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A Tale of Two Agreements: EU Migration Cooperation with Morocco and Tunisia

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Introduction

The post-uprisings context has put the migration issue sharply into focus. As the influx of migrants and asylum-seekers continues through the Mediterranean, although figures have dramatically decreased between 2016 and 2018, migration currently ranks high in the European Union (EU)'s policy priorities. Migration stands today at the heart of intra-European dynamics, such as Brexit, the rise of populist parties, and the debate on external resources in the next EU budget. At the same time, current indicators – including demographics, climate change and dire economic conditions in several African countries – suggest that pressure on Europe's southern borders will persist. Moreover, the dramatic increase in sea crossings from Morocco and the spike in Tunisian arrivals in Italy last year is likely to place both countries at the centre of EU migration policy. This evolving context provides further impetus for the EU to pursue closer cooperation with North African countries that constitute – or are likely to constitute – key launching points for migrants towards Europe. Over the past year, this has been made clear by a series of proposals and statements by European officials seeking to more actively involve North African countries in stemming flows through the Mediterranean.

The EU seeks to secure the cooperation of its southern neighbours on border control and management, readmission of their nationals who are irregularly present in the EU, and on reception of third country nationals (TCNs) who transited to Europe through their territories. To achieve these objectives, the EU has particularly sought to mobilise the joint readmission-visa facilitation policy tool, which has been a cornerstone of EU-Mediterranean cooperation on migration and mobility. This instrument seeks to encourage the cooperation of partner countries on border management and on the readmission of individuals present irregularly in the EU through using increased mobility channels for certain groups as incentives. While the readmission and visa facilitation agreements are separate, they are negotiated in parallel as the partner's cooperation on readmission is rewarded with more relaxation of visa requirements. The EU has made it clear that, to increase its leverage and push third countries to collaborate on return and readmission, “a fine balance of incentives and pressure” is needed (European Council, 2015).

Currently, the EU is in the process of negotiating these two parallel agreements with Morocco and Tunisia. Negotiations on a readmission agreement with Morocco began in the 2000s, without any tangible results (Carrera et al., 2016). The signing of the Mobility Partnership (MP) between both sides in 2013 sought to provide a general framework for discussing the readmission agreement in parallel with an agreement on visa facilitation. While talks between Morocco and the EU have been suspended for the last three years for other dynamics going beyond migration, the EU and Morocco agreed to re-launch the negotiations in November 2017. Talks are yet to resume. Similarly, the

conclusion of an MP with Tunisia in 2014 provided a comprehensive framework to cooperate on migration and to launch negotiations on these double agreements. Interestingly, talks with both countries, however, have not been as smooth as expected, and remain constrained for the same political and practical challenges.

As the migration dossier will become only more important in EU-North Africa cooperation and as migration is a cross-cutting issue that intersects with cooperation in other areas, it is important to critically assess the European Commission (EC) readmission and visa facilitation tool and look for possible ways to overcome the limited progress of negotiations. This paper looks at the joint EU readmission-visa facilitation policy instrument through the cases of Morocco and Tunisia. The first section looks at the migration issues in the post-uprisings context and the conclusion of the MPs that allowed these negotiations to be launched with Tunisia and Morocco. In the following section, the focus is on the unfolding negotiations and key points of divergence in the two dossiers of readmission and visa facilitation. We then move to discuss key challenges on both sides to form a joint agenda and move the negotiations forward. Finally, we conclude that differences in perceptions and priorities have hindered fruitful talks between the EU and its North African partners Tunisia and Morocco. While the EU lacks flexibility and a real willingness to build tailor-made partnerships, as promised by the Mobility Partnership, the interest of Tunisia and Morocco in pushing forward the talks seems to be limited. This implies that these negotiations risk being an endless tale, and that the double agreements as a policy tool are of limited efficiency and appropriateness. Overcoming the current stalemate will require the draft agreements to be revised to live up to the promise of “tailor-made” partnerships.

The Post-Uprisings Context and the Mobility Partnerships

Migration relations between the EU and North African countries have been shaped by history, geography and the evolving social and economic realities on both sides of the Mediterranean. This is why migration cooperation represents a cornerstone of the EU's relations with the southern neighbours. For instance, the issue features in the Association Agreements that were signed with the countries of the Southern Mediterranean in the 1990s. Today, North Africa is increasingly important for the EU as an origin and transit region, which is why countries of the region feature predominantly in the EU's policy and discourse on migration.

The salience of migration issues in the EU's relations with North Africa has become even more prominent in the wake of the popular uprisings that swept the Arab world in 2010 and 2011. The evolving migration landscape in the Mediterranean region propelled the EU to respond and adapt to the changing environment. The migration dossier was quickly placed on the top of the agenda, and the troubled context meant that the EU could secure new commitments from its southern partners. Shortly after the start of the uprisings, the EU put forth proposals for a "Dialogue for Migration, Mobility and Security" to start talks with the southern partner countries in the context of the Global Approach to Migration and to establish a structured dialogue with each country on migration, mobility and security (European Commission, 2011). The dialogue eventually aims to develop MPs with these countries and collaborate with them on developing their capacities for migration management.

The MP is a key tool of the EU Global Approach to Migration and it essentially represents a "long-term framework based on political dialogue and operational cooperation" for collaboration on migration with partner countries (European Commission, 2011). This policy tool first appeared in 2007 in the EU's Communication on circular migration and mobility partnerships between the European Union and third countries (European Commission, 2007). MPs have a rather broad focus as they cover the fight against irregular migration, ways to facilitate and organise legal migration, border management, and reinforcing the development outcomes of migration.

In order to make full use of this tool, the EU seeks to develop tailored partnerships with the individual countries depending on a number of factors including the needs of the partner country, which EU member states participate in the MP, and on the state of the partner country's relationship with the EU and its commitment to meet certain conditions (European Commission, 2011). The main conditionality apparent in the MP is the linking between facilitation towards obtaining visas for short-term travel and readmission or as the EU puts it, "measures that would make such movement secure" (European

Commission, 2011). The implementation of the MP is conditional upon the country's commitment to ensure migrant readmission and securing strict border management which includes the prevention of irregular migration, document security, and countering trafficking and smuggling networks (European Commission, 2011). This linking between different aspects of cooperation on migration reflects the EU's emphasis on using the more-for-more principle and on a resorting to "a fine balance of incentives and pressure" to propel North African countries into stronger cooperation on migration, particularly on the question of migrant return.

For the EU, the conclusion of an MP with a partner country entails benefits for both sides in terms of ensuring better and more effective migration management in the Mediterranean region, which would have an impact on social and economic development in the region (European Commission, 2011). This offer, however, has not been of interest to all of the target countries in the southern neighbourhood. Egypt refused more than once to engage in negotiations on the MP (Seeberg, 2014), and the dialogue on migration with the EU started only in December 2017 (European External Action Service [EEAS], 2017). Similarly, Algeria has not shown any interest in the MP, as the country seeks to maintain limited and selective cooperation on migration with the EU (Abderrahim, 2019). While the EU perceives the signing of MPs as critical for establishing structural cooperation on migration and mobility with the partner countries, the MPs seem to be mostly perceived as unbalanced and unattractive by countries in the southern vicinity (Seeberg, 2014). In practice, the MP provides a means for the EU to secure a third country's commitment on reducing irregular migration by the conclusion of a readmission agreement to return citizens with no right to stay in Europe and enhanced border controls, without offering concrete gains on free movement. The MP only offers the possibility of negotiating an agreement to facilitate the issuing of visas for certain groups of people that already enjoy facilitated movement, such as students, researchers and business professionals. Moreover, EU readmission agreements set the procedures for returning the signatory country's own nationals residing illegally in Europe and undocumented third country and stateless persons who transited through this country's territory to reach Europe. The latter point does not entail any benefits for the partners. As a result, Southern Mediterranean Partner countries generally have a limited interest in the MPs.

Only Morocco and Tunisia have eventually concluded MPs with the EU in 2013 and 2014 respectively. Several analysts argue that these two countries have done so reluctantly under economic and political pressure from the EU (Seeberg, 2014). Both countries' acceptance of the signing of the MP came at a critical time of their political

history that was marked by uncertainty and vulnerability. This volatile context seems to have provided a window for the EU to push these countries to sign new agreements (Limam & Del Sarto, 2015). While the signing of the MP could be said to be a breakthrough in EU-Tunisia relations, “the declaration was almost signed by stealth” as the EU resorted to more informal practices to put pressure on the Tunisian government (Zardo, 2017). The negotiations took place at a time when the turbulent transitional process in Tunisia affected the country’s capacity to negotiate with the EU and to jointly think about the future of their cooperation. Besides, successive changes in government, economic difficulties and regional instability hampered Tunisia’s leverage (Zardo, 2017). In a highly unstable environment in 2014, Tunisia was unlikely to prioritise migration management either domestically or in its relations with the EU. On the other side of the Mediterranean, this context was seen as an opportunity to achieve a critical and strategic objective.

What partly explains Morocco’s and Tunisia’s eventual conclusion of the MP is that they both have “a high and lasting economic, political and security dependency on the EU and its member states” unlike other resource-rich countries in the region (Kausch, 2013). Exerting the same pressures on Algeria would not have been possible. Thereby, the EU remains of critical importance for these countries, not least because it is the primary destination for their products without an immediate alternative despite some attempts of openness to new markets. Politically, the EU’s backing is no less important, not least in a turbulent regional environment.

The MPs in the context of the southern neighbourhood remain a relatively new policy tool. It will take longer before these agreements can fulfil their promise. For now, the EU states that the MP with Tunisia has brought about better management of financial resources. The MPs also provided a platform to launch negotiations with Morocco and Tunisia on the double readmission and visa facilitation agreements. In the following section, we explore how these negotiations have progressed so far and what key challenges have emerged in the talks.

Progress and Challenges in the Negotiations with Morocco and Tunisia

As migration has been a constant area of collaboration between the southern and northern shores of the Mediterranean, a range of bilateral agreements for joint work on border management and readmission were signed between countries from both sides. These bilateral agreements, especially on the return of irregular migrants, have not always been efficiently implemented. In 1999, the EC obtained the mandate from EU member states to deal with the external dimension of migration, and to launch negotiations on readmission agreements with third countries (El Qadim, 2017a). The objective was to address the implementation issues of bilateral agreements, such as challenges facing member states in receiving timely cooperation from consular officials of countries of origin to identify their nationals and issue their travel documents (El Qadim, 2017b). The underpinning assumption was that the EU could hold more leverage than individual EU member states in talks with third countries (Cassarino, 2010). Morocco was one of the first few countries identified by the EU to launch these negotiations given its importance as a country of both origin and transit and due to difficulties in ensuring Morocco's collaboration on deportations in the 1990s despite the existence of bilateral agreements (Cassarino, 2007). Talks between the two sides eventually started in 2003, far before the conclusion of a Mobility Partnership. Since then, readmission has been a persistent theme in migration relations between both sides. These talks were eventually suspended in 2010 as they failed to reach results after fifteen rounds of negotiations despite joint progress on cooperation on migration in other issue areas like border surveillance.

The conclusion of the MP has allowed negotiations with Morocco to be reopened in parallel with negotiations on a visa facilitation agreement. Interestingly, visa facilitation emerged as a tool to further talks on readmission with partner countries in the mid-2000s whereby the EU accepts the relaxation of some visa procedures in return for cooperation on migrant return. However, this incentive was employed selectively and was not applied in relations with the southern neighbourhood (El Qadim, 2017b). In the case of Morocco, it was only used following the signing of the MP in 2013. A new round of negotiations took place in 2015. Nevertheless, despite increased financial and mobility incentives for Morocco, there has been no progress in the talks (Carrera et al., 2016). Yet, it was not long before the talks were frozen again due to a new episode of tensions in EU-Morocco relations. In 2016, the political dialogue between the two sides was suspended, following the ruling of the EU Court of Justice against the agriculture and fishery agreement signed in 2012.

Negotiations with Tunisia on a readmission agreement never started under the previous regime. First, Tunisia was not considered a priority country for this agreement, at least in comparison with Morocco, which was more important as a country of origin and transit (El Qadim, 2017b). Second, the Tunisian government back then resisted attempts at

launching these negotiations. Only the signing of the MP led to launching negotiations on parallel agreements on readmission and visa facilitation. Something that Tunisia has accepted only reluctantly, as noted above. This partly reveals that the conclusion of an EU-wide readmission agreement with Tunisia has never been off the agenda. The revolution and the ensuing regional developments, along with their impact on movement towards Europe, has put that tool on top of the EU agenda. So far, four rounds of talks have been concluded between Tunisia and the EU, the first of which took place in October 2016. The EU positively welcomed the launch of these negotiations, and on that occasion the EU Commissioner for Migration, Home Affairs and Citizenship Dimitris Avramopoulos announced that “Tunisia could be the first country to benefit from an ambitious visa facilitation agreement” (European Commission, 2016).

Yet, in 2017, the EU noted that talks with both countries have not progressed as needed. Dissatisfaction with the progress and content of these negotiations also seems to be shared on the other side of the Mediterranean. The negotiations are mostly seen as asymmetric and unbalanced. In the following, we look at different points of contention in these talks.

The Thorny Question of Readmission

Readmission has been a key objective in the EU's migration relations with African countries. Readmission agreements focus on organising and expediting the process of deporting undocumented migrants from the EU by securing the origin country's commitment on swift identification of its citizens and speedy delivery of consular *laissez-passers*. These agreements represent one of the key tools in the EU's external action on migration. And while both Morocco and Tunisia have signed a series of bilateral readmission agreements with EU member states since the 1990s, the negotiations on EU-wide agreements have been problematic. The talks have been underpinned by numerous differences in interests and perceptions between the EU, on the one hand, and Tunisia and Morocco, on the other. Interestingly, both countries approach the readmission of their own nationals and of TCNs differently. Tunisia and Morocco usually state their willingness to re-admit their own citizens, which they are also bound to do by international law. However, disagreements with the EU persist on some practical details of this process. As for the readmission of TCN, both countries have strongly refused to collaborate on their return.

Readmission of Third Country Nationals

The readmission of TCN – that is migrants who are not nationals of either Morocco or Tunisia but transited through their territories to reach the EU – represents the most

contentious point in negotiations on a readmission agreement. Obtaining the collaboration of partner countries in this area is challenging because it does not entail any benefits for them. On the contrary, it could run counter to their domestic and external interests. As a result, both Tunisia and Morocco were strongly opposed to engaging in negotiations on this point.

While countries have a legal duty to readmit their own nationals, this is not the case for TCNs. Not only do these countries have no interest in readmitting TCNs, but this task is also considered as an unnecessary burden. The rejection of this clause rests on concerns about sovereignty and fairness as states perceive that they are being delegated unwanted tasks from the EU. From the Moroccan perspective, this agreement entails an “inequitable responsibility division between the EU and Morocco” (Carrera et al., 2016). This is especially related to the country’s growing role as a destination country for migrants from sub-Saharan Africa, which means that Morocco has no interest in hosting additional newcomers.

Adapting to its status as a growing country of destination for migrants from sub-Saharan Africa, Morocco launched a comprehensive migration reform in 2013, including two regularisation campaigns that offered legal status to over 40,000 migrants (North Africa Post, 2018). Hence, the priority for Morocco is to deal with the situation of foreigners who are already in the country rather than receive returned TCNs from Europe. Being the last step before reaching Europe, Morocco has been concerned that signing the readmission agreement will lead the country to accept all sub-Saharan migrants rejected by their own countries of origin. Morocco is further concerned that the EU has failed to reach a readmission agreement with Algeria that most migrants pass through before reaching Morocco (Wolff, 2014).

For Tunisia, it has managed so far to keep the level of transit low from its shores thanks to bold security management of land borders (Herbert & Gallien, 2018), which means that this discussion on return of TCNs is not relevant in the Tunisian case. Albeit with different contexts as transit countries, both Tunisia and Morocco perceive that they have already done their bit in terms of migration management, and that they are grappling with the same migration challenges as the EU.

Domestically, such an agreement is likely to be unpopular. Civil society in both countries has repeatedly voiced rejection of the inclusion of the clause on the readmission of TCNs and urged their governments to solely cooperate on the return of their own nationals. In Tunisia, civil society groups qualified the agreement on an MP, which included references

to the TCN clause, as being externalisation policy in disguise (Migreurop, 2013). Similar concerns were voiced by Moroccan civil society about the MP and implications for irregular migrants in the country in case of signing the readmission agreement (Euromed Rights, 2014): as despite the emphasis on integration of migrants and refugees in Morocco's National Strategy for Immigration and Asylum, both groups continue to face several difficulties, including access to housing and jobs (Abushi & Arroud, 2016). According to Abushi and Arroud (2016), putting in place the needed policies and institutions in Morocco to ensure the reception and integration of migrants and asylum-seekers will be a long-term process.

Moreover, an agreement on returning TCNs could run counter to these countries' foreign policy interests. North African countries in general attach a growing importance to strengthening their relations with sub-Saharan countries. The changing regional environment post-2011 pushed Tunisia to explore new opportunities south, by seeking to forge new economic partnerships with sub-Saharan countries and attract more students to study in Tunisian universities. Morocco's engagement in sub-Saharan Africa is more established. The Kingdom's interest in sub-Saharan Africa is driven by economic and geopolitical concerns: Morocco is pursuing investment opportunities with its sub-Saharan partners but also seeking their support on the question of the Western Sahara. An agreement with the EU on receiving rejected sub-Saharan migrants would subsequently lead Tunisia and Morocco to coordinate, in their turn, with the countries of origin in sub-Saharan Africa to arrange the return of their citizens. Yet, migrant return remains an unpopular issue: this means that cooperation with the countries of origin could prove to be problematic for North African countries and could pose a risk to enhancing their cooperation in other areas. This could also be linked to perception issues as Tunisia and Morocco are concerned that this agreement could affect their external image and lead them to gain a reputation as a "gendarme of the EU". Furthermore, these countries do not want to deal with fundamental questions about treatment of asylum-seekers and respect for human rights.

Beyond this political rejection, there are technical issues that were raised during the negotiations with both countries. These technical details include, for example, what evidence of transit to use. In the case of Tunisia for example, civil society has complained that some of the documents proposed by the EU in the draft agreement to establish proof of transit – like a communication from the family of the TCN – look rather "random" (representative of a Tunisian civil society organisation, personal communication, November 2017). Other technical questions include the institutional and capacity limitations to host returned migrants and offer protection. Agreeing to readmit TCNs

indirectly implies an agreement on their reception, possibly long-term, as there is no guarantee that their countries of origin would take them back. One civil society activist from Tunisia asks: “If the EU with all its leverage could not return these transit migrants home, would Tunisia or Morocco be able to do that?” (representative of a Tunisian civil society organisation, personal communication, November 2018). Partner countries in North Africa are unlikely to be able to offer long term reception to returned migrants as they “are themselves struggling with development challenges (Carrera et al., 2016). These limitations could be exacerbated due to the growing anti-migrant sentiment in both North African states. In Tunisia, civil society activists argue that the country has no suitable institutional and legislative framework, including a regularisation policy or voluntary return programmes, to deal with TCNs (Zardo & Abderrahim, 2018).

Strong rejection by Tunisia and Morocco of this clause is met by an emphasis on the EU side to include this point in the agreements as it has been included in readmission agreements signed so far with other countries. The controversy over this point during fifteen rounds of negotiations with Morocco did not push the EU to withdraw the clause when restarting talks on the agreement in the framework of the MP. Interestingly, the EU’s own evaluation of European Commission Readmission Agreements conducted in 2011 noted that this point has spoiled negotiations with partner countries. Not only that, but also the actual use of this clause was limited even when the agreement was eventually signed (Carrera et al., 2016). The 2011 evaluation further recommended using this clause only when the country concerned is geographically close to the EU or runs the risk of seeing significant numbers of transit migrants (European Commission, 2011). At least for the case of Tunisia, the level of transit has so far been low, which undermines the rationale to include this clause in the negotiations. The evidence from Morocco and Tunisia suggests so far that pursuing this objective through an EU agreement might not be realistic.

Despite these challenges, the EU is hesitant to eliminate the clause from the negotiations. Tunisia, on its side, has asked to remove it from the rounds of talks concluded so far. While the discussion on this clause has been postponed up until now, it is not yet clear if it will be completely withdrawn from the agreement. The clause is particularly important for the EU for different reasons. First, the emphasis of some member states on the inclusion of this clause “could indicate that they saw it as the possible added value of an EU Readmission Agreement; something they did not manage to negotiate bilaterally” (Carrera et al., 2016). Second, the negotiations are not a stand-alone issue, but they are linked with other processes at the EU level.

The readmission of TCNs is related to the process of developing a common list of safe countries, and both Tunisia and Morocco could potentially be on that list (representative of EuroMed Rights, personal communication, January 2019). Besides, some EU member states including Germany and Belgium are pushing for the classification of Tunisia, Morocco and Algeria as safe countries, hence the emphasis on the readmission of TCNs. While this issue has generated a difficult discussion between the EU and the southern neighbours, the readmission of transit migrants is not the only contentious issue in the negotiations as the following will show.

Readmission of Own Citizens

Both Morocco and Tunisia agree, in principal, on the return of their own nationals residing illegally in Europe. Yet, this issue has not been devoid of tensions. Readmission is a sensitive topic for countries of origin, which is the reason why bilateral readmission agreements are usually not fully implemented. Different reasons could account for the countries of origin's hesitation to fully collaborate in this area. For instance, states might be concerned about the "unpredictable consequences" of this cooperation (Carrera et al., 2016). Returning thousands of Moroccans or Tunisians including those who resided in the EU for a long time could bear a heavy financial burden (Carrera et al., 2016) as, once back, they will need support for their reintegration in the country's socio-economic life.

While the EU has been constantly trying to obtain more concessions from Morocco and Tunisia on migrant return, the latter have sought to evade the conclusion of an EU-wide agreement. Interestingly, the co-existence of multilateral (with the EU) and bilateral (with its member states) talks "provides multiple opportunities for resistance" for the partner countries (El Qadim, 2017a). According to El Qadim (2017a, p.142), some note that "Moroccan negotiators have used the multiplicity of their interlocutors to continue avoiding the signing of a very visible EU-wide readmission agreement." Securing the backing of some member states at EU level or pursuing a stronger cooperation on migrant return on the bilateral level could reduce the need and the pressure to conclude an agreement with the EU (El Qadim, 2017a). Similarly, rather than committing to a multilateral agreement, the Tunisian government traditionally preferred the conclusion of separate bilateral agreements with EU member states as this allows a better bargaining position (Limam & Del Sarto, 2015).

Already, as noted above, implementation of existing bilateral agreements remains rather patchy. Historically, Tunisia has not rejected cooperation on migrant return. Nevertheless, in general, collaboration with EU member states has been marked by

delays (Zardo, 2017), even though Tunisia's cooperation with Italy on return has substantially intensified in the past few years. The Moroccan government has been reluctant to fully collaborate on the implementation of existing agreements, causing delays by raising questions about the evidence of nationality and transit provided by EU countries (Carrera et al., 2016). This poses challenges for the EU, as the existence of readmission agreements does not necessarily lead towards their successful application. For almost the same reasons, civil society calls for the need to evaluate existing agreements before deciding on the new ones (representative of EuroMed Rights, personal communication, January 2019). Still, the EU perceives that EU-wide agreements are likely to work better because once a partner country signs the agreement, all EU member states will be able to send back irregular migrants from that country, which contributes to the EU's broader objective of more efficient and coherent return policy.

Disagreements on the readmission of own nationals mostly relate to the technical details and procedures outlined in the draft readmission agreements. Civil society organisations in Tunisia lament very short deadlines – two to eight working days – for Tunisian diplomatic representations to respond to EU requests to issue travel documents for irregular migrants (Zardo & Abderrahim, 2018). The point that has generated most criticism – and most importantly was faced with rejection by the Tunisian government – is the EU proposal to provide a *laissez-passer* to migrants in view of their deportation should there be a delay or no response from the Tunisian authorities. This proposal was seen as a violation of Tunisia's sovereignty (Zardo & Abderrahim, 2018). The Tunisian government has thus asked for the removal of this clause from the negotiations. As in the case of the clause on TCNs, this point has been temporarily excluded from the talks, but it is yet unclear whether the EU will agree to remove it altogether or will seek to obtain concessions from the Tunisian government on this issue.

The resistance of Morocco and Tunisia to move talks on readmission of TCNs and own citizens forward is unsurprising. Both countries are adamant in their rejection of the discussion on readmitting TCNs, as this runs counter their domestic and foreign policy interests. In addition, this rejection shows a resistance to be perceived as a "buffer zone" to keep migrants away from EU borders. Tunisia perceives the EU approach to this issue as lacking differentiation among partners in the region (Zardo & Abderrahim, 2018). As for the readmission of own nationals, both countries repeatedly confirm their willingness to take back their citizens, though disagreements on practical details still hinder the development of negotiations.

Unmet Expectations on Visa Facilitation

Visas are central to the EU's system of policing borders and controlling international human mobility (El Qadim, 2017b). However, visas are not only used as a key tool to control migration and mobility, but they are also employed as an incentive to obtain better cooperation on border controls from third countries. Under the MP with Tunisia and Morocco, an EU readmission agreement is negotiated in parallel with an agreement on visa facilitation that could serve as an incentive for the partner country to make concessions on readmission. However, the unfolding negotiations with Morocco and Tunisia may indicate that the “incentives” offered by the EU might not represent the step forward that the privileged partners are waiting. There are persistent differences between what the EU is offering and what the North African countries are expecting.

Obtaining visas to enter the EU remains challenging for citizens from Tunisia and Morocco. Many describe the process of visa application as cumbersome, lengthy, stressful and costly. Challenges when submitting visa applications include relatively high financial costs, long waiting periods, and an exhaustive list of required documents. The privatisation of member states' visa application procedures incurs additional costs for visa applicants (Carrera et al., 2016). At the same time, the proposed EU visa facilitation agreements are perceived as not sufficiently tackling and addressing these concerns. At best, these draft agreements were qualified as “elitist” because they continue to target categories that have relatively easy access to the EU, including business people, researchers, and students.

At the same time, other “less privileged” groups of society, including the unemployed, continue to have limited opportunities for temporary travel to the EU. Even for the more privileged groups, the proposed agreement does not include or promise a visa waiver in the long term, it only facilitates the process of obtaining visas (Moroccan researcher, personal communication, December 2018). This leads one to wonder about the added value of an EU-wide agreement on visa facilitation in comparison to existing bilateral agreements (Zardo & Abderrahim, 2018). While the impact of the visa facilitation agreement should be positive for the southern partners as it is supposed to reduce paperwork and waiting periods, its concrete impact remains largely unclear. Thus, the incentives proposed by the EU seem to be below the expectation of the Moroccans and the Tunisians.

For the EU, the current context does not allow reflections on the long-term prospects for the partnership with the southern partners. The lingering instability in the southern

neighbourhood provides little incentives for the EU to change its approach of favouring visa facilitation (Reslow, 2011). The EU does not see the merit of a long-term free visa regime, as in any case it will not provide a solution to the southern partners due to already limited number of jobs in Europe (representative of EuroMed Right, personal communication, January 2019).

Interestingly, in both cases in Tunisia and Morocco, this issue is linked to questions of dignity and fairness. As EU citizens continue to have free and unconditional access to these North African countries, questions are often raised about the fairness of the treatment of applicants from the southern shores of the Mediterranean. One Tunisian activist complains that “every applicant is seen as a potential irregular migrant. It is humiliating” (representative of Tunisian civil society, personal communication, November 2017). Nora El Qadim argues (2017a) that the discussion on visa facilitation cannot be reduced to mere technical talks because visas carry a symbolic and moral dimension. She finds that Moroccan officials frequently evoke dignity and self-respect as crucial drivers of the country’s policy on migration issues. Difficulties experienced by visa applicants are used by extension as a symbol of the dignity of the state and its international standing (El Qadim, 2017a).

In an attempt to gain some leverage and benefits in the visa dossier, both Morocco and Tunisia resorted to linking talks on visas with negotiations on trade cooperation. Moroccan officials raised the question of visa facilitation during negotiations on the liberalisation of services. The Moroccan argument was that “a real liberalisation of services would require the mobility of workers in this field” (El Qadim, 2017b). Similarly in Tunisia, the government and several non-governmental organisations have called for more synergies between the negotiations on the Deep and Comprehensive Free Trade Area and those on visa facilitation. However, for the EU these negotiations are conceived as different processes.

One of the key challenges to move the talks forward is the existence of uncertainties and hesitation on both sides. The EU’s offer has remained vague because “there is no real appetite in Europe for granting more visas” (public official, embassy of an EU member state in Tunisia, personal communication, November 2017). At the same time, to what extent the southern partners have a clear, strategic vision of the future of their relations with Europe is not very apparent, at least in the case of Tunisia. While seeking more concessions from the EU, Tunisia has not been very proactive, and delays on the side of the Tunisian government in reacting to EU proposals have not helped move the discussion forward. For instance, there has been a delay on the

Tunisian side in providing the EU with the list of professional categories to benefit from the visa facilitation procedures (Zardo & Abderrahim, 2018). These delays though could be explained by more practical challenges including successive changes of key officials in Tunisia and limited coordination among different Tunisian ministries involved in this matter (representative of EuroMed Rights, personal communication, January 2019).

Various disagreements have marked the EU's negotiations with Morocco and Tunisia on the double visa facilitation and readmission agreements. Moving beyond these differences is not an easy task considering a changing migration landscape in both Europe and Africa, which has turned migration into a highly politicised topic. The EU is grappling with different domestic issues that leave little appetite for EU officials to grant more mobility channels for citizens from the south, even for temporary travel. In the following, we look at challenges and constraints on both sides of the EU and its southern neighbours to move their talks forward.

The Challenges to Move Forward

An Unfavourable Policy Context in Europe

In the EU, migration has become a defining issue in internal and external politics. The “migration crisis” has raised questions about the sustainability and efficiency of the EU’s asylum and border control system, particularly as member states struggled to deal with the influx of migrants and refugees. As many member states opted for reinstating border controls to prevent the flow of migrants into their territory and pushed back migrants at the borders to other EU countries at the peak of the crisis in 2015, it has become clear that migration intersects with the question of the survival of the EU itself. This is because reinstating border controls within the EU challenges the very notion of a common space. Not only that, but the challenge of irregular migration “put the tension between national and supranational interests” (Brekke & Staver, 2018). Subsequently, the rise of far-right parties, as opposed to pro-EU parties, has demonstrated that migration has become one of the key issues that shape electoral outcomes. Amidst dwindling EU solidarity, tackling the challenge of irregular migration is framed as central not only to secure the external borders of the EU but also to help counter the rise of anti-EU parties. The perception of migration as a threat to national security and sovereignty gained momentum. These concerns around migration have led to growing securitisation of migration issues and the prioritisation of migrant return and border control over other aspects of migration cooperation.

While Tunisia and Morocco try to push for de-linking the negotiations on readmission and visa facilitation, the current context in Europe has only made these two issues more intertwined. The EU is intent on leveraging its visa policy to obtain more cooperation on return from third countries, as best illustrates the EU’s proposal for the reform of the visa code. In March 2018, the EC put forth a proposal towards reforming the EU common visa policy. The objective is to establish new measures to conduct more thorough background checks on visa applicants to limit the risk of the infiltration of potential terrorists, criminals and irregular migrants. The reform would include strengthening the EU Visa Information System, a database that gathers information on Schengen visa applications and connects EU border guards with EU consulates abroad. Collecting and keeping information on applicants for both short-term and long-term stays in the Schengen space would allow the EU to more swiftly return migrants who overstay their visas. Keeping information even for the rejected visa applications means that the EU will be more able to identify and return these individuals if enter the EU illegally.

Besides the proposed reform of the visa code, the EU aims to further use visas as a tool to control borders by introducing new measures to allow visa restrictions to be imposed

on countries that are less cooperative on migrant return. These measures go from requiring more time to process visa applications, decreasing the period of validity of visas, increasing fees, and even restrictions for certain categories like diplomats. In the same context, migrant return has become a main topic for bilateral visits by EU member states to North African countries. This is unsurprising given the important place that return occupies on the EU migration agenda. The focus in Brussels is on finding practical ways to propel North African countries into a stronger engagement in this area. This objective is likely to be more important regarding the EU's ongoing efforts to establish a more coherent and efficient return policy (European Commission, 2018). At the same time, the appetite for discussing concessions on visa facilitation and circular migration seems minimal. In brief, the EU will more increasingly use visas as a bargaining chip in negotiations with partner countries to further its objectives.

The Landscape in the Southern Mediterranean

The broader issue in EU-North Africa partnership, especially in the realm of migration, is that the relationship is mostly conceived and driven by the EU. The MP, for example, did not emerge out of a common, joint interest, but was rather a proposition from the EU to its southern neighbours. This top down approach translates in difficulties due to limited ownership of the process by one side, which can negatively impact dialogue with partner countries (Zardo, 2017). For Tunisia, lacking a clear vision of its partnership with the EU in the long term poses a problem. At a time where Tunisia is lacking clarity about what it wants to achieve in this partnership, the EU has been pushing for support from the government, a dynamic that can only further feelings of dissatisfaction and limited ownership (representative of EuroMed Rights, personal communication, January 2019). EU-Morocco relations have also experienced some challenges in the past few years, including on migration and the Western Sahara issue (Fakir, 2019), which has affected talks on migration. Yet, Morocco remains a more stable country than Tunisia with the latter becoming more dependent on the support of external partners. Generally, Morocco continues to enjoy more negotiating power with the EU, and is often described as more successful in using the EU's interest in migration to impose its own agenda (see, for example, Wolff, 2014).

While irregular migration has significantly decreased in 2018 to reach pre-crisis levels (European Commission, 2019), the ramifications of the migration crisis in Europe and the regional context do not encourage a more positive and promising discussion on this issue. While the EU and Italian policy in Libya has led to cutting down departures from

Libyan shores, there was an increase in sea crossings last year from other transit points in North Africa, including Tunisia and Morocco. Last year, Tunisia was one of the main countries of origin along the Central Mediterranean Route since the biggest majority of those leaving from its coast are Tunisians themselves. The numbers of Tunisian arrivals in Italy went from around 1,000 in 2016 (Mixed Migration Hub, 2018) to over 5,000 in 2018 (United Nations High Commissioner for Refugees [UNHCR], 2019). While the level of transit through the country remains low, this could change. The increasing departures from Tunisia have been a source of concern in Europe, especially in the main country of arrival, Italy.

Despite a substantial increase in cooperation on readmission between Italy and Tunisia since 2011, Italy has tried to gain more concessions from the Tunisian government on return last year, which the latter resisted.

As for Morocco, it remains a main origin and transit country. While over 10,000 Moroccans fled the country by sea last year, another 40,000 migrants mostly from sub-Saharan countries transited through the country to reach Europe (UNHCR, 2019). This represents a challenge in the kingdom, which has taken some measures to alleviate the pressure on its maritime borders including internal deportation of potential irregular migrants from coastal to internal cities and imposing visa conditions on some nationalities from West Africa.

This general political environment is rather unfavourable to more fruitful negotiations and could lead the EU to further insist on stepping up cooperation on readmission, including by securing an agreement to return TCNs to both countries. Besides, this context risks further limiting the bargaining power of Tunisia and Morocco, and might lead them to avoid progress in the negotiations. The interest of individual member states in enhancing readmission cooperation with Tunisia and Morocco either by concluding new agreements or boosting the implementation of existing agreements is likely to help North African countries continue avoiding the signing of an EU-wide readmission agreement. Nora El Qadim (2017b) argues that "the co-existence of EU-wide international relations and bilateral relations, by providing multiple arenas to third countries, can provide more opportunities for avoidance or resistance." Rather than conceding to an EU agreement, North African countries are likely to seek better cooperation on border controls and migrant return with individual EU member states.

Conclusions

Migration has become a defining issue in EU-North Africa relations, albeit an issue fraught with tensions and disagreements. The limited progress of the negotiations on the double agreements on readmission and visa facilitation between the EU and Morocco and Tunisia carries several lessons for EU-North Africa cooperation on migration and for their relations more broadly. Mostly, these negotiations have demonstrated the existence of different agendas and divergent priorities and perceptions on both sides of the Mediterranean. These priorities might not always be mutually understood and respected.

The resistance of both Morocco and Tunisia to sign an EU-wide readmission agreement that includes a commitment to return TCNs has been driven by domestic and external considerations. Domestically, the agreement is unlikely to be popular and could fuel anti-migrant sentiment that is simmering in these countries, while externally it could run counter to their foreign policy interests in sub-Saharan Africa. As both countries realise the EU is grappling with a challenging migration context, they resist being delegated undesirable tasks. At the same time, they maintain their commitment to readmit their own nationals, although to what extent this commitment would meet concrete action is yet to be seen.

Persuading North African countries to agree on a readmission agreement including provisions that are in contradiction with these countries' own interests does not seem to be the right approach. Besides, the conditionality approach that links the signing of this agreement with the relaxation of some visa conditions for certain groups of citizens seems to be insufficient, raising questions about the appropriateness and the feasibility of the readmission-visa facilitation policy tool. Amending the draft agreements in order to reflect common priorities is needed. The emphasis on signing the readmission agreement as it stands now is likely to be counter-productive as this approach only signals a lack of interest and attention to the interests of partner countries. Emphasising the inclusion of the clause on TCNs could block rather than push forward negotiations on both agreements since they are interlinked. This is especially important because the TCN clause could be of limited use, especially in the case of Tunisia, where there are few transit migrants. Besides, this discussion channels mistrust and tension in the partnership and could negatively affect cooperation in other areas between the two sides.

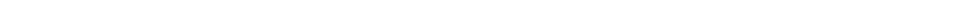
This episode of negotiations shows that incentives do not automatically guarantee the cooperation of partner countries and do not lead to acceptance of EU proposals. The concerns of the southern countries cannot be easily dismissed. It is critical to understand the motivations that explain the behaviour of these countries. The existence of challenges and policies in Tunisia and Morocco tends to be underestimated on the other side of the

Mediterranean. This is critical because the Southern Mediterranean countries cannot be reduced to mere implementers of EU policies. As Nora El Qadim argues (2017b), it is critical to seriously consider “the symbolic, moral, and emotional arguments put forward by state actors in the south in order to understand their claims and the unfolding negotiations.”

The bilateral agreements on readmission signed since the 1990s have shown that the conclusion of an agreement does not lead to efficient implementation, and hence the focus should be on more efficiency by identifying shared objectives that could realistically be achieved. Thus, the discussion should not focus solely on technical issues, such as what proof of transit to use, as for instance in the case of TCNs, but should be a political discussion. While this clause has been temporarily removed from the negotiations between the EU and Tunisia following a demand by the Tunisian authorities, more clarity should be reached on this clause. Ideally, and in light of the reasons listed above, it should be completely removed from the draft agreements with both Tunisia and Morocco.

Talks do not look more promising on the visa facilitation dossier either, especially regarding the growing politicisation of visas as a foreign policy instrument. As the EU seeks to obtain more concessions from both countries on readmission, visas are likely to be used as a tool to influence the positions of Morocco and Tunisia. On the southern side of the Mediterranean, the visa policy is seen “as a contestation of inequalities in the policing of migration” (El Qadim, 2017b). Two trends that are heading in opposite directions make the EU's approach of using “a fine balance of incentives and pressure” to propel North African countries into stronger cooperation on migration more challenging and probably unrealistic.

The salience of migration as a shared challenge for both sides will only call for more cooperation between the EU and partner countries, and hence the need to find realistic and constructive approaches for cooperation. The MPs were intended to be tailor-made, and negotiations conducted within their context should reflect the specificities of different cases and provide credible incentives. Revising the draft agreements on readmission and visa facilitation would be a major step towards setting realistic objectives and building tailor-made partnerships. Otherwise, these negotiations could risk being an endless tale.



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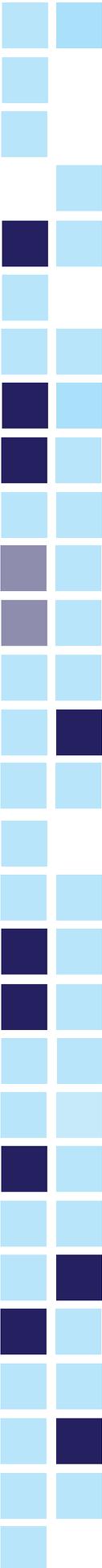
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EuroMeSCo

Founded in 1996 and comprising 102 institutes from 30 European and South Mediterranean countries, EuroMeSCo (the Euro-Mediterranean Study Commission) is the main network of research centres on politics and security in the Mediterranean, striving at building a community of research institutes and think tanks committed to strengthening Euro-Mediterranean relations.

The objectives of the network are to foster influential quality analysis and reflection on Euro-Mediterranean politics and policies; to serve as a platform for dialogue between the members of the network and key stakeholders to discuss the key trends and challenges on the region's agenda; to increase the impact of think tanks and research institutes and to actively contribute to policy-making through dissemination of research outputs of the network to experts and national, European and international institutions linked to Euro-Mediterranean relations.

The EuroMeSCo work plan includes a research programme with five publication lines (Joint Policy Studies, Papers, Briefs, Spot-Ons and reports), as well as numerous activities, including annual conferences, seminars, workshops, presentations, formal and informal meetings with policy makers on the key political and security dynamics. It also includes communication and dissemination related activities (website, newsletter and targeted institutional dissemination) to raise awareness and promote the work of the network and to stimulate debate on Euro-Mediterranean affairs.

