

**An evolving EU engaging a changing Mediterranean region**  
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# **Migration and asylum: The movement of people in the Mediterranean Region - Future scenarios and the EU response**

by Berta Fernandez Alfaro (Intra-ACP Migration Facility, Brussels)



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**UNIVERSITY OF MALTA**  
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# Migration and asylum: The movement of people in the Mediterranean Region - Future scenarios and the EU response

by Berta Fernandez Alfaro \*

## Introduction

In recent years, the global discussion on migration and asylum has evolved from polarization of perspectives and mistrust, to improving partnerships and fostering cooperation between countries and regions. The paradigm has shifted from control and security exclusively to an increased awareness of the ramifications of migration in development and labour markets, the increasing demographic gap,<sup>1</sup> and the

dangers of exclusion faced by migrant workers (regular or irregular). Eastern Europe will suffer the biggest population decline in the coming years, and Nigeria's population will reach one billion by 2100. In Europe, the work replacement ratio will be two pensioners for one active worker. It has become clear that these facts cannot be ignored and that there is a need for greater convergence of policies (migration/mobility, fundamental rights, and economic growth), with a migrant-centred approach.<sup>2</sup>

The assumption that Europe will remain a geopolitical and economic hub that attracts immigrants at all skill levels might not hold water in the long run. The evolving demographic and economic changes have made it evident that the competitiveness of the EU (Europe 2020 Strategy) is also at stake, particularly if an adaptable workforce with the necessary skills is not secured in view of shortfalls in skill levels and because of serious labour mismatches. Therefore, it is the right moment to develop more strategic and long-term migration policies that take into account the evolving position of Europe and its neighbours in the world. By the same token, labour market strategies that meet needs and promote integration of regular migrants are still a pending task for the Member States (MS) in terms of the free movement of people, but also in relation with neighbouring and partner countries.

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<sup>1</sup> The world's population reached 7.2 billion people (2013), of which 60 per cent lived in Asia, 15 per cent in Africa, 10 per cent in

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Europe, 9 per cent in Latin America and the Caribbean, 5 per cent in Northern America, and 1 per cent in Oceania. Eastern Europe will suffer the biggest population decline in the coming years, and Nigeria's population will reach one billion by 2100.

<sup>2</sup> Intra-ACP Migration Facility, Brussels, 2014.

## **Global human mobility and the EU role: a greater coherence and convergence of policies, with a migrant-centered approach**

The link between migration and development entered the political debate only ten years ago even though it had been addressed in academic literature a long time before that. In the absence of global governance of migration, this link attracted immense attention at the international level and created momentum for the first High Level Dialogue on Migration and Development (HLD) under the auspices of the United Nations in 2006,<sup>3</sup> and subsequently the Global Forum on Migration and Development (GFMD).<sup>4</sup>

<sup>3</sup>

<http://www.un.org/en/ga/68/meetings/migration/about.shtml>

<sup>4</sup> The GFMD is one of the most prominent international platforms available for States to discuss migration and development. The GFMD seeks to foster an informal exchange of experience among states as well as to strengthen cooperation between States and other stakeholders (international organizations, civil society, and private sector) in the domain of migration and development on a voluntary basis. More specifically, the added-value of the GFMD consists in its focus on the inter-linkages between migration and development, the fact that its participating States represent all regions of the world, and in its targeted efforts to serve as a catalyst for concrete bilateral and multilateral projects. Conceived as a process unfolding outside the UN, the Forum was born on the initiative of the then UN Secretary General Kofi Annan in the follow-up to the 2006 “High-level Dialogue on Migration and Development”, in which the findings of the report of the “Global Commission on International Migration” were discussed. The GFMD is underpinned by a supporting framework composed of four different bodies. The Chair-in-Office is responsible for the preparatory process and the actual conduct of the Forum. The Chair receives guidance and support from the Troika of past, present, and future Chairs. The Steering Group, comprising 35 States, provides strategic and political support to the GFMD. Finally, the “Friends of the Forum”, open to all UN Member States, ensures that all States keep pace with the

The recent GFMD, under the Swedish Chair (14-16 May, 2014) focused on how to “unlock the potential of migration for inclusive development”.<sup>5</sup> Protection against abuses, diaspora engagement, and honouring migrants’ contribution are key elements of a discussion that has evolved. On the road to strengthening a bottom-up multilateral system with an agenda for action, it has become clearer that policy choices have to be well informed and evidence-based if migration is to be leveraged for development. This states-led forum has facilitated their creation of a common understanding and a framework where they can continuously discuss migration issues and exchange best practices.

Since its creation in 2007, three EU MS (Belgium in 2007, Greece in 2009 and Sweden in 2014) and one member of the Union’s single market (Switzerland in 2011)<sup>6</sup> have hosted the Forum. On July 1, 2014, a Mediterranean and EU candidate country, Turkey, will take over the Chairmanship of the GFMD from Sweden for a period of 18 months (until December 2015)<sup>7</sup>. Traditionally a transit and source country for migration, in the past years Turkey has become

GFMD process. UN agencies and associated international organizations enjoy the possibility of obtaining observer status in this body.

<sup>5</sup> GFMD 2013-2014 Concept Paper, 30 April 2013, [www.gfmd.org](http://www.gfmd.org).

<sup>6</sup> The relations between Switzerland and the European Union (EU) are based on a series of bilateral treaties whereby the Swiss Confederation has adopted various provisions of EU law in order to participate in the Union’s single market. In February 2014, the Swiss voted in a referendum to introduce quotas for all migrants wishing to enter Switzerland. Such a quota system would, if implemented, violate the agreement between Switzerland and the EU on the free movement of persons, and require the renegotiation of the various bilateral agreements if they are to remain in force.

<sup>7</sup> <http://www.gfmd.org/meetings/turkey2014-2015#sthash.Rcex2Yup.dpuf>.

an attractive destination country due to its economic growth and social development.

One main focus within the GFMD has been on promoting policy coherence between migration and development, with a view to mainstreaming migration into development policy and development into migration policy. On the one hand, these discussions have concerned institutional issues such as finding the right structures and lines of communication within governments and beyond in relation to other stakeholders (including the involvement of civil society). On the other hand, they have focused on policy. Recommendations have included formulating national policy and action plans on how to promote the synergies between migration and development. Efforts have included mainstreaming migration into activities to achieve the Millennium Development Goals (MDGs),<sup>8</sup> or other development initiatives, with the ultimate goal of including migration in broader national development planning processes, in the formulation of country strategies for bilateral development cooperation as well as in sectorial planning.

The GFMD has a parallel civil society forum, which is gaining momentum in promoting the human rights of migrants, and giving a stronger voice to migrants and diaspora. During the GFMD in Stockholm a new migration and development civil society network (“MADE”)<sup>9</sup> was launched with a five-year action plan, which advocates:

- Safe labour migration and reform of the

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<sup>8</sup> When reference is made to the MDGs, special recognition must be made to migrants as agents of development, epitomizing the freedom to genuinely strive to achieve the kind of life they aspire to for themselves and their families. By moving from countries with a low human development index (HDI) to a higher HDI country, migrants experience a 15-fold increase in income; a doubling in education enrollment rate; and a 16-fold reduction in child mortality.

<sup>9</sup> [www.madenetwork.org](http://www.madenetwork.org)

migrant worker recruitment industry.;

- Migrants and diaspora as entrepreneurs, social investors, and policy advocates and partners, for human development in countries of origin, heritage and destination;
- Rights-based global governance of migration and development and ensuring that migration and migrants’ positive potential contribution to development is recognized and upheld in the post-2015 agenda;
- Protection of migrant rights, en route and in countries of destination.

Recently, the issue of South-South migration and development policies was discussed in-depth in the GFMD process. The focus was on most recent data reflecting the full range of human mobility in the South-South context, including related drivers of such migration; harnessing the development potential of labour mobility among countries, governance capacity gaps, and environment-induced migration. A number of policy guidance tools have been developed, including tools for mainstreaming migration into development planning; a repository of migration profiles as well as a handbook on engaging the diaspora for development. In order to promote the inclusion of migration in the Post-2015 Development Agenda, the GFMD has pointed to the need of indicators to measure and monitor the concrete effects of migration on specific development outcomes (e.g. current MDGs).<sup>10</sup> In this context, migration is considered as an “enabler” of development in countries of origin, mainly due to the weight of remittances in GDP, but also because of its catalytic role for improving migrants’ skills, thus empowering them as active members of their own diaspora.

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<sup>10</sup> Thematic Recollection from the GFMD 2007-2012, GMFD (2013).

In the Southern Mediterranean region, there are several countries that are actively discussing this issue on a national level. Algeria is analysing the topic of “participatory monitoring for accountability”; Jordan and Tunisia are looking into how to improve “partnerships with civil society”; Turkey is thinking of new ways to “engage with the private sector”; and Morocco is focusing on “culture and development”.

- Strengthening protection for migrant domestic workers;
- Involving diasporas more deeply in development work;
- Creating an agreed framework for protecting and assisting migrants caught up in crises;
- Creating a place for migration in the post-2015 Development Agenda.

NATIONAL DIALOGUES ON THE IMPLEMENTATION OF THE POST-2015 AGENDA *					
Localizing the post-2015 agenda	Helping to Strengthen Capacities and Build Effective Institutions	Participatory Monitoring for Accountability	Partnerships with Civil Society	Engaging with the Private Sector	Culture and Development
Armenia	Costa Rica	Albania	Azerbaijan	Mongolia	Ecuador
Botswana	Djibouti	Algeria	Cambodia	Saudi Arabia	Mali
Cameroon	Malaysia	Bangladesh	Indonesia	Turkey	Morocco
El Salvador	Moldova	Guatemala	Jordan	Uruguay	Serbia
Ecuador	Nicaragua	Kosovo**	Lesotho		
Ghana	Togo	Montenegro	St. Lucia		
Jamaica	Turkmenistan	Peru	Tunisia		
Malawi		Thailand			
Philippines		Vietnam			
Tajikistan		Zambia			
Tanzania					
Uruguay					
Yemen					

\* UN Country Teams were selected based on interest to receive seed funding for consultations. More countries may be added in the coming months.

\*\* Under UN Security Council Resolution 1244

Source: *The World We Want, UNDG 2014*

This approach of working together on issues that enjoy consensus has proven beneficial for building trust and moving the agenda forward not only in the framework of the GFMD, but also in the HLD.

Among the issues that attracted interest in practical collaboration during the HLD<sup>11</sup> were:

- Portability of benefits accrued by migrants while working abroad;
- Reining in abusive recruitment practices by establishing a voluntary set of ground-rules for international recruitment (IRIS)<sup>12</sup>;

The EU is playing quite an active role in the GFMD, as it did in the HLD of November 2013, by contributing financially on a regular basis and working with MS to speak with one voice, increasing the effectiveness of its external action and developing a shared vision that includes the broader term of “mobility”. In addition to the delivery of EU statements at the GFMD annual

(IRIS) is an international voluntary “ethical recruitment” framework that benefits all stakeholders in the labour migration process. IRIS will provide a platform for addressing unfair recruitment and bridge international regulatory gaps governing labour recruitment in countries of origin and destination. IRIS aims to create a public-private alliance of like-minded governments, employers, recruiters and other partners committed to ethical recruitment. It will develop a voluntary accreditation framework so that its members can be recognized as *bona fide* fair recruiters and distinguish themselves from unscrupulous intermediaries. Accreditation will be based on adherence to common principles for ethical recruitment and a code of conduct which will include: a) No fee charging to job seekers, b) No retention of workers’ passports or identity documents, and c) A requirement for transparency in their labour supply chain. Job seekers will have better information regarding ethical recruitment through an information portal and publicly available roster of accredited IRIS members internationally. IRIS will administer a complaints and referral mechanism to assist victims of unethical or illegal recruiters to file grievances with the appropriate authorities. For more information: <http://iris.iom.int>

<sup>11</sup> Newland Kathleen (2013).

<sup>12</sup> The International Recruitment Integrity System

meetings, its thematic contributions focused notably on labour mobility (2007 in Belgium), the role of diaspora organisations for development (2008 in the Philippines), the promotion of the concept of national Migration Profiles as a basis for evidence-based migration policy (2009 in Greece), circular migration and the promotion of new forms of global partnerships, including mobility partnerships (2010 in Mexico) and addressing irregular migration through coherent migration and development strategies (2011 in Switzerland).<sup>13</sup>

The link between migration and development is present in numerous official EU documents, such as the European Pact on Migration and Asylum, the European Neighbourhood Instrument, the Cotonou Agreement, the Joint Africa-EU Strategy (and the so-called Thematic Partnership on Migration, Mobility and Employment), and most importantly, the Global Approach to Migration and Mobility (GAMM).

The EU's vision has been expressed at the GAMM (2011), as the “overarching framework of the EU's external migration and asylum policy” that helps the EU and its MS to focus on concrete and operational results. Two examples of those results are the facilitation of international labour mobility, and the inclusion of migration in the post-2015 development agenda. During the GFMD in Stockholm, the newly developed *Migration and Development Policy and Practice Database* will be launched, which includes numerous EU MS examples.

The Commission believes that “the GAMM should be truly global. Dialogue and cooperation on migration issues should be pursued across the globe with all interested and relevant partners

<sup>13</sup>[http://eeas.europa.eu/delegations/un\\_geneva/eu\\_un\\_geneva/migration\\_asylum/gfmd/index\\_en.htm](http://eeas.europa.eu/delegations/un_geneva/eu_un_geneva/migration_asylum/gfmd/index_en.htm)

based on their and the EU's respective priorities”.<sup>14</sup> One could argue that this statement arises from the realization that the world has become an irremediably interdependent space. Political change and instability; climate change, better transport and communications; gaps in living and working conditions; a population deficit (or bonus);<sup>15</sup> the role of diaspora in development and business creation; and increased labour shortages in formal and informal markets are some of the factors influencing migration flows. It is in this light that the EC recognized that Home Affairs issues needed to be embedded in the EU's overall external policy and vice versa<sup>16</sup>, in an effort to introduce some consistency and coherence, but most importantly, to anticipate future policy needs and steer the EU boat towards safer shores. In order for the freedom of movement to work properly, be credible, and build upon citizens' trust, the EC stresses that European internal security is intrinsically linked to the EU

<sup>14</sup> Communication from the Commission COM(2011) 743 final, 18.11.2011.

<sup>15</sup> “The United Nations Population Division has dramatically revised its projections for what will happen in the next 90 years. The populations of most rich countries will shrink and age (with a few important exceptions), poorer countries will expand rapidly and, maybe most significant of all, Africa will see a population explosion nearly unprecedented in human history. (...) the world of 2100 will look very different than today's, with implications for everyone. It will be a place where today's dominant, developed economies will be increasingly focused on supporting the elderly, where the least developed countries are transformed by population booms and where Africa, for better or worse, is more important than ever.” Excerpt from the article “The amazing, surprising, Africa-driven future of the Earth, in 9 charts”, by Max Fisher, Washington Post blogs, 16 July 2013.

<sup>16</sup> Communication from the Commission COM (2014) 154 final, 11.3.2014.

borders, and dependent on stronger cooperation and partnership with third countries.

At the same time, the GAMM takes a “migrant-centred approach” in the sense that “human rights of migrants are a crosscutting dimension of relevance to all four pillars of GAMM”.<sup>17</sup> For the first time, it is clearly acknowledged that the relevance and sustainability of policies depend on their capacity to respond to the aspirations and problems of migrants, who are seen not as a burden but as contributors to the labour market, possessing an entrepreneurial spirit of sorts.

In the wake of the HLD, Sir Peter D. Sutherland<sup>18</sup> underlined that “the international community is slowly leaving behind outmoded notions about human mobility to accept the restless and inventive nature of the human spirit. The current patchwork system of international mobility just does not work, since it empowers the wrong people (traffickers, abusive employers and officials, etc.), undermines the human and labour rights of migrants, depletes public trust in effectiveness of the government, and undermines our ability to design policies to achieve development goals. That is why it is being revised, to catch up with the advancements in the domain of movement of capital, goods and information”.<sup>19</sup>

Internationally, progress has been made on the normative front with the entry into force of the UN Convention on Transnational Organized Crime and its supplementary Protocols on Smuggling and Trafficking (2000), the UN Convention on the protection of the human rights of migrant workers and their families

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<sup>17</sup> *Ibid.*

<sup>18</sup> Special Representative of the UN Secretary General on Migration and Development.

<sup>19</sup> Migration (#3-2013), UN Chronicle.

(2003) and the ILO (International Labour Organization) Domestic Workers Convention (C.189). Only Germany and Italy have ratified C.189, and not all MS have ratified the 2000 Convention and its supplementary Protocols, probably because a new EU Directive on trafficking (2011) was in the making.<sup>20</sup> As major destination countries, most EU MS have not ratified the 2003 UN Convention, which regulates issues such as detention, mass deportations, etc. for regular and irregular migrants. It is also worth noting that the number of countries that ratified the second Convention but have not yet reported to date is quite high.<sup>21</sup> However, the EU relies on the Charter of Fundamental Rights in ensuring the fulfillment of international human rights obligations. The Charter is binding on the EU institutions when adopting and implementing legislation, as well as on the MS when they act within the scope of the EU law, and it also incorporates “European values”.<sup>22</sup> In the international arena, the monitoring bodies of the other international Human Rights Treaties<sup>23</sup> ask States to report on human rights of migrants in relation to those instruments, facilitating the task of gathering information on human rights abuses. In this context, Commissioner Malmström<sup>24</sup> highlighted

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<sup>20</sup> Directive of the European Parliament and of the Council 2011/36/EU of 5 April 2011.

<sup>21</sup> “Preliminary Statement on the Report of the High Commissioner for Human Rights on Strengthening the United Nations Human Rights Treaty Body System”, Committee on the Protection of the Human Rights of Migrant Workers and their Families, Seventeenth Session, 10-14 September 2012.

<sup>22</sup> COM (2014) 154 final, 11.3.2014.

<sup>23</sup> Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), International Covenants on Civil and Political Rights/Economic, Social and Cultural Rights (ICCPR, ICESCR), Convention on the Rights of the Child (CRC), International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and Convention on the Elimination of Discrimination Against Women (CEDAW).

<sup>24</sup> Malmström, Cecilia, 2013.

the need to uphold and ensure the implementation of relevant international human rights instruments, since it benefits all stakeholders involved (migrants, home society, and society in which migrants live and work).

The UN Special Rapporteur on Human Rights of Migrants, François Crépeau, has repeatedly warned about the dangers of criminalising irregular migrants. After the October 2013 Lampedusa tragedy, he urged all EU MS to “urgently adopt a new approach to migration that places the rights of migrants at the forefront”, by prioritising a “new human rights framework in the development of their migration policies”.<sup>25</sup>

More recently, the Fundamental Rights Agency’s (FRA) paper “The Criminalisation of Irregular Migrants”<sup>26</sup> recommended that Member States treat irregular migrants, whose asylum applications have been refused, according to the safeguards contained in the

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<sup>25</sup> United Nations Press Release (2013).

<sup>26</sup> <http://fra.europa.eu/en/news/2014/fra-paper-criminalisation-irregular-migrants>. This paper looks at the impact of such measures on fundamental rights, such as the right to liberty and security of a person, human dignity, the right to life, right to an effective remedy, and access to social rights, such as housing. Other recommendations are: a) To promote access to justice, migrants who have become victims of exploitation and abuse (gender- based violence) need to have a residence permit that is not dependent on the perpetrator; b) Anyone giving humanitarian assistance such as rescue at sea or providing humanitarian services such as food, shelter, medical care or legal advice to migrants in an irregular situation should not have to risk punishment for facilitating irregular entry or stay; c) Renting accommodation to irregular migrants without the intention of preventing the migrant’s removal should not be considered facilitation of stay.

Return Directive:<sup>27</sup>:

*In specific cases, and when less coercive measures are not sufficient, Member States may **detain** a third-country national during the return procedure if s/he risks fleeing or avoids/obstructs the preparation of the return or removal process. Detentions are ordered in writing by administrative or judicial authorities and must be reviewed regularly. The detention period must be as short as possible and not more than six months. Only in particular circumstances, when the removal of a third-country national might exceed the time limit set, may Member States prolong detention up to a maximum of 12 months. Specialised detention facilities are to be used for the purpose; however, if this is not feasible, Member States may use prison accommodation with separate quarters for the third-country nationals.*

Bearing this rights-based approach in mind, the GAMM does not seem to convincingly deliver the ‘migrant-centeredness’ discourse in practical tools. The weight that some pillars have over others and the *quid pro quo* nature of Mobility Partnerships (MPs) is a matter of concern for civil society,<sup>28</sup> and other observers,<sup>29</sup> but also for the EU, which has identified the need for more balance by including more actions with regard to “legal migration, human rights and refugee protection”.<sup>30</sup> In particular, the implementation of readmission agreements should be scrutinized to make sure that human rights of migrants were not violated in transit and origin countries.

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<sup>27</sup> Directive 2008/115/EC.

<sup>28</sup> Marie Martin, (2012).

<sup>29</sup> “The contours of the EU’s external dimensions of migration policy continue to be primarily insecurity, (im)mobility and conditionality driven.” in Sergio Carrera, Joanna Parkin, and Leonhard den Hertog, (2013).

<sup>30</sup> COM(2014) 96 final, 21.02.2014.

The recent adoption of the Seasonal Workers Directive by the European Parliament<sup>31</sup> is its first legal migration dossier since the Lisbon Treaty,<sup>32</sup> and is a great step forward in not only achieving consensus among MEPs on a “highly political and sensitive issue”, but also in providing third country nationals with better working and living conditions and ultimately defending their labour rights and avoiding social dumping. Migrant workers in the Southern MS will mainly benefit from this new Directive, which will be transposed into national legislation within two and a half years time.

Operational tools that ensure legal, ethical, fair and effective labour matching of EU employers with third country workers (whether living in EU or abroad) would be the perfect complement to the EU legislative framework.<sup>33</sup> The EU Immigration Portal and the MS Employment Offices are a good source of information for would be migrants, but mostly useful for mid- and highly skilled migrants.

### **Mobility Partnerships and other instruments in the context of the Global Approach on Migration and Mobility.**

The evolving demographic and economic changes have made it evident that the competitiveness of the EU (Europe 2020 Strategy) is also at stake, particularly if an adaptable workforce with the necessary skills is not secured in view of shortfalls in skill levels and serious labour mismatches. Therefore, labour market strategies for meeting needs and promoting integration of regular migrants is still

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<sup>31</sup> <http://www.europarl.europa.eu/news/en/news-room/content/20140203IPR34619/html/More-rights-and-better-working-conditions-for-non-EU-seasonal-workers>

<sup>32</sup> The Treaty entered into force December 1, 2009, giving the EP more say in the decision-making process.

<sup>33</sup> *Vid.* International Recruitment Integrity System (IRIS), <http://iris.iom.int>.

a pending task for the MS both in terms of the free movement of people, and also in relation with neighbouring and partner countries.

Until now, the MS have resisted EC attempts to harmonise specific aspects of their migration policies, mainly labour migration which remains their competence. Clearly, the economic crisis played against any opening of legal channels for migrant workers, and favoured more rigid border and security controls. The conditions for third country nationals to enter and reside in the EU, promotion of migrant integration, the fight against “illegal” migration, and the conclusion of readmission agreements with third countries are the few competences that had been ceded to the EU.

In this sense, the GAMM is an attempt at migration policy harmonisation. It is a relatively comprehensive framework for external action on migration, that allows the EU and its Member States to be engaged in regional and bilateral dialogues on migration management with a broad range of (neighbouring or historically tied) countries and regions, once shared priorities have been agreed upon.<sup>34</sup>

The GAMM is implemented through: a) several political instruments, such as the bilateral and regional policy dialogues<sup>35</sup> and action plans related to the enlargement countries,<sup>36</sup> Eastern partnership countries,<sup>37</sup> Southern Mediterranean

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<sup>34</sup> *Ibid. cit.*

<sup>35</sup> The Prague Process, the Budapest Process, and the Eastern Partnership Panel on Migration and Asylum towards the East; the Africa-EU Partnership on Migration, Mobility and Employment, and the Rabat Process in the South; as well as the EU-CELAC Structured and Comprehensive Dialogue on Migration and the ACP-EU Migration Dialogue.

<sup>36</sup> Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia, Kosovo, and Turkey.

<sup>37</sup> Moldova, Ukraine, Georgia, Armenia, and Azerbaijan.

countries,<sup>38</sup> Sub-Saharan countries,<sup>39</sup> Asian countries,<sup>40</sup> and other countries;<sup>41</sup> b) legal instruments, such as visa facilitation and readmission agreements; and c) operational support and capacity-building via EU agencies (Frontex, EASO and ETF), technical assistance facilities (MIEUX and TAIEX), and programme support (civil society, migrant associations, and IOs). Traditionally, these regional dialogues have supported improved communication and capacity building activities. However, there seems to be a certain fatigue in several regional dialogues, given the lack of engagement by the MS, which indicates the need to be more targeted and focused on – jointly identified – added value initiatives.

In its cooperation with third countries, particularly with the European Neighbourhood, in the areas of migration and asylum, the EU has been using specific instruments (“toolbox”) such as Mobility Partnerships (MPs), and Common Agendas on Migration and Mobility (CAMMs), Migration Profiles, Visa Facilitation and Liberalization, Readmission Agreements, and Regional Development and Protection Programmes.

In order to strengthen the Southern Mediterranean partnership, the EU is specifically promoting the following three measures:

- a) Improve the recognition of skills and educational levels;

- b) Offer a dynamic mobility policy (including visas): liberalized provision of services, enhanced exchanges of students and researchers, and intensified contacts (civil society, businessmen, journalists, human rights organizations);
- c) Structured dialogue on migration, mobility and security, with mobility partnerships conditioned by readmission agreements.

- Mobility Partnerships -

	Concluded	Discussions pending	To consider for 2014	To consider once circumstances permit
Algeria				X
Egypt				X
Libya				X
Morocco	X			
Tunisia	X			
Jordan		X		
Lebanon				X
Syria				X
Armenia	X			
Azerbaijan	X			
Belarus			X	
Georgia	X			
Moldova	X			
Ukraine				X
Cape Verde	X			

<sup>38</sup> Structured Dialogues on Migration, Mobility and Security have been launched with Tunisia, Morocco, and Jordan.

<sup>39</sup> Progress has been made with Cape Verde, Nigeria and South Africa. A Regional Protection Program is being implemented in the Horn of Africa. Ghana has a CAMM and ECOWAS received financial support for the effective implementation of the Free Movement Protocols.

<sup>40</sup> China, India, Vietnam and Indonesia.

<sup>41</sup> United States and Russia.

Source: Annexes to the Report from the Commission to the EP, the Council, the European Economic and Social Committee, and the Committee of the Regions – Report on the implementation of the GAMM 2012-2013

The GAMM relies on “genuine partnership with third countries, based on mutual trust and shared interests”.<sup>42</sup> In the eyes of the Southern Mediterranean countries, though, in the short and medium term Mobility Partnerships offer few commitments by the EU and the signatory MS, and limited channels for legal migration and mobility. In other words, it is a vehicle to “get the Europeans what they want” via readmission agreements.

GAMM’s non-binding and flexible nature has mostly translated into little engagement and often-timid financial contributions from the MS in the GAMM cooperation frameworks, such as Mobility Partnerships. This calls for the roles of EU actors (EU agencies, EC, and European External Action Service) and MS to be more clearly defined and for tangible engagement. Furthermore, it requires taking distance from security-oriented approaches that tend to criminalize migrants, as well as ‘walking the talk’ of the European values “prevention, protection, and solidarity”,<sup>43</sup> Only in this way, can GAMM be implemented coherently and honestly, and thereby pave the way for a future common migration and asylum policy for the EU and its neighbours.

### **Asylum in the EU and its external dimension**

Five different routes across the Mediterranean persist as the main gateways for irregular migrants and asylum seekers to enter EU. The numbers of crossings differ over time. They are

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<sup>42</sup> *Ibid.*

<sup>43</sup> President Herman Van Rompuy, Brussels, 25 October 2013 EUCO 214/13, PRESSE 444 PR PCE 192.

influenced by EU border management responses as a pull<sup>44</sup> or stopping factor, the security situation in the transit countries and the available means to cross EU borders (and the Mediterranean Sea).

In Q3 2013, there were “42,618 detections of illegal border crossings at the external EU borders”, a 93% increase compared with the same quarter in 2012 and a 72% increase compared to the previous quarter (Q2 2013). This is the highest increase recorded at any single quarter since 2008.<sup>45</sup> The EU maritime borders were used even more than at any stage of the Arab Spring in 2011 with the biggest increase taking place within the Italian sea border. Although this increase is not all attributed to asylum seekers (the number of asylum seekers in EU total was also the highest since 2008), it underscores that in the mixed flows, many persons become asylum seekers once in the EU.

When GAMM was renewed in November 2011, the EU took an important step in bringing its asylum policy and practice to a new level when dealing with asylum issues in its external dimension. For the first time, protection had become a priority and was specifically expressed that way in one of GAMM’s four main pillars:

- strengthening international protection systems and the external dimension of asylum

This meant that the EU’s asylum policy link with its foreign and development cooperation policies (where considerable funding was already being globally used on asylum and refugee situations) became explicitly stronger. At the same time, the European Asylum Support

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<sup>44</sup> “Mare Nostrum saved 20,000 migrants in 6 months”. European External Policy Advisors, [www.eepa.be](http://www.eepa.be), 24 April 2014.

<sup>45</sup> FRONTEX Fran Quarterly Report Q3 of 2013. (2014)

Office<sup>46</sup> (EASO) had just become operational and the EU legislators had foreseen that the new agency was to play a role in the external dimension of asylum issues:

*“[EASO] ...may cooperate with competent authorities of third countries in technical matters, in particular with a view to promoting and assisting capacity building in the third countries' own asylum and reception systems and implementing regional protection programmes, and other actions relevant to durable solutions.”*<sup>47</sup>

In other words, the EU was walking the talk of the revised GAMM, by letting EASO respond to asylum flows in and from the Mediterranean.<sup>48</sup> While this was settling into place, the EC, the Parliament and the Council were putting together the “Asylum Package”, i.e. the recast legal framework for the Common European Asylum System, which needs to be fully transposed by MS.

In light of the migratory flows stemming from the “Arab Spring”,<sup>49</sup> the Member States reacted in the Justice and Home Affairs Council by adding new features to the heated negotiations on the Dublin Regulation. In their meeting of 8 March 2012,<sup>50</sup> they concluded that the Common European Asylum System (CEAS) should be based on solidarity, which then again would build on responsibility sharing and mutual trust. In striving towards a common approach to the present situation, they came up with a Mechanism for Early Warning Preparedness and Crisis Management within the Dublin System.

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<sup>46</sup> Regulation (EU) No 439/2010.

<sup>47</sup> EASO Regulation, Article 7.

<sup>48</sup> EASO's External Action Strategy was adopted in November 2013.

<sup>49</sup> Oxford Dictionary “A series of antigovernment uprisings in various countries in North Africa and the Middle East, beginning in Tunisia in December 2010.”

<sup>50</sup> Council conclusions (2012).

Although in its conclusions it focused on how the EU must react to the flows coming from neighbouring countries, the Justice and Home Affairs Council still kept in mind that the CEAS cannot exist in isolation:

*“Affirming that a Common European Asylum System with high protection standards combined with fair and effective procedures capable of preventing abuse presupposes effective border management, well functioning return arrangements and **cooperation with third countries inter alia to address the root causes leading to mixed migration flows to the Union**”* (Emphasis added)

The negotiations on the Asylum Package resulted in a legislative framework, which all could live with and which covers in their entirety most aspects of the reality of the Asylum and Reception systems in the Member States.

However, while MS are translating legislation into practical implementation, the flows across the Mediterranean (and other routes) do not stop. Italy is one of the Member States which is most affected by the flows across the Mediterranean at the moment. In the first months of 2014 the flows have been dramatically higher than the corresponding period last year.<sup>51</sup>

After a boat sank off the Italian island Lampedusa on 3 October 2013 causing the loss of more than 300 persons, both the EU and Italy reacted promptly to the specific incident and to the need to deal with such crossings in the region. Italy then launched the Sea Operation

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<sup>51</sup> Agence France-Presse. theguardian.com, Wednesday 9 April 2014 15.16 BST “Italy says 4,000 immigrants have reached its shores by boat in the past two days – the highest number since it began a naval operation to handle the influx after two shipwrecks last year. “The landings are non-stop and the emergency is increasingly glaring,” the interior minister, Angelino Alfano, said.”

“Mare Nostrum” to tackle the flows and the operation was characterized as a "humanitarian operation" to "save human lives", as well as a "security" one.<sup>52</sup>.

Additionally, immediately after the Justice and Home Affairs Council of 7-8 October 2013, the EU set up the “Task Force Mediterranean” under the lead of the Commission. On the 24-25 October 2013, the European Council invited the Task Force Mediterranean, also involving MS, the EEAS and a number of EU Agencies, to identify priority actions for a more efficient short-term use of European policies and tools. As early as the beginning of December 2013, the Task Force had identified five main areas of action, which would be actively pursued:

- Actions in cooperation with third countries;
- Regional protection, resettlement and reinforced legal avenues for migration to Europe;
- Stepping up the fight against trafficking, smuggling and organized crime;
- Reinforced border surveillance contributing to enhancing the maritime situational picture and to the protection of and the saving of lives of migrants in the Mediterranean;
- Assistance and solidarity with member states dealing with high migration pressure.

The Task Force developed a plan and the five areas are broken down into 38 action points with different actors leading their implementation, some short term, other medium and long term.<sup>53</sup> Some actions are very specific, e.g. the Commission set aside funding (including

emergency funding) of up to €30m in support of Italy, including for border surveillance operations under the Frontex mandate. Other actions touch upon very broad issues, e.g. “Political dialogue and diplomatic initiatives, including *joint demarches*, should be developed using in a coordinated manner all the incentives and leverages available at the EU and Member States' level, so as to enhance the capacity of the EU to successfully reach the objectives of the Global Approach to Migration and Mobility...”.

The Task Force Action point one, “Actions in cooperation with third countries”<sup>54</sup>, directly makes reference to GAMM as a dialogue and cooperation with all third countries and points at Mobility Partnerships as a way of enhancing this cooperation, specifically with the Southern Mediterranean neighbors.

The first country from the Mediterranean region to sign a Mobility Partnership was Morocco. Since it had already been signed on 7 June 2013, the Task Force aims to continue the implementation of the cooperation initiatives within that framework. In terms of international protection, the objective of the MP relates to the compliance with duly ratified international instruments concerning the protection of refugees. This objective is expressed via support to strengthen the Moroccan legislative and institutional framework, and to promote the capacity of the Moroccan authorities to deal with the challenge. In addition, there is a detailed annex of activities in which specific projects are described, and which will be supported by MS, EU, EASO<sup>55</sup> and UNHCR.

A mobility partnership with Tunisia had long been underway, but the politically volatile

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<sup>52</sup> (ANSAméd) – Rome, October 15, 2013- Italy has launched Operation Mare Nostrum to tackle the immigration emergency. It will be a "humanitarian operation" to "save human lives", Defense Minister Mario Mauro said, as well as a "security" one.

<sup>53</sup> COM(2013) 869 Final, 4.12.2013.

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<sup>54</sup> Ibid. Specific actions in transit countries. Point 1.1.

<sup>55</sup> One such specific example is the project ‘Promoting the participation of Jordan in the work of EASO as well as the participation of Tunisia and Morocco in the work of EASO and Frontex’.

situation in the country dragged on the process. Logically, the Task Force urged the Commission and Member States to “sign and start implementing the recently concluded Mobility Partnership (MP) with Tunisia.”<sup>56</sup> One can only guess that this statement played a key role in promoting its signature on 3<sup>rd</sup> March 2014, with talks still ongoing regarding the details of the initiatives to be included in the annex.

It was the EU’s intention to establish further mobility partnerships with neighbouring countries in the Mediterranean,<sup>57</sup> including Jordan given its strategic importance for other Mediterranean countries (Egypt, Syria and Lebanon). Even though the Task Force *per se* is not the driving force behind that objective, it provided new focus and impetus for the EU and Member States to do so.

Regional Protection Programs (RPPs) have been established in the Horn of Africa, and the North of Africa (Libya, Tunisia, and Egypt), and another one is being finalized in response to the Syrian crisis. Here again, a heavier commitment of MS vis-à-vis resettlement would be in order, according to the Mediterranean Task Force.

## Conclusions

Migration is now firmly at the top of the EU’s political agenda. In 2005 the response of the European Commission (EC) to this challenge was the introduction of the Global Approach to Migration and Mobility (GAMM), an overarching strategic framework of the EU external migration policy - revised in 2011 to include international protection and the external dimension of asylum, as well as the concept of

“mobility”. The GAMM is implemented through several instruments (political, legal, and operational support and capacity-building), and relies on genuine partnership with third countries, based on mutual trust and shared interests.

However, its non-binding and flexible nature has mostly translated into little engagement, often-timid financial contributions from the MS in the GAMM cooperation frameworks, such as Mobility Partnerships, and a great deal of frustration among the involved partner countries. This calls for the roles of EU actors (EU agencies, EC, and European External Action Service) and MS to be more clearly defined and for tangible engagement. Only in this way can GAMM be implemented coherently and honestly, and thereby pave the way for a future common migration and asylum policy for the EU and its neighbors.

In order to be sustainable, future migration and asylum policy has to be evidence based as opposed to reliance on outmoded notions. Also, it should focus on promoting ethical recruitment, legal and safe employment of migrants (decent work), and improved integration measures. Briefly, benefits to third countries in relation to mobility should not be conditioned to cooperation on border controls and migration flow monitoring, but rather to the respect for the human rights of migrants. Finally, it has to pay particular attention to the needs and context of its partners, if the intended objective is to build long-term relations and to promote a genuine two-way dialogue.

As a big bureaucratic and political animal, the EU is slow by nature in agreeing to common solutions and adapting to reality (e.g. Stockholm Programme). The new EU Funds on Asylum, Migration, and Integration (2014-2020, 3.1 billion Euro) and the Internal Security Funds (2014-2020, 3.7 billion Euro) are new financial vehicles to tackle the issue, but at the same time

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<sup>56</sup> Com (2013) 869 final, Brussels, 4.12.2013.

<sup>57</sup> COM(2013) 869 Final, 4.12.2013. “The launching of new Dialogues on migration, mobility and security with additional Southern Mediterranean countries, notably with Egypt, Libya, Algeria and Lebanon is also a priority.”



they confirm that the main emphasis is still on security.

However, if European leaders want to keep Europe's competitive advantage and social standards for the coming generation, the time is more than ripe to reshape a bold and creative vision and policy for the migration and asylum portfolio that takes into consideration relevant policies (economic, employment, education, skills, external issues, etc.), and demographic changes.

## Bibliography

Boubakri, Hassan (2013). Migration Policy Centre. *Revolution and International Migration in Tunisia*. Research Report 2013/04.

Carrera, Sergio, Parkin Joanna, and Den Hertog Leonhard (2013). Policy Paper 74. *EU Migration Policy after the Arab Spring: the Pitfalls of Home Affairs Diplomacy*.

Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions. Communication on migration. COM(2011) 248 Final.

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – The Global Approach to Migration and Mobility, 18.11.2011 COM(2011) 743 Final.

Communication from the Commission to the European Parliament and the Council (2010). Annual Report on Immigration and Asylum (2010). COM(2011) 291 Final.

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions – An open and secure Europe: making it happen, Brussels, 11.3.2014 COM(2014) 154 Final.

Communication from the Commission to the European Parliament and the Council on The Work Of The Task Force Mediterranean, Brussels, 4.12.2013, COM(2013) 869 Final.

Council of the EU (2013). Joint declaration establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and its Member States. Brussels, 3 June 2013 (05.06) (OR.fr) 6139/13ADD 1 REV 3.

Council of the EU (2012). Council conclusions on a Common Framework for genuine and practical solidarity towards Member States facing particular pressures on their asylum systems, including through mixed migration flows. 3151st Justice and Home Affairs Council meeting.

European Parliament (2008). Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

European Parliament (2010). Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office.

European Parliament (2011). Resolution of 5 April 2011 on migration flows arising from instability: scope and role of EU foreign policy (2010/2269(INI)).

European Parliament (2011). Directive of the European Parliament and of the Council 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101/1, 15 April 2011.

FRONTEX (2014). Fran Quarterly Report (Q3 of 2013). Trimestral reports on illegal crossings of EU external borders. Warsaw.

Fundamental Rights Agency (2014). *Criminalisation of migrants in an irregular situation and of persons engaging with them.*

GFMD (2013). *Thematic Recollection from the GFMD 2007-2012: Input to the High-level Dialogue on International Migration and Development.*

GFMD (2013). Concept Paper. *Unlocking the potential for migration for inclusive development.*

Intra-ACP Migration Facility (2014). *Activities Implemented by the Project Management Unit, an overview from 2009 to 2014*".

Malmström, Cecilia (2013). *Statement by EU Commissioner Malmström - United Nations High-level Dialogue on International Migration and Development.*

Martin, Marie (2012). Statewatch. *Analysis – The Global Approach to Migration and Mobility: the state of play.*

Newland, Kathleen (2013). Migration Policy Institute. *The High-Level Dialogue: Sizing up Outcomes, Implications, and Future Forms of Engagement on Migration and Development.*

Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Report on the implementation of the Global Approach on Migration and Mobility 2012-2013. Brussels, 21 February 2014, COM(2014) 96 final.

United Nations (2012). Committee on the Protection of the Human Rights of Migrant Workers and their Families. *Preliminary Statement on the Report of the High Commissioner for Human Rights on Strengthening the United Nations Human Rights Treaty Body System, Seventeenth Session, 10-14 September 2012.*

United Nations (2013). UN Chronicle (#3). *Migration.*

United Nations (2013). Press Release: *Lampedusa boat tragedy: UN expert restates call on EU states to prioritise migrants' human rights.*