

Migration and Border Management in the Euro-Mediterranean Area: Heading towards New Forms of Interconnectedness

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It is a well-known fact that the Barcelona process cannot be accurately described as being based on interdependent relationships between the partners involved, owing to the resilience of asymmetric patterns of development between the North and the South of the Mediterranean. Actually, few years ago, the European Commission¹ itself stressed that, despite enhanced economic openness in Mediterranean non-member countries (MNCs), substantial progress was still needed in such fields as economic and social reforms, economic liberalization, privatisation, respect for human rights and democratisation.²

Nonetheless, despite the resilience of such asymmetric relations, the externalisation of EU migration and asylum issues,³ together with the explicit desire of the EU to intensify its cooperation on migration management with third countries, have led to the emergence of new forms of interconnectedness bet-

ween the European Union (EU) and some MNCs, in the context of the joint management of migration flows and border controls.

With reference to the main developments that occurred from 2003 onwards, the purpose of this study lies in analysing the various factors which have contributed to shaping the aforementioned interconnectedness, on the one hand, and in explaining the reasons for which some MNCs have been responsive to the joint management of migration flows, on the other.

The Ad Hoc Approach to Cooperation in Migration and Border Management

When Greece and Italy took up the EU Presidency, respectively during the first and second semesters of 2003, both European countries undertook to implement most of the initiatives that were already introduced in the wake of the June 2002 Seville European Council. In fact, the Greek presidency presented in May 2003 a road-map⁴ which reasserted the need to intensify cooperation in the management of asylum and migra-

tion flows with third countries, including the conclusion of readmission agreements, the cooperation in the effective management of the external borders of EU Member States, the formal establishment of Immigration Liaison Officers' (ILOs) networks in third countries and the implementation of effective return policies in cooperation with third countries.

The June 2003 Thessaloniki European Council fully reflected these priorities. Moreover, it also emphasised "the importance of developing an evaluation mechanism to monitor relations with third countries which do not cooperate with the EU in combating illegal immigration."⁵ This monitoring mechanism draws extensively on the principles of "differentiation" and "progressivity" that were presented in a previous communication from the Commission to the Council in March 2003, introducing the European Neighbourhood Policy (ENP).⁶ It is part and parcel of the EU cross-pillar approach to migration linking financial aid and development assistance with the actual adoption, on the part of third countries' governments, of policies aimed at curbing illegal migration. Furthermore, with regard to Mediterranean third countries, the new

¹ Commission of the European Communities, Communication from the European Commission to the Council and the European Parliament to prepare the Fourth Meeting of Euro-Mediterranean Foreign Ministers "Reinvigorating the Barcelona Process," COM (2000) 497 Final, Brussels, 6.9.2000.

² Cassarino J.-P., *Europe's Migration Policy in the Mediterranean: An Overview*, CARIM/RSCAS, Florence, 2004.
www.carim.org/Publications/SOC200401cassarino.asp

³ Boswell C., "The 'External Dimension' of EU Immigration and Asylum Policy," *International Affairs* 79 (3), 2003, p. 619-638.

⁴ Council of the European Union, Road-Map for the Follow-up to the Conclusions of the European Council in Seville, 6023/04/03, Brussels, 5 May 2003.

⁵ Council of the European Union, *Thessaloniki European Council, 19 and 20 June 2003, Presidency Conclusions*, 11638/03, Brussels, 1 October 2003, p. 5.

⁶ Commission of the European Communities, Communication from the European Commission to the Council and the European Parliament, "Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours," COM (2003) 104 Final, Brussels, 11.3.2003.

neighbourhood policies illustrate the desire of the EU and its Member States to reframe the patterns of partnerships already existing in the EMP, while offering “credible incentives,” as stated in the December 2003 Euro-Mediterranean Conference,⁷ to further implement economic and political reforms and to cooperate in the field of justice and home affairs, particularly border controls, legal and illegal migration, police cooperation and the fight against human-trafficking. Importantly, the ENP reflects not only the prominence of asylum and migration issues in the EU’s external relations with third countries, but also the EU’s desire to broaden the comprehensiveness of its approach to migration and asylum by giving third countries’ governments incentives :

- to fully comply with the 1951 Geneva Convention on refugee protection;
- to effectively implement readmission agreements;
- to cooperate in the control of the EU external borders;
- to adopt provisions aimed at tackling illegal migration and human-trafficking.

As far as Mediterranean non-member countries (MNCs) are concerned, the rationale is not to include them in the minimum common list of safe countries of origin that was presented in March 2004, as part of the draft EU asylum procedures directive. Actually, none of the MNCs would currently qualify in a credible manner for the basic criteria contained in the notion related to safe third countries of origin.⁸

Rather, the issue at stake is to find short-term solutions aimed at turning the management of migration flows (whether legal or illegal), including the reinforced control of the EU external borders, into

a growing shared priority among the partners involved in the reframed Euro-Mediterranean Partnership. It also lies in assessing the willingness of some MNCs to participate in the migration management programme “in a spirit of shared responsibility.”

The Hague multi-annual Programme, adopted at the November 2004 Brussels European Council,⁹ following the completion of the five-year Tampere Programme, constituted a decisive step in stressing the external dimension of asylum and migration issues, and consequently in acknowledging the need for reinforced cooperation with transit and origin countries, in the fields of border management, the fight against illegal migration and human-trafficking, police cooperation, readmission programmes and refugee protection. Given the centrality of justice and home affairs matters, this reinforced framework of cooperation in migration management could not but be predominantly security-oriented, at least in the short term. This orientation became explicit in the three-to-five year action plans which were presented by the Commission in December 2004, particularly in those related to Morocco and Tunisia.¹⁰

By stressing that “asylum and migration are by their very nature international issues,”¹¹ the EU acknowledges that the credibility and effectiveness of its common asylum and migration policy is also dependent on the participation of origin and transit countries in the joint management of migration flows. In other words, the growing externalisation of the EU migration and asylum policy has been gradually conducive to the emergence of unprecedented forms of interconnectedness between the EU and MNCs, while turning some of them into strategic partners. In this

respect, Morocco and Tunisia are a case in point.

MNCs’ Policy Responses to Migration and Border Management

To understand the factors which motivated some MNCs to participate in the joint management of migration flows, it is important to break away from the taken-for-granted vision that their participation has been dictated by pressures exerted by the EU and its Member States. In fact, this assumption is based on a cause-and-effect relationship that does not properly reflect the reasons and magnitude of their responsiveness. Also, this assumption tends to overlook the fact that many MNCs have for long been concerned by the need for migration management and policy response to illegal and human-trafficking. In fact, as early as the 1990s, most of them participated in the numerous consultative meetings on migration management, which were organised by various intergovernmental organisations, such as the ministerial conferences held in Rabat (October 2003) and in Algiers (September 2004) in the framework of the 5+5 dialogue on migration in the Western Mediterranean. Since 2003, the participation of some MNCs in these consultative meetings, together with the adoption of measures and provisions aimed at fighting against illegal migration and human-trafficking, have turned them into credible players in migration talks.

Indeed, in the field of illegal migration, Morocco adopted in 2003 restrictive legal provisions aimed at dealing with the presence of foreigners and illegal migrants on its territory. These provisions included not only the enactment of law 02-03,¹²

⁷ Euro-Mediterranean Conference of Ministers of Foreign Affairs, *Presidency Conclusions*, 2-3 December 2003.

⁸ These criteria are based, amongst others, on the rule of law, the respect of human rights and democracy. See Council of the European Union, Amended proposal for a Council Directive on minimum standards on procedures in Member States for granting and withdrawing refugee status, 12888/1/03, Brussels, 30 September 2003, p. 9.

⁹ See Annex 1 in Council of the European Union, *Brussels European Council, 4/5 November 2004, Presidency Conclusions*, 14292/04, Brussels, 5 November 2004.

¹⁰ Commission of the European Communities, Communication from the European Commission to the Council, “On the Commission Proposals for Action Plans Under the European Neighbourhood Policy,” COM (2004) 795 Final, Brussels, 9.12.2004.

¹¹ Council of the European Union, *Brussels European Council, 4/5 November 2004, Presidency Conclusions*, 14292/04, Brussels, 5 November 2004, p. 20.

¹² Law 02-03 was adopted by the Moroccan Parliament and published in the *Bulletin Officiel* on November 13th 2003. This law contains articles regarding the release of residence permits (Chapter 2), the duration of stay in the Kingdom, the mobility of the foreigner in the Kingdom

but also the creation of two institutions aimed at controlling borders, at fighting against migrant-trafficking and at defining a national strategy in the field of migration management.¹³ The adoption of these provisions was positively viewed by the US Department of State which mentioned in its 2004 annual report on human-trafficking that Morocco “fully complies with the minimum standards [of the US Trafficking Victims Protection Act] for the elimination of trafficking.”¹⁴

Concomitantly, the government of Tunisia responded to the management of migration flows, by adopting in February 2004 Law 2004-6 on passports and travel documents.¹⁵ Chapter IV of Law 2004-6 contains 55 articles related to the entry and exit of citizens and non-citizens. It makes provisions for severe sanctions against whoever (citizens, foreigners, carriers, organisations) facilitates the illegal crossing of the border. Article 50 also provides for the expulsion from Tunisia of the convicted foreigner, “once the sentence is served.” The adoption of law 2004-6 raised many criticisms among human rights organisations,¹⁶ not so much because of the severe sanctions contained in it as because it tends to excessively criminalize migrants, including those trying to use Tunisia as a country of transit, and also because it includes administrative and judicial restrictions that disregard migrants’ human rights.

Law 2004-6 draws extensively on the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Trans-national Organized Crime, which was adopted in November 2000 and which entered into force in January 2004. The government of Tunisia ratified this protocol in November 2003. The ratification constituted a way of showing that the government of Tunisia was intent on giving itself the adequate legal means with a view to countering the illegal migration of Tunisian citizens and of foreign migrants in transit through Tunisia. It also constituted a way of showing that Tunisia could act as a credible player in the joint management of migration flows. The need for enhanced credibility, in this specific field, became all the more crucial for the government of Tunisia as the national and international media reported, in June 2003, the death of over 200 people, trying to cross illegally the straits of Sicily, on board of a trawler which capsized off the coast of Sfax. A political response was hence needed.

Interconnectedness and Stronger Leverage

The adoption of drastic measures aimed at curtailing illegal migration and fighting against the smuggling of migrants, were

not the only steps that the government of Tunisia and the government of Morocco undertook to play the efficiency card and to enhance their international credibility in the management of migration.

In fact, unprecedented bilateral agreements on sea border controls materialised in January 2004 between Tunisia and Italy, in the framework of the Neptune project,¹⁷ and in December 2003 between Morocco and Spain.¹⁸ As a result of the bilateral agreement on migrant-trafficking signed between Morocco and Spain, a substantial financial protocol, amounting to 390 million Euros, was signed in Marrakech between Spain and Morocco in December 2003, with a view to supporting the delocalisation of Spanish firms to the Moroccan market in various sectors of industry.¹⁹ In January 2004, Italy followed suit and rewarded the involvement of Tunisia in the Neptune project by sustaining Italian FDIs to Tunisia, for a global amount of 36.5 million Euros.

Importantly, the search for enhanced credibility cannot exclusively account for the participation of Morocco and Tunisia in the global migration management agenda. The terrorist outrages that severely hit Tunisia and Morocco in 2002 and 2003, may also constitute explanatory factors of the above-mentioned patterns of cooperation in the field of migration

(Chapter 7), the conditions under which a foreigner may be expelled from the national territory (Chapters 3, 4 & 5), the detention of illegal migrants in “waiting zones” (Chapter 6), sanctions against over-stayers and illegal migrants (Chapter 8) and against migrant-smugglers or any moral or physical entity involved in the illegal entry of migrants in the Kingdom (from art. 50 to art. 56). See Belguendouz, A., *Le Maroc non africain gendarme de l’Europe?*, Imprimerie Beni Snassen, Salé, 2003, p. 81-112.

¹³ In fact, following a ministerial meeting presided over by King Mohammed VI on November 10th 2003, two institutions were created. Firstly, the *Direction de la migration et de la surveillance du territoire* mobilises the Ministry of Interior, as well as the national *gendarmerie*, the army and the marine. Secondly, the *observatoire de la migration*, whose major mission consists in elaborating a statistical database on migration flows, is expected to propose to the Moroccan public authorities, concrete actions to be taken in the field of migration management. See *Maroc Hebdo International* n. 580, 14-20 November 2003, p. 8.

¹⁴ US Department of State, *Trafficking in Persons Report: June 2004*, Washington, 2004, p. 199.

¹⁵ Journal Officiel de la République Tunisienne, *Loi organique n° 2004-6 du 3 février 2004, modifiant et complétant la loi n° 75-40 de 1975, relative aux passeports et aux documents de voyage*, n°11, 6 février 2004, p. 252 et suiv.

¹⁶ Boubakri H., “Transit Migration between Tunisia, Libya, and Sub-Saharan Africa: Study based on Greater Tunis.” Regional Conference on “Migrants in Transit Countries: Sharing Responsibility for Management and Protection,” Council of Europe, 2004, p. 23. www.coe.int/T/F/Coh/E9sion_sociale/Migrations/MG-RCONF_2004_%206e%20-%20Report%20by%20Boubakri.pdf

¹⁷ The Neptune project is a joint operation aimed at strengthening controls at the sea borders of the EU, in the Mediterranean. This project was introduced by Italian Interior Minister Giuseppe Pisanu under the 2003 Italian Presidency of the EU and was initiated on September 10th 2003. Since then, the Neptune project has been backed by Cyprus, France, Germany, Greece, Malta, the United Kingdom, The Netherlands, Spain and Europol. A joint centre of surveillance was established in Palermo with a view to preventing and acting quickly against illegal migration and human-trafficking in the Mediterranean.

¹⁸ The agreement was signed on December 4th 2003 between Spain and Morocco. It is aimed at fighting against human-trafficking through joint sea border police cooperation in the area surrounding the Canary Islands and in the straits of Gibraltar. See the Moroccan weekly *Maroc Hebdo International* n. 584, 12-18 December 2003, p. 6.

¹⁹ This amount was undoubtedly the most important ever granted to Morocco from Spain. It was expected to stimulate Spanish foreign direct investments (FDIs) to Morocco and to turn Spain into Morocco’s major investor. See *Maroc Hebdo International* n. 584, 12-18 December 2003, p. 6.

THE DEVELOPMENT OF EMIGRATION INTO THE EU FOR WORK PURPOSES

According to the OECD, in the period 2002-2003 it was observed that after various years of continuous growth, international migration to OECD countries stabilised. However, this cannot be seen as the start of a stabilisation of immigration flows, since there were other relevant factors (the fight against international terrorism, the war in Iraq and the SARS epidemic) and a slow economic recovery, especially in the Eurozone countries, which could have contributed to slow down these migration flows.

However, we must not forget that there are structural factors in the OECD countries, such as an ageing population, the need for labour (especially qualified labour) and the importance of family reunification, which continue to influence migration flows.

Even though the general trend is for the stabi-

lisation of migration dynamics into EU countries, updated data enable us to observe the dynamic of the flows to EU countries over the period 1990-2002, and we can differentiate between three groups of countries: those in which numbers are declining (amongst which Belgium and France stand out), those experiencing sustained growth (like Austria and Germany) and those experiencing an acceleration in immigration (Greece, Portugal, Italy and Spain), these last two countries having an important Mediterranean component in the immigration flows.

This fact might be an indication of a possible reorientation of the flows coming from the Southern Mediterranean towards the EU, with a reduction of migration into countries which have traditionally received migration flows from the Mediterranean. Thus, although in 1997 immi-

gration from Third Mediterranean Countries was almost a third of the total immigration figure, in 2002 this percentage fell to 23.6%. In 2004 data, this percentage fell to 20.6% and this trend may continue with the enlargement of the EU to 25 countries, since from enlarged EU data immigration from Third Mediterranean Countries stands at 18%.

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management. These factors have generated links of interconnectedness in the field of security and border controls. Additionally, a direct consequence of these reinforced links of interconnectedness lies not only in the possibility for the government of Tunisia and the government of Morocco to capitalise on their participation in the joint management of migration flows and border controls, but also in their ability to exert more leverage on the enlarged EU, in terms of financial aid and development assistance. There is no question that, since 2003, this leverage has become a strategic issue for both North African countries whose expectations have been made more explicit on the international arena. In fact, during the 15th symposium of the Tunisian ruling party, the *Rassemblement Constitutionnel Démocratique* (RCD), which took place in November 2003, President Zine El Abidine Ben Ali was keen to recall that the security concerns of the EU regarding migration flows should not conceal the fact that such flows are "the direct consequence of the economic changes with which Southern countries are being faced in their development process and in the context of

their [economic] openness to the North."²⁰ Similarly, on the occasion of the first Summit of the Heads of State and Government of the Western Mediterranean Basin, which was held under the auspices of the government of Tunisia, in December 2003, a common declaration was issued stressing "the importance of seeing the European Union accompany its enlargement process [i.e. Wider Europe] by similar supportive efforts towards the countries of the South-West Mediterranean [...]."²¹ In the same vein, Nezha Chekrouni, Minister Delegate in charge of the Moroccan émigré community abroad, underlined that Morocco's involvement in the fight against illegal migration is contingent on the "great responsibility of the EU to support [Morocco's] development efforts."²²

The case studies of Morocco and Tunisia are important to show that the growing externalisation of the EU migration and asylum policies, as well as the reinforced control of its external borders in cooperation with some MNCs, has led to the emergence of unprecedented forms of interconnectedness between the north and the south of the Mediterranean, in the fields of security and border con-

trols. Concomitantly, the two case studies have also demonstrated that such forms of interconnectedness have allowed the government of Tunisia and the government of Morocco to exert more leverage on the EU and its Member States, in terms of development assistance and financial aid. In other words, this means that the two North African countries are intent on responding proactively to the externalisation of the EU's migration and asylum policies and to capitalise on the convergence of their security concerns with those of their Northern Mediterranean neighbours. Finally, although this interconnectedness is becoming the dominant character of today's joint management of international migration in the Euro-Mediterranean area, it is important to stress that this framework of cooperation has its own limits. These limits shape in turn the policy options and the degree of responsiveness to the joint management of migration flows on the part of MNCs. To give an example, the proposal made by Germany and Italy, during the October 2004 G5 meeting in Florence, to create centres in North Africa aimed at processing asylum-see-

²⁰ *Réalités*, "15ème Symposium international du RCD: Vers une solidarité euro-méditerranéenne," n. 6 November 2003.

²¹ The text of the Declaration of Tunis is accessible at www.5plus5.tn

²² *Maroc Hebdo International*, "Nous en appelons à l'Europe," n. 582, 28 November-4 December. 2003, p. 11.

kers' claims en route to the EU, was vehemently rejected by all the governments of North Africa. This negative response reflected the threshold beyond which the joint management of migration flows cannot prosper. It also allowed some MNCs, including Morocco, Algeria, Tunisia and Libya, to voice that the credibility of the joint management of migration flows in the Euro-Mediterranean area will also depend on the enlarged EU's commitment to supporting their economic challenges by the

introduction of accompanying measures.

So far, the interconnectedness has been predominantly founded on the convergence of short-term security concerns and on few concrete actions aimed at alleviating poverty, promoting institutional reforms and sustaining economic development in origin and transit countries, i.e., the actual root causes of migration. Unfortunately, the November 2004 Hague Programme did not consistently address these resilient root causes. As

a matter of fact, in the near future, the EU will need to find additional innovative solutions and incentives to address these long-term issues. These solutions are all the more essential as it has now become clear that some MNCs intend to capitalise on their empowered position and leverage to make the joint management of migration in the Euro-Mediterranean area more responsive to their economic and developmental needs.