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## Who Owns What? – Free Trade Policies, Migration Management and the Ambiguity of “Joint Ownership”

Sherin Gharib

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*Sherin Gharib*\*\*

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\*\* Researcher, Austrian Institute for International Affairs; Head of Network of the Austrian Anna Lindh Network; Lecturer, University of Vienna.

## Introduction

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The concept of joint ownership has become a buzzword since the 1990s not only in strategies of international organisations, such as the United Nations (UN), the World Bank (WB) or the International Monetary Fund (IMF), but also in European Union (EU) foreign policy (Ejdus, 2017). Since the launch of the European Neighbourhood Policy (ENP) in 2004 joint ownership has been defined as one of its main principles. Accordingly, the EU states that “joint ownership of the process, based on the awareness of shared values and common interests, is essential. The EU does not seek to impose priorities or conditions on its partners” (European Commission, 2004, p. 8). It continues by holding that there “can be no question of asking partners to accept a pre-determined set of priorities. These will be defined by common consent and will thus vary from country to country. The endorsement of these plans by the highest instance of the agreements in place will give added weight to the agreed priorities for action” (European Commission, 2004, p. 8). Thus, EU policies should be set within a partnership relation between the EU, and its counterparts and priorities should be defined by common consent. The EU aims to engage “governments and all leading local stakeholders, including national parliaments” (European Commission, 2010c cited in Jonasson, 2013, p. 47).

The importance of joint ownership was reconfirmed within the revised ENP in 2015, where the EU has declared that “differentiation and greater mutual ownership will be the hallmark of the new ENP, recognising that not all partners aspire to EU rules and standards, and reflecting the wishes of each country concerning the nature and focus of its partnership with the EU” (European Commission, 2015a, p. 2). The goal, as the EU has claimed, is to increase cooperation with neighbouring countries to an eye-to-eye level and to follow an approach based on “both partners’ needs and EU interests” (European Commission, 2017). The revised ENP again acknowledges the importance of involving relevant members of civil society as well as social partners in consultations (European Commission, 2015a, p. 3).

Despite the appearance of joint ownership in several EU documents and its use as an example of an inclusive approach, the definition offered remains quite vague. Thus, it is unclear to what extent governments, local stakeholders, civil society and social partners should co-own certain policies. Whose considerations should count and should joint ownership be operationalised within the decision-making or implementation process? How can the operationalisation of the concept be evaluated?

This policy paper critically investigates the EU’s concept of joint ownership. Drawing on two case studies, namely free trade policies and migration management, the paper

analyses the implications and limitations of the EU's partnership relation with its southern neighbourhood. The paper focuses mainly on the Egyptian, Tunisian and Moroccan cases. Due to the vague definition of “joint ownership” and in order to be able to analyse the two case studies, the paper suggests, based on EU documents, two types of ownership: 1) governmental ownership and 2) societal ownership. Using this conceptualisation, the paper analyses the involvement of different stakeholders and the main beneficiaries of EU free trade policies and migration management. It argues that there is a lack of governmental as well as societal ownership within the two EU tools, Deep and Comprehensive Free Trade Agreements (DCFTAs) and Mobility Partnerships (MP) as it is mainly the EU that sets priorities, norms and standards to be adopted by partner countries. Government representatives and civil society actors from Mediterranean Partner Countries (MPCs) perceive their relationship with the EU as asymmetric rather than based on an eye-to-eye level (personal communication with Tunisian and Egyptian officials and civil society actors, 2016-2017). The perceived reluctance to fully engage MPCs – government officials and social actors – in the implementation of EU policies has led to their growing mistrust of the EU.

If ownership is applied at all, then it is often reduced to a state-centric approach even though the EU is rhetorically attached to the inclusion of actors going beyond the government. The lack of “societal” ownership becomes evident as consultative mechanisms suggested and applied by the EU to include grassroots organisations have in most cases no implications for policy-drafting processes. Thus, there seems to be a gap between what the EU refers to in official documents and the implementation on the ground. In this case, both MPs and free trade policies might exclusively serve the interests of the government and linked elites in the region – this depends on their ability to “own” certain policies rather than addressing the needs at the grassroots, such as poverty reduction or the creation of job opportunities. In this respect, the legitimacy and sustainability of EU policies is at risk (Ejdus, 2017; Dworkin & Wesslau, 2015).

The paper proceeds as follows: the first part investigates the concept of ownership, illustrates several dimensions of its ambiguity, and analyses the EU's operationalisation of the concept. Subsequently, the paper sheds light on the limits of ownership in the realm of free trade policies in general and DCFTAs in particular. The following section investigates the concept of migration management and MPs. The analysis is based on primary and secondary literature review as well as interviews conducted by the author with Egyptian and Tunisian officials and civil society actors, as well as with EU representatives in 2016 and 2017.

**Whose Ownership Matters?**

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## Ownership as a Key Concept

The idea to include recipients of a certain policy in the decision-making process is nothing new. However, it was in the 1990s when the concept of ownership gained a new upswing. It re-emerged in particular linked to external policy, aid and development policies as well as peace-keeping missions (Rayroux & Wilen, 2014). During the 1960s, donor organisations, such as the WB or the IMF, used to support partner countries without setting conditionalities. Responsibility on how to spend financial support offered was largely left to the recipients (Pearson et al., 1969; Jerve, 2002). Later on, in the 1970s, donors, in particular bilateral ones, started defining aid principles; however, the orientation on recipients was still regarded as a key objective during that time (Pearson et al. 1969; Jerve, 2002). Donors – at least rhetorically – committed themselves to respect priorities and needs developed by the respective recipient government (Jerve, 2002). However, in the following years bilateral and multilateral aid started to become “projectized” and donor organisations began having less confidence in recipient governments on how they spend the received financial support (Williams, 2015; Browne, 1997). Thus, they began to define conditions for receiving and spending financial aid. In this context, conditionality became an important concept applied by several actors, such as the IMF and the WB, but also the EU. Although there was a consensus that ownership is an important approach, donor organisations imposed conditionalities on recipient countries (Rayroux & Wilen, 2014). Support was linked to the fulfilment of certain conditions and was based on the quality of outputs and results (Crawford, 2007; Jerve, 2002). Conditionality linked to structural adjustment programmes played a crucial role in paving the way for neoliberal economic policies as well as for “a one-size-fits-all approach to development theory” (Jerve, 2002, p. 391). Western donors tried to pursue a stronger normative approach: they reduced “the scope of cultural relativist positions” (Rayroux & Wilen, 2014, p. 27) and combined it with normative principles such as democratisation, good governance and social sector spending. In the 1990s engaging policy recipients and making them responsible for their own developmental trajectories by letting them “own” policies became a key concept, especially within peace-building missions as “there was an acute need to legitimize interventions and avoid the impression of paternalism and neocolonialism” (Rayroux & Wilen, 2014, p. 27). International (donor) organisations started to believe that sustainable policies could only be achieved through the inclusion of local input and participation and that local citizens know their historical trajectories and political contexts best. Thus, they should identify measures for peace-building processes or development-related policies by themselves (Richmond, 2012; Lee & Özerdem, 2015). Since then, not only has ownership become a central concept in peace-building and development policies but it has also started to be a buzzword in EU policies (Lee & Özerdem, 2015).

The main idea behind the concept is to include recipients of a certain policy in the decision-making and implementation process (Vanheuverzwijn & Crespy, 2018). As the WB (2003) has put it, “development goals and strategies should be ‘owned’ by the country, based on broad citizen participation in shaping them” (p. 5). This means that activities and programmes have to be designed and implemented by local actors. In this realm, ownership is not primarily about local support for donor programmes but donor support for programmes shaped by local actors (Nathan, 2007). Thus, domestic actors and local communities should obtain the primary role in defining problems as well as developing and implementing policies. Cooperation in this respect should be based on local preferences (Petrova & Delcour, 2019). In other words, as Coman (2017) has put it, “owning a policy means that a policy is not only imported from an external actor to the local level, but that the local level participates in reflecting on it” (p. 166). Helleiner (2002) points to the fact that some donors seem to think that ownership is materialised when recipients voluntarily follow what donors want them to do.

In this case, international organisations use the term “as a corollary to their interference in domestic affairs of a sovereign state” (Coman, 2017, p. 166), in order to suggest that local populations are not witnesses of external interference but do contribute and are an active part. Drawing on that, while ownership should theoretically represent local interests, responsibilities and accountabilities negotiated between local and international actors, in reality there is often a reluctance on behalf of international donors to apply the principle. The meaning and function of ownership differs in different contexts, whereas the dynamics between internal and external actors define the materialisation of ownership (Rayroux & Wilen, 2014; Richmond, 2012).

### **Joint Ownership – An Ambiguous Concept**

Although “joint ownership” is frequently used, the concept is characterised by several ambiguities. The main difficulty in relation to the concept is that no organisation has delivered its precise definition, which would entail explicit guidelines and methods on how and to whom ownership should be introduced and how it should be achieved (Vanheuverzwijn & Crespy, 2018; Nathan, 2007).

Along this line, Lemay-Hébert and Kappler (2016) argue that the concept has often remained superficial. It is unclear who exactly should have the agency to own a certain policy. Which actors should be considered as local and what exactly should be owned? How should the relationship between external organisations and locals be shaped? The

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concept tends to be interpreted based on individual assumptions, which has led to misunderstandings and unoperationalisable approaches. Another challenge is that the concept was not developed by local actors but by external, mostly Western ones. Thus, it is “driven by a liberal peace agenda (...), while at the operational level it should by nature rely on a communitarian approach, a bottom-up approach that emphasizes the role of local actors, knowledge, structures, and resources to foster and nurture peace-building” (Rayroux & Wilen, 2014, p. 27). According to Rayroux and Wilen (2014), in the case of Africa, the main assumption is that Africans themselves should have the responsibility to handle the prevention and management of conflicts in their continent. In this case, ownership is applied in order to legitimise this perception.

Moreover, ownership has become an integral part of the inclusive neoliberal development regime. In this vein, the concept, also addressing the failure of conditionality, was developed to contribute to a commitment to the implementation of structural adjustment policies by developing countries (Ruckert, 2006).

As the IMF has put it, ownership “matters because it directly affects program implementation...When the program is owned by the country, decisions on such actions are likely to be made quickly and in support of the program, which makes it more likely that the program will succeed. Furthermore, ownership will make it easier to generate domestic political support for the program, since it is likely to be seen at least in part, as an indigenous product, rather than a foreign imposition”(International Monetary Fund, 2001, p. 14, cited in Ruckert, p. 46).

In contrast, Richmond (2012) argues that “ownership is a rhetorical device to gain legitimacy for strategies that maintain external rather than local interests” (p. 367). In fact, while the concept should imply that actors can choose how they own what, it seems that there is a reluctance to address local interests and needs.

Yet another ambiguity is related to the fact that governments’ interests might differ from the populations’ interests or needs, potentially leading to domestic divisions. Indeed, there are different interest groups, representing labour, industry, the poor, with overly heterogeneous necessities and demands. Interest groups might influence the government with irregularities, such as paying fines to influence policy outcomes. Boughton and Mourmoras (2002) argue that “interest groups play an important role in inhibiting ownership and should be accounted for in a model of the ownership/conditionality nexus” (p. 5). Ownership might also be used as a political propaganda tool by political elites and community leaders in order to pursue their own

interests that often differ from local communities. This makes it challenging to include all actors and to enable all of them a certain degree of ownership (Boughton & Mourmoras, 2002). Certainly, it is also about the degree of autonomy and independence of civil society actors that influence how they are capable of playing an important role.

As a result of a lack of knowledge about local social interactions and needs, external donors tend to cooperate with local elites or civil society actors with a Western-like mind-setting more than addressing grassroots organisations (Hahn-Fuhr & Worschech, 2014; Colombo & Meddeb, 2018). Similarly, Rayroux and Wilen (2014) refer to the example of peace-building, where the rural population is often not included in EU-led peace-building projects although they are the most affected by post-war situations. Excluding local actors means that externally initiated projects risk not being linked to local realities. Therefore, the question is how to include local communities rather than elites and to reflect the diversity of local actors (Lee & Özerdem, 2015). Hence, it is questionable whether the principle can be applied when governments' interests do not overlap with those of civil society actors or when governments are not interested in including the views of relevant actors due to individual power ambitions. Thus, in order to comply with the principle of joint ownership, a long process of interaction and negotiation, involving officials as well as civil society actors, including marginalised groups, would be required (Boughton & Mourmoras, 2002).

Addressing these ambiguities and in order to make the concept tangible for the following analysis author's definition of joint ownership based on the literature on ownership and EU documents is provided. Accordingly, joint ownership entails the premise that policies and priorities should be defined and implemented collectively by a recipient country and the EU. In this context, joint ownership implies that policies have to be defined based on a broad citizens' acceptance of certain policies. As the recipient might be the government, elites or civil society organizations (CSOs), a distinction is made between a governmental ownership, also including relevant political and economic elites that are somehow linked to the respective government and a societal ownership.

## Who Owns What in EU Policies?

From the 1990s on, the concept has been integrated as a fundamental principle into the EU's external policy discourses. The principle can thus be found in all EU policies, from development to innovation (Ejdus, 2017). The EU refers to “joint”, “mutual” or “co-ownership”, entailing that certain policies have to be owned by the EU, on the one hand,

but also by the respective recipient country, on the other. According to Lemay-Hébert and Kappler (2016) and based on their interview with an EU official, the EU understands ownership as an “attempt to make people responsible for their own decisions, ideally through passing on knowledge to people from the EU, that is, from EU practice to local partners” (p. 903).

In this manner, the EU expects ownership providing legitimacy to EU policies and contributing to sustainability and policy effectiveness (Petrova & Delcour, 2019). State and societies are considered as key actors for the definition of a common agenda-setting and for the formulation of certain policies between the EU and its partner countries. With regard to policy implementation, ownership is supposed, according to the EU, to ensure a better adaptation to local practices and resources (Petrova & Delcour, 2019). However, similar to the ambiguities already mentioned, the EU’s concept is characterised by irregularities since no further explanation of how these should be achieved is provided.

Also, there is no information on whether governmental or societal ownership counts more when views and interests of government representatives and elites differ from those of civil society actors. In this vein, the question is how to include different parts of society when a consensus over reform and policies to adopt is hard to achieve (Rayroux & Wilen, 2014).

The re-emergence of ownership within the revised ENP in 2015 can be considered as a response to criticism of the nature of the ENP, perceived as Eurocentric. For example, one of the outcomes of the consultation process of the ENP in 2015 was to put more stress on local needs and to better imply joint ownership (European Commission & High Representative of the European Union for the Foreign Affairs and Security Policy, 2015). Similarly, Action Plans have been subject of criticism as they were perceived by some CSOs to be without national ownership or a reflection of the real needs and necessities of all levels of society (Annd, 2015, p. 2).

According to Ejdus (2017), the EU has become particularly attached to the principle of ownership as a way of “avoiding appearing in a neo-imperial light” (p. 5). In this respect, the EU aims to avoid being blamed for being an imperial actor as the concept aims to conceal that EU policies are self-interest-driven.

In order to achieve a certain degree of co-ownership, the EU has replaced Action Plans with Partnership Priorities with some countries, thus also minimising the conditionality approach to a concept that has become a “champion” of the EU since 2011 (Balfour, 2012, p. 15; Lannon, 2018). Conditionality, reflected through the incentive-based

approach known as “more-for-more” principle applied after the Arab uprisings, entailed the so-called “3Ms”, more money, market access and mobility for those partner countries that have implemented political reforms (Balfour, 2012). In contrast, the revised ENP 2015 has followed a more pragmatic stance and focuses primarily on stability in the region. It has underlined the concept of joint or mutual ownership and common responsibility as its highest priority (European Commission, 2015a). In fact, conditionality and ownership contradict each other as imposing norms and standards not compatible with partner countries’ priorities do not match with an approach that highlights the importance of including local stakeholders in decision-making processes (Hartmann, 2012).

Partnership Priorities reflect “shared political priorities” (European Commission & High Representative of the Union for Foreign Affairs and Security Policy, 2017, p. 4). Within these documents, the EU together with governmental representatives are supposed to jointly define priorities for action for the upcoming years, while more stress is put on the political will of the partner. Linked to that, the European Neighbourhood Instrument (ENI) is according to the EU developed in coordination with national authorities of partners but also with all relevant stakeholders, such as civil society, social partners, private sector organisations and local and regional authorities (European Commission & High Representative of the Union for Foreign Affairs and Security Policy, 2017). However, Partnership Priorities do not provide an inclusive ownership. As government representatives and EU officials are those who regularly participate in Association Councils, it seems that the EU is rather referring to a governmental ownership. However, this raises two main questions: firstly, to what extent do government representatives from the Southern Mediterranean Partner Countries (SMPCs) consider that their perspectives are taken into account and, secondly, whether, if at all, at any stage of identification of common priorities for action, civil society actors are involved.

When it comes to societal ownership, it can be argued that there are some attempts by the EU to involve civil society actors in policy- and decision-making. For instance, in Tunisia, in 2014 the EU launched a flagship initiative, the Tripartite Dialogue (EU Neighbours, 2019; EuroMed Rights, 2019). Its aim was to promote dialogue between the EU, Tunisia and civil society actors and to involve them in decision-making processes around four key themes: migration, social and economic rights, justice, and gender equality (EU Neighbours, 2019). The project was 80% funded by the EU and was implemented by EuroMed Rights. While the project might be regarded as an innovative approach, in reality the dialogue and exchange were confined and activities were mainly limited to discussions with no influence on policy-making (Colombo & Meddeb, 2018).

In this case, civil society actors have not had the opportunity to “own” certain policies. In response, several CSOs are demanding an “inclusive and transparent dialogue with civil society at sub-national, national and regional levels” that “should tackle all areas including trade policies and peace processes” and “should build on civil society ‘ownership’ of the dialogue so that they can highlight priorities and define agendas” (Annd, 2015, p. 7).

However, a challenge to the societal ownership results from the fact that many governments in the Middle East and North Africa (MENA) region do not welcome the involvement of civil society actors by the EU in policy design. As a former leading Egyptian official has put it, “we [Egyptians] do not want the EU doing things behind our backs, this also entails the inclusion of civil society actors” (personal communication with Egyptian official, 2017).

## **EU Free Trade Policies and the Principle of Ownership**

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## EU Free Trade policies before the Arab Uprisings

Several organisations (Organisation for Economic Co-operation and Development [OECD], IMF, WB) point to the fact that it is crucial to follow an ownership approach in the context of trade policies. The OECD, for example, highlights the importance of involving “a wide range of actors in the trade policy process” in order to facilitate “ownership’ of trade development and ensure that trade strategies and policies are demand-driven” (Organisation for Economic Co-operation and Development, 2001, p. 41). Accordingly, trade policies should be formulated that are “broadly inclusive, involving significant contributions from the enterprise sector and civil society,” and should be “locally-owned and demand-driven” (Organisation for Economic Co-operation and Development, 2001, p. 59). Similarly, the EU underlines that ownership is a condition for success in trade policies and that solutions “cannot be imposed from the outside” but that “developing countries must make their own choices” (European Commission, 2012b, p. 16). Also, another document released by the Council of the EU states that “developing countries’ own policies, strategies and reforms, when providing assistance” (Council of the EU, 2012) will be supported.

However, it seems that the EU’s trade policy towards the MENA region is infused and guided by the belief that free trade is the key to economic growth. Accordingly, economic liberalisation and the transformation of SMPCs into market-based economies are key to successful economies (European Commission, 2012a; European Commission 2015a; Reynaert, 2011). In this realm, it can be argued that the EU’s narrative of trade cooperation is based on a modernisation approach: the EU as a modernised actor has the best rules that should be transferred to other parts in the world, thus the EU’s set of rules and *acquis* are the solution for achieving economic growth. This assumption is not only valid within the case of its SMPCs but can also be observed within the Eastern Neighbourhood Policy, as Petrova and Delcour argue (2019). Thus, the EU’s relations with its Southern and Eastern Partner Countries are dominated by trade instruments designed by the EU, since the EU seems to consider itself to be a driver of modernisation (Petrova & Delcour, 2019). This in fact contradicts the EU’s principle of ownership as trade instruments are not always designed commonly with partner countries. In this regard, it is questionable whether the EU’s vision of economic growth necessarily fits different political and socioeconomic conditions and necessities (Ngangjoh-Hodu & Matambalya, 2010) or has put any stress on local conditions and needs.

Similarly, while EU documents highlight what Langan (2015) refers to as normative agenda in EU trade policies, entailing poverty reduction, democratisation and social

equality, these goals contradict the empirical realities. In contrast to the EU's normative goal of poverty reduction believed to be achieved through free trade, socioeconomic challenges, such as a growing gap between rich and poor, remained prevalent. The belief in positive synergies between trade and development has not necessarily been materialised in the past as the following examples will show.

Despite an average annual growth of around 5.6% in Egypt under Mubarak (The Egyptian Center for Economic Studies, 2011) and 5.4% in Tunisia in the era of Ben Ali (Achy, 2011), the conditions of large sections of the population did not improve. This has led many scholars to argue that neoliberal reforms, including those implemented by the EU, in fact triggered the Arab uprisings in 2011 (Kirk, 2016; Bogaert, 2013; Kaboub, 2013).

Moreover, liberalisation policies opened the doors for corruption, opportunities for abuse of power, and the creation of monopolies in several economic fields (Roll, 2013; Kirkpatrick & Afify, 2011; Oubenal & Ben Hamouda, 2018). In Egypt, a group of businessmen with close ties to the son of the former President Gamal Mubarak benefitted from the implemented free trade policies (Roll, 2013). Crony capitalism flourished with the cabinet of Ahmed Nazif, former prime minister (2004-2011) (Kirkpatrick & Afify, 2011). Neoliberal reforms, structural adjustment and economic cooperation with the EU seemed to have been primarily in favour of political and economic elites. Business elites not only dominated the economy but also played an important role in policy-setting as most of the company owners were politically well connected. They had influence on political decisions by occupying important positions in government, parliament, ruling party and other influential committees. For instance, Ahmed Ezz, an Egyptian businessman and politician, obtained illegal permits for his conglomerate, Ezz Steel, and benefitted from his leading role in parliament and in the former ruling party (Kirkpatrick & Afify, 2011; Roll, 2013). Similarly, Mohammed Mansour, an influential Egyptian businessman, obtained permissions for his “Mansour group”, an Egyptian multinational conglomerate and the largest General Motors dealer in the world.

In Tunisia a small group of elites connected to the former President Ben Ali and his wife Leila Trabelsi had the monopoly on the business sector. They benefitted from privatisation and liberal reforms and controlled investments and infrastructure projects. In order to consolidate their position, they “created a system of alliances (through marriage for example) and obedience [...] or sanctioning some dissent voices” (Oubenal & Ben Hamouda, 2018, p. 5). Companies linked to Ben Ali's extended family made less than 1% of Tunisian jobs but they obtained 21.3% of all net private-sector profits as they were operating in profitable sectors, such as real estate, enterprise services sectors, transport,

automobile trade, construction and financial services (Rijkers et. al, 2014). Unfair competitive advantages, use of public assets and public enterprises as well as other forms of corruption were flourishing. In such an environment, new companies could hardly emerge or grow. Hence, most job opportunities were in low-value activities and the informal sector. In short, reforms resulted in an increase of inequality (Nucifora et al., 2015).

In the case of Morocco, neoliberal reforms have resulted in the reinforcement of a clientelist network of the Makhzen, the ruling elite in Morocco during the 1980 and 1990s. The Makhzen's patronage network was strengthened while independent entrepreneurs could neither emerge nor challenge the clientelistic system (Saadi, 2016). The royal family has benefitted the most from the privatisation processes as it controls important state-owned enterprises, such as the “Société Nationale d'Investissement”, which is an important public holding in manufacturing, mining, commerce and services. In addition, the royal family took over “the largest sugar refinery company, all sugar production firms, and corporations operating in the mining sector” (Saadi, 2016, p. 6). During the 2000s the Makhzen started to promote new economic actors but with the aim of controlling and co-opting them (Hibou, 2004). Saadi (2016) argues that the state rollback in fact caused a persistence of cronyism as the absence of political liberalisation made authoritarian rulers interfere in the privatisation processes.

In all three countries, the middle class, workers, farmers, marginalised and poor people, as well as the youth felt alienated and disillusioned (Kirk, 2016; Hartshorn, 2018; King, 2003). At the same time “crony capitalism” emerged. However, while it cannot be argued that the EU is responsible for the emergence of crony capitalism, the EU, the IMF and the WB tended to focus on an approach that has primarily benefitted political and economic elites.

In this realm, several CSOs from the MENA region have sent a letter to the European Commission (EC), demanding that “support for economic growth should be rooted in support of people's choices to a revised economic model, where productive capacities, redistribution mechanisms, employment and wages take forefront” (Social Watch, 2012). Furthermore, they asked for a revision of trade and investment policies established by the previous regimes “in order to serve a development vision and not concentration of economic powers in the hands of the few” (Social Watch, 2012). The letter also criticises that the EU “continues to push a trade and investment agenda that has proved unsupportive of development needs of its partner countries, and that could override national democratic transition if maintained or deepened. This includes the agenda of

negotiating liberalization of trade in services that have already started, as well as initiating negotiations in the areas of investment, government procurement, and competition policy” (Social Watch, 2012).

Similarly, a declaration of the Arab NGO Network for Development (Annd) and of Solidar argues that “10 years of implementation of the ENP have shown that structural adjustment reforms programs, implemented with stringent economic and fiscal policy conditionality under conditions of political and macroeconomic instability, will lead to the explosive growth of the informal economy and the staggering increase in social exclusion, poverty and inequality” (Annd & Solidar, p. 2). In addition, they highlight that “structural adjustment programmes can only be inclusive and sustainable if participation and national ownership of local actors, including civil society, is ensured” (Annd & Solidar, p. 2).

## EU Free Trade Policies Following the Arab Uprisings

After the Arab uprisings, the EU has called for further trade liberalisation, reflected in the revised ENP 2015 (European Commission, 2015a). Infused by the belief that access to the EU Single Market in selected sectors constitutes an important instrument for achieving prosperity in the region, following the Arab uprisings the EU offered selected SMPCs (Egypt, Morocco, Tunisia and Jordan) to start negotiations on DCFTA. While the EU considers DCFTA as a driver of poverty reduction, solidarity and human well-being, the four countries may not perceive it as their national priority.

So far, the EU has started negotiations with Morocco and Tunisia, while Egypt and Jordan have expressed a lack of interest (European Commission, n.d.a.). In the case of Tunisia, the third round of negotiations took place in December 2018. Further negotiation rounds took place in April/May 2019, entailing talks on trade in goods and services, digital trade, investment protection, intellectual property rights, trade facilitation, sanitary and phytosanitary standards as well as trade and sustainable development (European Commission, 2018b). While negotiation teams “met jointly representatives of civil society including from trade unions, employers organisations and non-governmental organisations to discuss how they see the opportunities and challenges of a future DCFTA” (European Commission, 2018a), it remains open whether their considerations will have any effects on the contents and outcomes of the agreement. In fact, Tunisia’s priority in this regard is primarily to create job opportunities and to address the marginalisation between the coastal and interior regions (European Parliament, 2016). Thus, as in the short run liberalisation might

hamper the Tunisian economy, reduce job opportunities and negatively affect social inclusion, employment maximation should be a precondition for trade liberalisation (European Parliament, 2016).

In Morocco, DCFTA negotiations were suspended after the fourth round in 2014, as the Moroccan government was awaiting findings of studies on some sectors to be covered by the agreement (Royaume du Maroc, 2014). The EU's invalidation of an EU-Moroccan agricultural trade agreement as a response to Morocco's inclusion of Western Sahara as part of its territory within the agreement, leading to the suspension of diplomatic contacts with the EU (Teevan, 2019), as well as difficulties in regard to forming a government in 2017 (Moisseron & Guesmi, 2018) have impeded the reopening of negotiations. However, during the last Association Council between the EU and Morocco in June 2019, Morocco agreed on relaunching negotiations on the DCFTA, “on the basis of the expected benefits for both parties, the gradual move towards regulatory convergence, close bilateral cooperation regarding customs, good fiscal governance, the protection of personal data and a strengthening of the connectivity of physical and digital infrastructures” (European Council, 2019).

The DCFTA goes beyond a traditional free trade agreement (Van der Loo, 2016). It includes investment liberalisation and protection, intellectual property rights, public procurement, competition law, as well as non-tariff-measures but also the approximation to EU technical standards and regulations as a precondition for entering the EU Single Market (Grumiller et al., 2018). Although the aim of the DCFTA is to harmonise norms, regulations, procedures and institutions, these are not a subject for negotiations between the EU and its partner countries. Instead, EU norms, standards and regulations are defined by the EU and are to be adopted by partner countries without having the opportunity of questioning them. In this regard, the EU perceives its *acquis* to be “a blueprint for modernisation” (Petrova & Delcour, 2019, p. 10). According to the EC, the DCFTA entailing legally binding commitments will “contribute to the modernisation of the economies of the partner countries and anchor the necessary economic reforms” (European Commission, 2008, p. 5, cit. in Petrova & Delcour, 2019, p. 10). As it is questionable in what way approximation to EU legal acts will meet different contexts, this approach indeed proves that the principle of ownership (either governmental or societal) has not been followed. Countries with weaker institutions and lower socioeconomic development might face difficulties in adaptation to EU-trade related *acquis* (Petrova & Delcour, 2019).

The approximation to EU standards might also pose in Tunisia and Morocco a bigger challenge to small and medium-sized enterprises (SMEs) as they do not have the financial

resources for adaptation to EU standards. In addition, they might face difficulties in competing with big international and European companies due to a lack of sufficient resources to enter the EU Single Market (Grumiller et al., 2018; Langan, 2015). While the strength of North Africa lies in the agricultural sector, agriculture might not be included in the liberalisation agreement due to strict regulations of the EU Common Agricultural Policy (CAP) (Dreyer, 2012; Langan, 2015). Woertz and Martinez (2018) note that in this sector North Africa is regarded as a competitor within the EU. Thus, this might have negative effects on the Tunisian economy as the increase of imports might lead to more competition with European products, especially when it comes to cereals, foods and beverages.

In this respect, the DCFTA might contradict the EU's normative goals, namely reducing poverty, increasing growth and creating jobs for the poorer in the region (Langan, 2015). Fairclough (2001) and Langan (2015) argue that EU officials tend to consider free trade as the overall solution as they “are bound into, and moulded by the narratives which they themselves help to (re)create” (p. 1837). The rhetoric arguing that the DCFTA will reduce poverty and create prosperity helps the EU “establish a dominant vision of how trade policy will transform the lives of ordinary peoples for the better” (p. 1838). This is exactly what Keukeleire (2014) describes as the “inside-out” perspective – the EU is infused by its own narratives and lacks a perspective from the outside. However, as an EU official has highlighted, the DCFTA is only an “offer” for the respective countries (personal communication with an EU official, 2017). Furthermore, Moisseron and Guesmi (2018) argue that the EU's stronger institutions and lobby groups may result in an unbalanced agreement and in furthering the inequalities between the EU and its SMPCs, which undermines the principle of joint ownership. Many civil society actors and analysts raised their concerns in regard to the DCFTA by arguing that trade agreement might reproduce developments, such as corruption and cronyism, which have occurred parallel to neoliberal reforms in the Mubarak and Ben Ali era. Langan (2015) argues that DCFTAs “threaten to exacerbate poverty and social unrest” in the partner countries (p. 1827). The Tunisian Forum for Economic and Social Rights (FTDES) issued a report following the negotiation round with Tunisia in December 2018 where it stressed the potential of negative impacts of the DCFTA on Tunisia. According to FTDES (2018), DCFTA may result in diminishing job opportunities in the fields of agriculture and services, leading to further deepening of social inequalities. Criticism from CSOs with regard to DCFTA addresses another important point, the freedom of movement of natural persons, which is also supposed to be part of the agreement. While European investors do not encounter difficulties while entering Tunisia, Tunisians have to go through a long process of visa application. This makes the conditions of free trade operations more difficult for Tunisians than for Europeans. Hence, in order to enable selected SMPCs to benefit from DCFTA

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the process of visa application should be facilitated as it is crucial for professionals and companies’ representatives to gain easier access to European trade fairs, business trips, bank accounts or market prospection (Moisseron & Guesmi, 2018). Otherwise the agreement risks becoming asymmetric.

Similarly, Morocco fears that a DCFTA may have negative effects on services and agriculture. Moreover, lack of inclusion in DCFTA negotiations of Moroccan social and civil society actors has been frequently underlined. Moisseron and Guesmi (2018) note that the “main stakeholders, including the most influential trade associations, stated that their voices are rarely heard in negotiations between the EU and Morocco” (p. 27). Most of the trade policies are defined bilaterally between the Moroccan Ministry of Industry and the EU, even though trade associations or other civil society actors are directly affected. While decisions are imposed from the top, they neither meet grassroots organisations views nor experiences (Moisseron & Guesmi, 2018).

However, the EU responded to this criticism by putting more stress on an “asymmetric liberalisation” in favour of the SMPCs. In this context, Tunisia and Morocco should have more time to reform and prepare their economies for further liberalisation. In fact, it is questionable whether asymmetrical liberalisation is sufficient for targeting sectorial shocks (European Parliament, 2016).

The analysis of the EU free trade policies towards the SMPCs before and after the Arab uprisings has shown that the EU has rarely applied the principle of joint ownership, reiterated in the official documents. In this context, in line with what Petrova and Delcour (2019) have shown in the case of the eastern neighbourhood, the EU continues to use externally developed policy templates and mechanisms, as the adoption of EU standards, at the expense of a tailor-made approach, is believed to be necessary. This is illustrated by the DCFTA, where standards and norms within the agreement are defined by the EU, thus reducing the governmental as well as societal ownership. In this vein, favouring approximation towards Western structures is also about subordination of “less-modernized” countries to “more-modernized” international actors (Petrova & Delcour, 2019).

At the same time, the EU claims that neighbouring countries in some cases do not come up with their own models or approaches, which makes the operationalisation of joint ownership quite difficult (personal communication with EU officials). It seems that the EU attempts to negotiate DCFTAs with its southern neighbours since it perceives that the ENP has to be filled with more substance (Koeth, 2014).

## **Mobility Partnerships and EU Migration Management**

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Migration is a policy field in which the EU and its southern partners seem to have the most contradictory priorities, views and approaches (Neuvonen, 2015). While many stakeholders, state representatives as well as civil society actors in the Southern Mediterranean would highly welcome the possibility of freer movement to the EU, this demand seems not to overlap with EU priorities (Grumiller et al., 2018), mainly entailing eliminating irregular migration.

In 2011, the EU developed MPs as an important instrument of the EU Global Approach to Migration. So far, the Union has concluded MPs with Morocco and Tunisia. Egypt and Algeria have refused to start negotiations. MPs intend to combine the fight against irregular migration and border management with establishing legal migration tools. This is to be achieved by a tailored partnership based on the needs of the partner countries on the one hand and those of the participating EU member states on the other (European Commission, 2011, cit. in Abderrahim, 2019). Since they are based on “political dialogue and operational cooperation” (European Commission, 2011, cit. in Abderrahim, 2019, p. 11), MPs seem to offer a win-win situation for both sides.

However, according to many scholars, asymmetry and lack of ownership have prevailed during the negotiation processes between the EU, on the one hand, and Tunisia and Morocco, on the other. Zardo (2017) notes that, in the case of Tunisia, the negotiation process was overshadowed by Tunisia’s transition phase characterised by economic stagnation and regional destabilisation, resulting in a weakened ability of Tunisia to defend its stance. Indeed, Tunisia’s priority entailed addressing its economic challenges rather than dealing with migration management. Moreover, while Tunisia was interested in improving conditions of free mobility for Tunisians, the EU has focused on combating irregular migration (Zardo, 2017; Reslow, 2012). Zardo (2017) argues that the EU has succeeded in the bargain since it had more leverage to set its own priorities and interests, which seems to contradict with the “the hallmark of the new ENP”, namely its “greater mutual ownership” (European Commission, 2015a, p. 2).

Moreover, MPs are an EU-developed instrument, to whose design third countries did not contribute (Abderrahim & Zardo, 2018). Lavanex and Panizzon (2013) point to a further problem: MPs entail a multilevel negotiation structure, where the Commission negotiates on behalf of EU member states. This may be challenging for partner countries, as they do not meet directly with their counterparts (Lavanex & Panizzon, 2013). In general, bilateral talks with the EU member states are preferred over negotiations with the European Commission as they are considered to be easier (personal communication with Tunisian and Egyptian officials, 2016 & 2017).

While MPs are supposed to be an instrument entailing a co-ownership dimension as they aim – at least rhetorically – at equally targeting EU priorities and partner countries’ interests (Lavanex & Panizzon, 2013), partner countries primarily have to commit themselves to fulfilling the EU’s proposed conditions. Thus, the EU only offers what Lavanex and Panizzon (2013) describe as “conditional partnership” (p. 6).

Visa facilitation, a Tunisian and Moroccan priority, has been linked to several conditions such as readmission, securing borders and preventing irregular migration as well as combating trafficking networks. Abderrahim (2019) argues that the “linking between different aspects of cooperation on migration reflects the EU’s emphasis on using the more-for-more principle and on 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” (p. 12). For the SMPCs, migrant return and readmission clauses have been the most challenging aspects. Under MPs, partner countries commit to admit not only their own citizens but also third-country citizens with no right to stay in Europe.

However, a readmission clause might hamper Tunisia’s and Morocco’s relations with Sub-Saharan Africa, as both countries could be considered “gendarme of the EU” (Abderrahim, 2019, pp.17-18). Hence, readmission of third-country nationals is not part of Tunisia’s or Morocco’s foreign policy interests as the two states aim to strengthen their economic and cultural relations with their neighbours. Furthermore, under MPs, partner countries are expected to enhance border control, while no insurance of free movement is provided. The process of visa application, said to be lengthy and costly, remains a challenge for the citizens of Morocco and Tunisia. The outsourcing of visa application processes to private companies has further hampered mobility facilitation (Carrera et al., 2016). These challenges are not addressed within the MP agreements, thus the application of a principle of ownership, including its governmental and societal dimension, can be questioned.

Civil society actors in Tunisia and Morocco have widely criticised MPs, namely the clause on readmission of third-country citizens (Harrami & Mouna, 2018), arguing that integration of an increased number of migrants and refugees would pose a challenge to the fragile economies of the two countries. Abushi and Arroud (2016) note that migrants and refugees in Morocco and Tunisia are already facing severe difficulties in finding jobs or housing opportunities.

Moreover, MPs are perceived not to be tackling important needs, such as the creation of legal migration routes in particular for less privileged persons (Harrami & Mouna,

2018). In Tunisia, several Tunisian civil society actors, such as the Tunisian General Labour Union (UGTT), Tunisian League for Human Rights (LTH) and the Tunisian Forum for Economic and Social Rights, argued that the MP “offers only half-hearted commitments to promote legal avenues to access the European territory, mainly facilitation or short-term visas for the most privileged and/or qualified persons” (International Federation for Human Rights, 2014). In Morocco, EU migration policies are seen by civil society actors to be following a securitising approach rather than a humanitarian one. Moroccan civil society actors would welcome an approach that facilitates mobility rather than securitising the borders (Harrami & Mouna, 2018).

In Tunisia and Morocco free movement has thus become an issue of dignity and fairness as local citizens perceive that they are automatically seen as irregular migrants (Abderrahim & Zardo, 2018; Harrami & Mouna, 2018). El Qadim (2017) argues that the symbolic and moral dimension in relation to visa facilitation should not be ignored.

While MPs address Tunisian or Moroccan priorities or needs to a limited extent, the EU’s migration management approach in general, based on outsourcing, is yet another example of the lack of joint ownership. Even though cooperation in this context seems to be limited to a state-centric level, it is questionable whether one can argue that governmental representatives “own” certain policies in this field. Since the refugee crisis, which reached its peak in summer 2015, outsourcing migration management and thus a stronger cooperation with North African states became the main determinants of EU migration policy. Debates during the EU summit in June 2018, where EU leaders considered establishing “regional disembarkation platforms” (European Commission, 2018) without adequate prior consultation of its North African partners – an approach that was rejected by all African states – have again reflected the EU’s dominance in this policy field (Gharib, 2018). In this respect, partner countries are often perceived as recipients of EU policies rather than equal partners (personal communication with Tunisian and Egyptian officials and civil society representatives, 2016-2017). Southern neighbourhood countries, often struggling with weak economic growth, unemployment, climate change, armed conflicts and marginalisation of large population groups, are hardly interested in the EU’s attempt to outsource its migration management, or at least migration does not constitute a priority for them. As the EU plans to outsource the burden of migration, it seems to underestimate the huge challenges its partner countries are facing.

Another example of a lack of ownership is the European Union Trust Fund (EUTF) for Africa. The Trust Fund’s main goal is to address root causes of irregular migration in Africa. According to the CONCORD & CINI (2018) report 2018, partner countries have

few possibilities to contribute to the development of programmes or policies in the field of migration. Castillejo (2017) notes that the EU tends to ignore the partner countries' goals, knowledge and abilities, and that local citizens are rarely involved in the implementation of EUTF projects. Moreover, only states securing readmission of their citizens and cooperating in the fight of irregular migration movements of third-country citizens can receive more development support, whereas countries not contributing might be sanctioned (European Commission, 2016, cit. in Castillejo, 2017).

Egypt is a case in point, as it received EU financial assistance for strengthening the Egyptian coastguard in 2016 in order to prevent migrants and refugees crossing the Mediterranean Sea. However, the country has been using refugees and migrants as important bargaining chips in negotiations with the EU and a leverage to obtain political and financial support (El Qadim, 2016; Abushi & Arroud, 2016; Koch et al., 2018; Tubiana et al., 2018). For instance, as a reaction to European criticism on human rights violations the Egyptian government has temporarily suspended a migration dialogue formerly agreed in March 2017 (Koch et al., 2018). The renewed cooperation demonstrates that the EU prioritises security cooperation with the Egyptian government over the need for political reforms, thus showing that a societal dimension of the joint ownership and needs of citizens is yet again largely overlooked.

The EU migration management in general and the MPs in particular are therefore further examples of a failed implementation of the principle of joint ownership. Although reiterated rhetorically, the principle has not been applied during the policy design processes. Lack of involvement of SMPCs in the design of the MPs and the contents of the agreements, which tend to be neither in favour of Tunisian nor Moroccan governments' priorities, as well as disregard for citizens' needs, demonstrates that neither governmental nor societal dimension of the ownership principle has been followed.

## Conclusion

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This policy paper has questioned the concept of “joint ownership”, which has become a buzzword in EU policies. Although it is the hallmark of the revised ENP, no concrete definition of the concept has been provided. Thus, it remains unclear who should own what. Based on two case studies, EU free trade policies and migration management, this policy paper has argued that in many cases neither governmental nor societal ownership are operationalised.

In the case of free trade, the EU has failed to integrate socioeconomic needs of SMPCs and to observe conditions on the ground or perceptions and fears of marginalised groups in its policy-setting. Indeed, it seems that trade policies have not been designed based on broad consultations with citizens. As the EU is infused with narratives considering free trade and neoliberal reforms as a panacea for economic growth, it has overlooked the impacts of free trade policies, namely the emergence of crony capitalism, while poverty and social disparities have continued to increase. The EU has responded to the Arab uprisings by fostering free trade through the launching of negotiations on DCFTAs with selected countries in the Southern Mediterranean region. The agreements risk however to be asymmetric, as the EU has considerable advantages. Moreover, many civil society actors have expressed their fears and considerations related to DCFTAs. However, it is questionable to what extent they will be taken into account. The tripartite dialogue in Tunisia and other instruments engaging civil society actors have shown that inputs of civil society actors have rarely been taken into account in decision-making processes.

Similarly, migration management is characterised by different approaches and views on the EU and Southern Mediterranean side. While the EU prioritises readmission agreements and border control, Tunisia and Morocco emphasise the need to progress on freer movement to the EU. Asymmetries could be observed during the negotiation processes of MPs, thus raising the question about whether the agreements are owned by both parties or only by the EU. In Tunisia, negotiations took place when the country was facing political and economic challenges. This has negatively affected Tunisia’s negotiation abilities, potentially resulting in an unbalanced agreement. Other instruments related to migration management, such as the EUTF, seem not to be consistent with the principle of joint ownership, as partner countries’ goals and experiences are rarely taken into consideration.

In fact, it is the vague definition of joint ownership and its reluctant implementation proven by this policy paper that make many scholars denounce the asymmetric relationship between the EU and its neighbourhood (Haukkala, 2008; Cebeci & Schumacher, 2016;

Lavanex & Panizzon, 2013). Stivachtis (2018) argues that the EU “did not cultivate an image of a ‘credible partner’, learning to ‘listen to unfamiliar voices’ and speaking to important actors of Arab civil society.” Thus, Stivachtis (2018) continues, “the Arab World think(s) that the EU was simply interested in exporting its institutional model and value system.” Maxwell and Riddell (1998, cit. in Jerve, 2002) argue that it is hard for recipient countries to believe that relations are based on an ownership dimension. This applies to the EU and its southern neighbourhood: cooperation is perceived to be asymmetrical as in many cases it is the EU that sets its own interest-based priorities (personal communication with officials and civil society actors in Egypt and Tunisia, 2016 & 2017). In this respect, the principle of joint ownership might be used rhetorically to conceal the fact that the EU is an interest-driven actor.

In this vein, “conditional partnership” (Lavanex & Panizzon, 2013, p. 6) rather than “joint ownership” might better describe the EU’s current approach toward its southern neighbourhood. Priorities are primarily set according to EU interests rather than along local actors’ needs and local actors are only engaged when they meet EU expectations. Similar to what Ejodus (2017) has described in the case of EU interventions under the Common Security and Defence Policy (CSDP), joint ownership has pursued a top-down rather than a bottom-up approach “overlooking regional and local level of policing” (Ejodus, 2017, p. 7).

If the EU would like to dutifully follow the principle implementing joint ownership, a clear definition of the concept and development of criteria for evaluation would be necessary. Joint ownership should not be limited to a governmental dimension but should also encompass a societal dimension, in order to ensure inclusiveness of priorities and policies. Linked to that, the EU would also need to adopt an “outside-in perspective”, entailing shifting the lenses from an Eurocentric approach perspective to a southern neighbourhood one, whereas EU policies are considered from the perspective of the concerned country or stakeholder (Keukeleire, 2014). In this respect, it is about defining the main beneficiaries of certain policies, analysing different contexts and understanding non-European perspectives (Keuleers et al., 2016; Onar & Nicolaidis, 2013). In the long run, if not recognised or welcomed by local stakeholders, EU policies will hardly be fully implemented and might turn out to be unsustainable. Hence, a bottom-up approach that includes civil society actors as well as marginalised groups is more than necessary.

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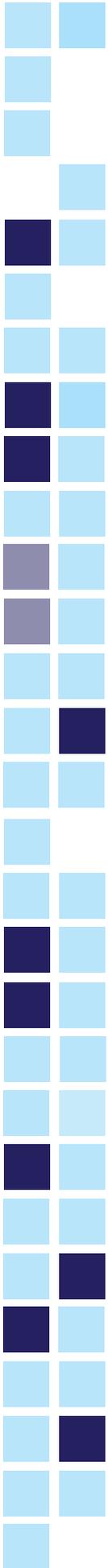
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# EuroMeSCo

Founded in 1996 and comprising 104 institutes from 29 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.

