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When Home Affairs Becomes Foreign Policy

Lessons from EU Immigration Policy towards North Africa and Eastern Europe

Roderick Parkes

The Lisbon Treaty has the aim of making the EU's foreign policy more coherent. Its implementers face a conundrum: how to combine the "external dimension" of the EU's internal policies with the bloc's broader foreign and security aspirations. The EU's immigration policy towards its neighbours in North Africa and Eastern Europe has emerged as a testing ground. Although initial results have not been entirely promising, lessons can be learnt.

By lifting border checks within the Schengen Area, EU states have exposed themselves to unwanted immigration from outside the Union. There is thus a strong rationale for restricting migration even before it reaches the EU's common external border. Since the late 1990s, interior ministries and the Commission's Directorate(s)-General for Justice and Home Affairs have used the EU's international clout to encourage countries that border the Union to improve their migration controls and to sign readmission agreements. This is the "external dimension" of the Schengen Area.

The EU's security and development policy actors promote a rather different idea of migration. They argue that human mobility can be a boon to the EU's regional security thanks to "people-to-people contact". Migration between the EU and Ukraine was, for example, thought by some commentators

to have helped trigger 2004's Orange Revolution. Labour migrants from the EU's neighbours are also thought to act as "development agents": They can remit money to their countries of origin before returning home with new expertise. This can boost their home countries' economies in a sustainable way.

There is an obvious tension between these two agendas concerning migration in the neighbourhood. One aims for control and restriction, the other for mobility. The EU does, however, appear to have agreed upon a unified vision for the future. In its immigration policy towards the Maghreb, towards the "eastern partners" (particularly Ukraine, Moldova and Georgia) and (should EU enlargement be delayed) towards the Western Balkans, the EU envisages the creation of a band of states that is better governed, better at job creation and has

in place more robust migration controls. With these background factors in place, the Union can increase the scope for mobility without jeopardising the integrity of the Schengen Area.

Coherence after Lisbon

Much work remains to be done. Expectations are that Herman van Rompuy, the president of the European Council, and Catherine Ashton, the EU's high representative for external relations, will make a priority of improving the coherence of the agenda. The duo will soon encounter three problems that have disrupted past efforts.

Conceptual clashes: the EU may well have an increasingly unified, long-term vision for migration relations with its neighbourhood, but its home affairs and foreign policy actors pursue different elements on the path there. The home affairs agenda stresses the immediate importance of building third countries' border and migration controls. The EU's broader foreign and security policy focuses on reducing over time the "root causes" of migration in third countries such as bad governance and poor job creation. These differences of emphasis reflect deep-seated divergences between the two: whilst the home affairs perspective is by nature rather short-term, reactive to external events, and stresses the immediate interests of the EU and its citizens, the broader foreign policy approach attempts to take a more long-term, proactive perspective and looks to build upon shared interests between the Union and its neighbours.

The Union's immigration policy towards North Africa shows how difficult it is to combine and give parity to the two processes. Countries such as Morocco, which produce and transit illegal immigrants to the EU, pose an immediate challenge to Schengen. The EU has therefore begun talks with Morocco on a readmission agreement, and home affairs actors are keen to use economic support and trade liberalisation in the agricultural sector as leverage.

European foreign and development ministries would, however, rather use these economic and trade policies for the long-term promotion of good governance and job creation in North Africa. They have instead tried to "balance" the EU's immediate request for a readmission agreement with demands for Rabat to improve its human rights record. This would telescope their long-term agenda into a short time-scale, and risks further complicating the negotiations with that country.

Organisational disharmony: both streams also follow a different organisational trajectory. The EU's broad foreign and security policy must foster a convergence of interests between member states if these are to act as "the sum of their parts" on the full range of international issues. To this end, the EU often tries to bind member governments to common undertakings. The narrow external dimension of Schengen is, by contrast, based on a comparatively strong convergence of members' interests, thanks to the deep political integration that underpins free movement. This allows interior ministries to take a rather relaxed approach to "common" external policies. Rather than binding themselves to common undertakings, member states with a strong bilateral relationship to a particular third country may simply put these at the disposal of other members. European migration operations in West Africa have taken place within the framework of Spain's bilateral relations with Senegal, for example, rather than through a binding EU-Senegal agreement.

Moves to merge the two organisational logics have been difficult. Sceptical of the need for common rules, some interior ministries have reportedly used EU negotiations on agreements with third countries for their own purposes. Madrid is suspected of offering to disrupt EU negotiations on the Moroccan readmission agreement, in return for Rabat upgrading its bilateral co-operation with Spain on illegal migration.

Internal package deals: the very process of building consensus between the EU's two

policy communities has also led to difficulties. Over the past decade, the EU has increasingly resorted to package deals with third countries. These encourage third countries to adopt the migration controls necessary to sustain Schengen, but also offer them increased opportunities for mobility. Western Balkan countries (with the exception of Kosovo) have signed readmission agreements with the EU and improved migration controls in return for a liberalisation of Schengen short-stay visas. Moldova and Georgia have signed “mobility partnerships”, under which they build their migration controls in return for greater opportunities for labour migration to EU member states. This recourse to package deals, rather than to more gradual, low-key processes, has much to do with the need to create a binding internal consensus between the EU’s own policy communities – in part, they are package deals between EU actors.

The results are ambiguous. It is still not clear whether the goal of combating organised crime and illegal immigration is best served by recourse to such package deals. The deals concluded with states like Bosnia (109/08 REV 1), under which Western Balkan countries carry out some 170 reforms in the judicial and home affairs sector in return for greater mobility to the EU, are certainly considered a success. Yet, there are concerns. Reform processes are based less on the principle of local ownership than on immediate incentives and *quid pro quos*. This has greatly speeded up the reforms, but the fatigue that typically accompanies the conclusion of the roadmaps raises the spectre of reversal. And there is a risk that the EU’s long-term goal of combating illegal migration and transnational criminality from the Western Balkans will narrow to offsetting the immediate risks arising from visa liberalisation. After all, mobility has been facilitated before the broader background factors of job creation and good governance have been fully realised.

It is also unclear whether the EU’s mobility agenda has been well served by these package deals. Certainly the deals, particularly with the eastern neighbours, have created new opportunities for mobility. Yet, current reforms to the EU’s visa practices would anyway pre-empt the contents of many of the bloc’s visa facilitation deals. The Schengen visa code (EU Regulation 810/2009) sets a tight deadline for European consulates to reach a decision on a visa application (15 calendar days) and to grant an initial appointment for visa applicants (two weeks). The code also reduces visa fees to 35 euros for certain categories of applicant (Article 16(2)) and seeks to ensure that member states make fuller use of the possibility to issue multiple-entry visas (Art. 24(2)). Since the introduction of the package deals, these low-key EU reforms have become politicised. European officials now profess limited interest in improving visa practices if the Union does not use this as leverage. Indeed, the EU is accused of neglecting to put in place the administrative reforms necessary for it to actually meet its new visa facilitation obligations.

Steps towards a more coherent policy

Both of the EU’s policy communities appear unhappy at the efforts to integrate their respective agendas. Frustrated at the lack of immediate progress towards facilitating mobility from North Africa, it seems that some EU foreign ministries are carrying out “visa liberalisation by the backdoor”: consulates of some Schengen members are actively offering visas that are territorially limited to their own countries (and that fully exploit, or may even go beyond, the practices allowed under Article 25 of the EU’s new visa code). This could leave the EU trying to leverage reforms in third countries with reference to mobility opportunities that are already being offered by some of its member states. Home affairs actors, by contrast, worry that EU visa liberalisation is occurring too quickly. Concerned at

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the numbers of asylum-seekers from Western Balkan countries, interior ministries in Germany and other members have expressed a readiness to reintroduce visa controls. This could leave the EU trying to leverage permanent reforms abroad with concessions that look increasingly temporary.

These moves can be traced to a lack of trust between the EU's two policy communities. In the case of the eastern neighbours, this lack of trust has encouraged the EU to resort to package deals that cover large parts of both communities' agendas. With recourse to grand package deals, rather than more gradual processes, comes a need to offer third countries significant incentives for compliance. The carrot of visa liberalisation has seen visa controls lifted earlier than some interior ministries would have liked. In the case of North Africa, this lack of trust has caused the EU's two policy communities to grapple with one another in a zero-sum manner every few years over what their next step should be. Neither community seems ready to make real commitments or compromises to the other over an extended period. As a result, foreign and development policy actors are unsure about when, or indeed whether, visa liberalisation will be offered to North African states. It is no surprise if they prefer to resort to visa liberalisation "by the backdoor".

The Union must coax the two policy communities into making more meaningful compromises with one another by reassuring them that their priorities will be realised over time. Such a venture requires the EU's new political actors to emerge as judges and credible guarantors of the merger. To fill that role, Catherine Ashton ought actively to use her "double hat" in order to mobilise the relevant Commission DGs and national ministries. Her External Action Service must be encouraged to make migration more explicitly one of its cross-cutting "multilateral thematic" issues, allowing it to emerge as a clearing house between the two streams of the EU's international immigration policy. And Herman

van Rompuy would do well to consider the 2008 commitment of the heads of state and government to deal with migration issues in at least one European Council summit each year. His signals that he would prefer to deal with such issues in a more ad-hoc manner could undermine the European Council's role as a forum to systematically balance the two streams.