, Warsaw: Frontex.

Frontex (2013), *FRAN Quarterly*, Q3, July-September, Warsaw: Frontex, http://frontex.europa.eu/assets/Publications/Risk_Analysis/FRAN_Q3_2013.pdf (accessed 17 April 2014).

GADEM (2010), *The Human Rights of Sub-Saharan Migrants in Morocco*, Open Society Justice Initiative Report.

Human Rights Watch (2014), Abused and Expelled: Ill-Treatment of Sub-Saharan Migrants in Morocco, http://www.hrw.org/news/2014/02/10/morocco-abuse-sub-saharan-migrants, (accessed 19 September 2014).

Hummel, D., M. Doevenspeck & C. Samimi (2012). 'Climate Change, Environment and Migration in the Sahel. Selected Issues with a Focus on Senegal and Mali', *MICLE Working Paper* 1, Frankfurt a.M.: Migration, Climate and Environment.

Jeune Afrique (2014). Tunis estime à 2400 le nombre de combattants tunisiens présents en Syrie. Accessed on 10 September 2014 at http://www.jeuneafrique.com/Article/ARTJAWEB20140624113446/

Kroll, A. & H. Klavaert (2012), 'Can we afford to ignore migration post-2015?', *ECDPM Talking Points* , 27 July, Maastricht: European Centre for Development Policy Management, http://www.ecdpm-talkingpoints.org/can-we-afford-to-ignore-migration-post-2015 (accessed 18 March 2013).

Kegnaert, I. and al. (2014), 'Sexual violence and sub-Saharan migrants in Morocco: a community-based participatory assessment using respondent driven sampling' *Global Health*, 10:32.

Klavaert, H. (2011), 'African Union frameworks for migration: current issues and questions for the future', *ECDPM Discussion Papers* 108, June, Maastricht: European Centre for Development Policy Management.

Masbah, M. (2014), *Moroccan foreign fighters*. Carnegie: Sadaa.

Médecins Sans Frontières (2013), *Violences, vulnérabilité et migration : bloqués aux portes de l'Europe,* http://www2.ohchr.org/english/bodies/cmw/docs/ngos/MSF_Morocco18_fr.pdf, (accessed on 10 September 2014)

Partenariat Afrique-Europe (2013), Position commune africaine sur les migrations et le développement, 2006, http://www.africa-eu-partnership.org/fr/migration-et-developpement (accessed on 18 September 2014)

Pirozzi, N. (2013), The EU's Comprehensive Approach to Crisis Management, Geneva: DCAF, http://www.dcaf.ch/Publications/The-EU-s-Comprehensive-Approach-to-Crisis-Management, (accessed on 10 September 2014).

Radio France International (2014), 'Naissance du «G5 du Sahel» pour le développement et la sécurité', 17 February 2014, http://www.rfi.fr/afrique/20140217-naissance-g5-sahel-le-developpement-securite-Burkina-Mali-Mauritanie-Niger-Tchad/, (accessed on 16 September 2014).

Trauner, F. & S. Deimel (2013), 'The Impact of EU Migration Policies on African Countries: the Case of Mali', *International Migration* 51:4, 20-32 pp.

UNHCR (2014). *Syrian Refugee Regional Response*, http://data.unhcr.org/syrianrefugees/regional.php (accessed 10 September 2014).

UNHCR (2013). *2013 UNHCR country operations profile - Middle East and North Africa (MENA)*, http://www.unhcr.org/pages/4a02db416.html (accessed 18 March 2013).

Westh O. A.S. (2011). 'Reconsidering West African Migration Changing focus from European immigration to intra-regional flows', *DIIS Working Paper* 21, Copenhagen: Danish Institute for International Studies.

Wood, T. (2012). 'Legal Protection Frameworks', in *Forced Displacement Review 2011-2012*, Oxford: Oxford University, http://www.fmreview.org/north-africa/wood.html, (accessed on 10 September 2014)

Wolff, S. (2014). 'The Politics of Negotiating EU Readmission Agreements: Insights from Morocco and Turkey'. *European Journal of Migration and Law* 16(1), 69-95.

Wolff, S. (2012). *The Mediterranean Dimension of the European Union's Internal Security*. London: Palgrave.

Wolff, S. (2011). 'The Arab revolts: reconsidering EU-US strategies for freedom, security and justice', in P. Pawlack (ed.), *The EU-US security and justice agenda in action*, *EUISS Chaillot Paper* 127, Paris: EUISS,

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[1] See also the chapter by Tressia Hobeika in this volume.

[2] The 5+5 Dialogue is an informal dialogue that gathers Italy, France, Spain, Portugal, Malte, Algeria, Morocco, Tunisia, Libya and Mauritania to discuss political, economic and cultural dialogue amongst those countries. It was created in 1990. More information is available at http://westmediterraneanforum.org/wp-content/uploads/2013/09/131017_chronology5+51.pdf

[3] Lahlou, M. (2007). Migrations transméditerranéeennes et stratégies euro-africaines. Med. 2007'. L'année 2006 dans l'espace euroméditerranéen'. Barcelona, IEMED, CIDOB, p. 47; Wolff, 2012, Ibid. p. 75.

[4] Belguendouz, A. (2010) Expansion et sous-traitance des logiques d'enfermement de l'Union européenne : l'exemple du Maroc. *Cultures & Conflits*, pp. 155-129

[5] Gadem, (2010), Ibid.

[6] European Court of Human Rights, Grand Chamber, 'Case of Hirsi Jamaa and Others v. Italy', 27765/09, 23/02/2012.

[7] Article 33(1) of the 1951 Geneva Convention specifies that 'no Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social or political opinion'. This principle is reiterated in article 19(2) of the EU Charter of Fundamental Rights.