



Outsourcing borders

Monitoring EU externalisation policy

Bulletin 02
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“Like all walls it was ambiguous, two-faced. What was inside it and what was outside it depended upon which side of it you were on.”

Ursula K. Le Guin, *The Dispossessed*

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About this bulletin

This project, carried out by *Statewatch* and *migration-control.info* and funded by *Brot für die Welt*, *Misereor*, *medico international* and *Pro Asyl*, aims to make the EU's externalisation policies, plans and practices public. In doing so it seeks to highlight their impact on the rights of people on the move, as well as democratic standards, transparency and accountability. It addresses a lack of public information by publishing relevant EU documents, in this phase primarily those produced or discussed by the Council of the EU. It also tackles the overflow of information that results from a variety of EU institutions, working groups and national governments involved in the externalisation agenda by summarising thematic and regional developments, and by analysing key issues in depth.

Editorial

On 1 February this year, His Excellency Willem van de Voorde, “Ambassador Extraordinary and Plenipotentiary” and Permanent Representative of Belgium to the EU, received a [letter](#) from Juan Fernando López Aguilar, who at the time was chairman of the European Parliament's civil liberties committee (LIBE).

Aguilar was seeking information on something called the Operational Coordination Mechanism for the External Dimension of Migration, also known as MOCADDEM, for its initials in French (*mécanisme de coordination opérationnelle pour la dimension extérieure des migrations*).

MOCADDEM, which is part of the Council of the EU, was set up in January 2022 to “prepare and propose operational actions” in or with non-EU states that the EU wants to rope into its migration control agenda. The origins of [its legal basis](#) lie not in EU immigration and asylum law, but [emergency powers](#) related to “a terrorist attack or a natural or man-made disaster”.

Beyond that, little is known of its workings. Aguilar's letter to van der Voorde noted:

“As the committee responsible for asylum and migration in the European Parliament, LIBE should receive relevant documents and information regarding the MOCADDEM, given the LIBE competences in the field and the principle of sincere cooperation between institutions.”

Unlike the Spanish authorities, whom Aguilar wrote to in July last year, the Belgian authorities did at least [reply](#) – only to flatly refuse Aguilar's request.

“Given the specific operational and implementing nature of the work of the MOCADDEM, I regret to inform you that the Council is unable to accede to your request,” van de Voorde wrote. That was not all, however – he also took the time to argue that the Parliament has no competence over any of the matters dealt with by MOCADDEM.

“MOCADDEM does not adopt any ‘measures’ within the meaning of your committee's responsibilities as described in Annex VI of the Parliament's Rules of Procedure,” the Ambassador Extraordinary and Plenipotentiary declared.

This view is open to debate. Those Rules of Procedure say the LIBE committee is responsible for “measures concerning the entry and movement of persons, asylum and migration,” for “measures concerning an integrated management of the common borders,” as well as those concerning all EU “bodies and agencies” operating as part of the EU’s “area of freedom, security and justice” – one of which is Frontex, the border agency.

The question here, then, is: what constitutes a “measure”? As part of this bulletin, we are publishing almost [two dozen documents produced or discussed for MOCADDEM meetings over the last eight months](#), and they show that officials have been very busy.

Scores, if not hundreds, of “actions” – one might be tempted to say “measures” – are being put in place by EU agencies and institutions to try to control, monitor and regulate the movement of people far from EU territory. And MOCADDEM is the body tasked with preparing many of them: its legal remit gives it the power to propose “operational actions” to the Committee of Permanent Representatives (Coreper), the body that van de Voorde currently chairs, “in any area relevant for the relationships between the European Union and the third country concerned in the field of migration.”

Is an “operational action” a “measure”? Is an “action” listed in a MOCADDEM document – for example, the €40 million project to support Tunisian “border management” – a “measure”? Does the European Parliament have a legal right to scrutinise the EU’s support for migration and border control in non-EU states? Are EU governments attempting to avoid any form of democratic oversight for their attempts to strengthen political links with, and financial support for, governments in the EU’s “Southern Neighbourhood” and beyond, in the name of halting the movements of migrants and refugees?

The first three questions are perhaps best left to the lawyers. The answer to the last question is, undoubtedly, yes.

As the documents we are publishing show, the “operational actions” coordinated by MOCADDEM are both extensive and expensive: they encompass states on the shores of the Atlantic and the Indian Ocean and many others in between, and the total cost runs into hundreds of millions of euros, at least. And, as one of the two analyses in this bulletin demonstrates, much of that expenditure is formally classed as development aid.

It takes a very particular frame of mind to think that buying surveillance equipment for an authoritarian government’s border police “[promotes and specifically targets the economic development and welfare of developing countries](#).” Yet that is the point we have reached. European governments can spend vast sums of public money to bolster the repressive agencies and powers of foreign states, who go on to commit egregious human rights abuses, yet elected representatives are denied the right to scrutinise these actions.

It is because of problems such as this, of course, that this bulletin exists. We hope you find it useful in your work to challenge the ongoing externalisation of border and migration controls – an old and failed agenda that serves the interests of political elites and profiteers, whilst reinforcing a violent and exclusionary political order. There has never been a more urgent time to work against it.

- Chris Jones, *Statewatch*

Thematic and regional developments

The summaries below concern documents produced or discussed by five working parties of the Council of the EU:

- External Aspects of Migration Working Party (EMWP)
- Strategic Committee on Frontiers, Immigration and Asylum (SCIFA)
- Visa Working Party
- Working Party on Frontiers
- Working Party on Integration, Migration and Expulsion (IMEX)

It also contains documents produced or discussed by the Operational Mechanism for External Dimension of Migration (MOCADDEM).

All the documents summarised here, and more, are contained in our [document archive](#), which also contains sections on the European Council and the Justice and Home Affairs Council.

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Border management

Fundamental rights monitoring at EU external borders was discussed at the [Working Party on Frontiers meeting on 6 June](#), as part of the implementation of the Screening Regulation. This requires that independent national mechanisms be set up, for two purposes. Firstly, to “monitor compliance with Union and international law,” and secondly to “ensure that substantiated allegations of non-compliance with fundamental rights are dealt with effectively, and Member States launch investigations into such allegations and monitor their progress”.

National level mechanisms that are independent, adequately funded, with unlimited access to sites and documents (appropriate security screening notwithstanding) may be used. These bodies should “conduct on-the-spot, random and unannounced inspections and... issue annual recommendations.” The EU’s Fundamental Rights Agency must draw up general guidance for member states to set them up and operate them, and is available to offer advice on methodology and training. Member states have two years to comply.

A paper on **information campaigns** in member states in preparation for the **entry into operation of the Entry/Exit System (EES)**, expected for autumn 2024, was discussed at [the same meeting](#). Such campaigns “to inform the public and third-country nationals about the objectives of the EES, the data it will store, the authorities that will have access to it and the rights of the persons concerned.” The campaigns should target third country nationals wishing to visit EU territory, and member states should divulge information “as widely as

possible, particularly in transport hubs, consulates, carriers' offices," accompanied by a social media campaign. At the same meeting, the European Commission gave a detailed presentation about the **Artificial Intelligence Act and border management**.

The [External Aspects of Migration Working Party meeting on 17 May](#) heard presentations from **UNHCR** and **IOM**, and was provided information by the **Commission** and the **European External Action Service** concerning the "Migration situation on the **Eastern Mediterranean** route". Other issues touched upon at this meeting relevant to border management included information from the presidency on "Local and regional networks of the European Network of Immigration Liaison Officers" and updates on cooperation frameworks with Libya, North Macedonia, Pakistan, and in the context of the Khartoum Process (see Partnerships, below).

Documents on the agenda of [MOCADEM meetings since last September](#) have extensively covered border management, police action against migrant smuggling, and search and rescue operations in countries ranging from **Bosnia and Herzegovina** to **Libya**, **Senegal** and **Turkey**, amongst numerous others.

Tunisia is one of those other countries where, in the wake of the agreement signed last July, extensive EU and member state activity is ongoing. Relations with and projects in the country have been discussed at almost every MOCADEM meeting since last September. In relation to border management and related topics, a document from the [16 February meeting](#) released to *Statewatch* details the extensive financial support being provided by the EU: well over €100 million is being spent on projects for search and rescue, border controls and international police cooperation. The **International Centre for Migration Policy Development** is implementing many of the projects listed.

In **Morocco**, the EU has provided at least €200 million for projects on "border management in respect of international human rights standards, the institutional governance of migration and asylum and the integration of migration and refugees," according to a document from the [16 February meeting](#). In **Mauritania**, over €50 million is being spent by the EU on border control and policing projects. One law enforcement project, GARS I 3, has been in the spotlight recently where its implementation in **Senegal** saw police vehicles paid for by the EU being used to [quell popular dissent](#). The document on Mauritania says that GAR SI 3 has received €10.5 million from the NDICI budget.

The **Western Balkans** was on the agenda of the [MOCADEM meeting on 19 April](#), with a document released to *Statewatch* indicating that **Frontex** deployments in the region are a high priority, with renewed and upgraded status agreements aiming to expand the possible range of deployments. Under Frontex's 2019 legal basis, the agency can be deployed at borders between two non-EU states, instead of just at the borders between a non-EU and an EU state. Extensive work is already ongoing in the region using the Instrument for Pre-Accession Assistance (IPA III) funds (see also the analysis on budgets in this issue of the bulletin), including training by Frontex on surveillance, screening, debriefing and fundamental rights.

Police cooperation against migrant smuggling and trafficking in the Western Balkans is also covered by the document, which notes that all Western Balkans states now have at least one

liaison officer stationed at **Europol**. An anti-smuggling programme under the IPA budget worth €36 million was due to be adopted in June 2023, and the paper also notes: “Interoperability missions planned to take place in all Western Balkan partners to assess the needs at the border crossing points.”

Last year, meanwhile, a document circulated for a [MOCADDEM meeting in November](#) looked at the **Eastern Mediterranean** route, with - unsurprisingly - a significant focus upon **Turkey**. The “action file” noted that the EU would be providing €220 million to support surveillance and controls at Turkey’s border with **Iran**, and cited the importance of setting up an “International Migration Cooperation Centre” in Istanbul. According to [a document posted online](#) by the **International Centre for Migration Policy Development**, the “primary role” of this centre would be “to foster operational cooperation in the area of border management, with a regional focus along the Eastern Mediterranean Migration Route, particularly **Türkiye, Western Balkans, Central Asia** and **Middle Eastern** countries.”

The [Visa Working Party meeting on 24 April](#) included a discussion on the future of visa policy and its internal dimension, which was predicated on a need to stop third-country nationals “misusing legal entry channels” to lodge asylum applications. Tackling “abuse of visa policy” is viewed as crucial “for the sustainability of Member States’ asylum systems.” A renewed **visa suspension mechanism** is under discussion in trilogues and is deemed important to tackle problems with visa-free countries, though it should only be triggered as a “last resort”. Meanwhile, Regarding the **Visa Information System (VIS)**, “the absence of statistics regarding the number of persons misusing a visa to enter the Schengen area and then lodge an asylum application” was raised as a problem that may require improved VIS checks by national authorities in the context of asylum applications.

Regarding “innovative solutions” concerning visa fraud and the EU legal framework, more than 20 EU and Schengen member states treat visa fraud as a criminal offence. The EU legal framework does not provide for the prosecution of visa fraud, so punishment for this offence and for overstaying on a visa is limited to administrative measures (including entry bans). Delegations wish for additional measures to be envisaged, drawing on punitive measures introduced for the Visa Code article 25a mechanism. The Belgian presidency argued that “no avenue should be overlooked, including the strengthening of the legal framework,” while the German delegation has produced [a handbook on visa fraud](#).

There was a focus on the “external dimension” of visa policy at an informal [SCIFA](#) meeting in May, according to the same document, for which we have not yet obtained relevant document.

Deportation and readmission

Deportation, readmission and related topics have been dealt with by various working parties in recent months, particularly IMEX (Expulsion). Topics include a **plan to make the returns system more efficient**, to **harness the potential of liaison officers** deployed abroad by member states and EU bodies, and to work on the **recast Schengen Information System regulation and return alerts**.

At the IMEX meeting on 23 April 2024, presentations by the presidency and the Commission preceded an exchange of views on “**Making the EU return system more effective**: a continuation of the reflection towards the future of the EU return policy”. There was also some follow-up to the Fedasil (Belgium) conference held on 19-20 March 2024 on **voluntary return and reintegration**. Discussions on the **Visa Code Article 25a** “exercise” looked at its state of implementation, discussion on cooperation by priority countries not targeted by restrictive visa measures, and continuation of the discussion on the mechanism’s effectiveness and development, including presentation by the Commission of its staff document evaluating the visa code reform. The presidency also reported back on its presentation on “best practices in the field of returns” given at the working party on Schengen matters.

Among the topics discussed at the [7 June meeting](#) was a presidency discussion paper on **improving return statistics**. The paper includes a critical assessment of existing parameters and ideas to improve and vastly expand the existing data collection framework. The parameters include the effectiveness of returns; the link to negative asylum decisions; human rights during returns; sustainability (to avoid re-migration); and return costs (human and financial resources), amongst other things.

The return data collection framework includes Eurostat collection of return data since 2008 and Frontex’s growing involvement since it began data collection on returns in 2011, through the Frontex Risk Analysis Network (FRAN) and the Irregular Migration Management Application (IRMA). Calls to improve data collection were formulated in the EU Return Coordinator’s Operational Strategy for more Effective Returns [doc], in the Multiannual Strategic Policy for European Integrated Border Management (March 2023 communication, doc) and by the Commission and Council.

This has led to concrete actions, including the **EU Asylum Agency** suspending its data collection and relying on **Frontex** data since 2023; a **Eurostat Task Force on Return Statistics** bringing together member states, Frontex and **DG HOME**; a 2023 Frontex roadmap to enhance analysis of returns and return situational picture; the “annual exercise under the Article 25a Visa Code” for a comprehensive qualitative and quantitative collection of data on readmission cooperation with the key third countries at the EU level; and a variety of other activities. Statistics on deportation will also be aided by the EU’s interoperable databases, with a Central Repository for Reporting and Statistics to “provide cross-system statistical data gathering from EES, VIS, ETIAS and SIS.” The forthcoming European Annual Asylum and Migration Report will also contain return data.

Persistent challenges include the validity of return rates to assess effectiveness (a method which “has shown its limitations”), which means that “additional information is needed”. The identified limitations include data from return alerts in the **Schengen Information System (SIS)** showing that:

“...a considerable proportion of return decisions issued are not enforceable; different national administrative and judicial practices might impact the number of return decisions issued, reducing comparability; only reliably recorded voluntary returns are

accounted, which means that in reality the number of effective returns might be higher...

The importance of statistics and data collection to the EU's deportation machinery, and its migration control initiatives more broadly, was emphasised in [a Statewatch report published last year](#), which noted:

“At root, then, statistics is about the collection of data by public authorities in order to better understand a given situation and, in response, to formulate or influence policies to better exercise control. The nature of statistical work also relies on the continuous production of categories and constituencies of people who are often hierarchically ordered, giving rise to the possibility of various discriminatory practices and effects.”

A paper on “making the returns system more effective” was submitted by the presidency for the [IMEX meeting on 7 June](#). A key plank of this is the proposal for a recast Return Directive, on which the Council has reached a negotiating position but the European Parliament has not. The paper discusses member state needs in this area, alongside the proposal's future, despite admission of discordant views: “Some felt that work on [to modify and update] the recast directive should be in parallel to a deep reflection on revision of the legal framework.” Parallel tracks were proposed:

“...working on the recast Return directive to introduce the most urgent changes, including adapting the legislation with the recent European Court of Justice rulings, while further reflecting on the future European return decision. At the same time practical cooperation and increased use of mutual recognition should continue.”

Nonetheless, some delegations would prefer mutual recognition of national return decisions to remain optional, and the presidency described work towards a European return decision as a “long-term objective.” *Statewatch* has [previously reported](#) on the proposal for such a legal framework.

According to the presidency paper, most member states did not feel it necessary to “further legislate on alternatives to detention and conditions of detention”, questioning the idea of establishing “minimal detention capacities” at the EU and member state levels. The document also includes information on the removal of individuals posing a security threat, “the jurisprudence of the European Court of Justice regarding the Return Directive, the improvement of identification, the use of European laissez-passer, the definition of the concept of voluntary return, the situation of illegally staying third country nationals who cannot be returned, and the accessibility of Schengen Associated States to the readmission case management system (RCMS)”. The paper notes that implementation of the Pact should lead to **closer links between asylum and return procedures**.

The “cooperation of third countries on readmission remained essential for an effective EU return policy,” the document also notes. Leverages include: strategic use of the **Visa Code article 25a** procedure, or the use of the EU's **Generalised Scheme of Preferences (GSP)** with the EP to establish a “trade leverage”. Some delegations called for innovative solutions and “out-of-the box” ideas to ensure effective returns, and some considered that **Frontex** should be able to help with returns between third countries.

In preparation for the [IMEX meeting on 7 June](#), a paper summarising “the discussion on **liaison officers** as partners to build a stronger common European return system” was submitted by the presidency, as “an important tool whose potential be maximised for returns”. The IMEX expulsion meeting had three dimensions: strategic, operational and attractiveness.

The first heading underscores a need for **EU delegations in third countries** to offer political support to EU and member state liaison officers. Existing needs include a clear vision and member states prioritising deployments (pointing to the **Iraq** post being vacant), a need for flexibility and a twin-track approach: “long-term deployments for structural priority third countries, and short-term deployments for cyclical situations related to migratory flows.” Different practices among member states are identified concerning their use of liaison officers for “reintegration, the swift return to those who pose a security threat and the fight against migrant smuggling”.

The other dimensions focus on coordination for the sake of effectiveness and on improving conditions for the different types of European liaison officers to encourage their deployment. Forward-looking proposals include establishing a pool of return liaison officers in **Frontex**, and providing funding to support deployments in the next **Multiannual Financial Framework** (that is, the EU budget).

With regards to the theme of “**post-return, reintegration assistance and sustainable reintegration: coordination between actors and engagement of partner countries**”, for which a strategy was agreed under the Pact in April 2021, meetings were held in IMEX (Expulsion) (“return and reintegration assistance”) on [23 April](#) and in EMWP (“sustainable reintegration”) on [17 May](#). The goal is “to move forward on a structured and sustainable approach as regards activities focusing on the sustainability of reintegration support and ownership of partner countries”, including a “commitment to enhance the EU’s development actions’ contribution to sustainable reintegration.”

Persisting challenges include different interpretations and understanding of what stages the strategy entails, encompassing “post-return assistance”, “reintegration assistance” and “sustainable reintegration”. The themes addressed include, division of roles, responsibilities and labour among stakeholders and support to deportees from NDICI-funded development actors (shifting from a previous south-south focus).

A paper on the recast **Schengen Information System (SIS)** and alerts for return was circulated for the [Working Party on Frontiers meeting on 6 June](#). It concerns the immediate “entry of new alerts on third-country nationals subject to a return decision.” Through this, positive “hits” at external borders mean that a member state will inform the one which issued the alert and transfer information; the issuing member state will delete the alert and, if necessary, “immediately” issue an alert for prohibition of entry and stay. However, the paper notes that there are some issues with this system, and goes into these in more detail.

Deportations to and from non-EU states have been a regular topic in documents discussed at [MOCADDEM meetings](#), with the EU and its member states putting significant emphasis not just on pushing states to accept deportations from the EU, but providing funds and assistance so that non-EU states can reinforce their own deportation machinery.

A document produced for the [MOCADDEM meeting on 19 April](#) notes that a €54 million project under the **Instrument for Pre-Accession Assistance (IPA III)** includes €13 million for return projects in **Bosnia and Herzegovina, Montenegro and Serbia**. The same document refers to a €500,000 “pilot project” on forced returns in **Bosnia and Herzegovina** that “has been extended to **Serbia** with a similar budget.” The reason for this extension may be because, as the same document states, there have been “[l]imited results on forced returns, except for **Bosnia and Herzegovina**.” The document notes that the **Commission, Frontex and EU member states** should use the “Joint Coordination Platform,” hosted by **Austria**, to “inter alia foster exchanges of best practices and strengthen cooperation on return at operational level” with states in the region.

A separate document on **Bosnia and Herzegovina**, produced for the [25 October 2023 MOCADDEM meeting](#), notes that Frontex should support the state with “capacity building” on deportation, **Austria** with return processes and procedures, and **Poland, Germany and Denmark** should offer general support.

Deportations to and from **Mauritania** feature in a document produced for the [25 March MOCADDEM meeting](#), though the version released to *Statewatch* offers little detail. One heading in the document is: “Return of Mauritanians from EU to Mauritania, strengthen cooperation in line with Samoa agreement,” with a timeframe of the last half of 2024, but no specific actions are noted down for different agencies or institutions. Elsewhere, a section on “key messages” encourages EU officials to push their Mauritanian counterparts for further cooperation on return and readmission, to insist on improved cooperation in issuing identification documents for Mauritanians due to be deported from the EU, and to propose extending the “good practices” in place with some EU member states to all others: “notably, those with established bilateral cooperation.”

“Team Europe” is also working to step up the Moroccan authorities’ deportation capabilities, with a document from the [16 February MOCADDEM meeting](#) stating:

“The EU has been supporting returns from Morocco to relevant countries of origin, first through the EU-IOM Joint Initiative and then with the Migrants Return and Reintegration Programme (MRRP North of Africa). In 2023, over 1 000 people benefitted from assisted voluntary return from Morocco to their country of origin in the framework of the MPRRP.”

However, extensive sections of the part of the document dealing with return and readmission are censored.

Other documents on the agenda of MOCADDEM meetings have discussed deportations from and to **Turkey, Cyprus, Greece and Bulgaria**.

Migration partnerships

EMWP's [17 May meeting](#) discussed a Hungarian delegation submission on the **Budapest Process**, detailing the draft Ministerial Declaration and Call for Action 2025-2030 from this 30-year-old platform “for dialogue to strengthen operational cooperation on migration and mobility” that includes eastern EU neighbours, the Western Balkans and Central Asia. Both documents are scheduled for adoption at a ministerial meeting in November in Budapest. The Hungarian government holds the presidency of the Council of the EU for the second half of 2024.

The **International Centre for Migration Policy Development (ICMPD)** hosts the Budapest Process secretariat. The preliminary observations include:

“...the need for continued support to strengthen the capacities of countries of origin, transit and destination, while ensuring the alignment of our interventions with national development strategies, including increased attention to women, youth and diasporas as levers of change”

The **Call for Action 2025-2030** includes five priority areas for intervention:

- Prevent and fight against irregular migration, migrant smuggling and trafficking in human beings and reinforce the cooperation in the field of border management;
- Strengthen existing policies and pathways for legal migration and mobility;
- Strengthen cooperation for safe and effective return and for sustainable reintegration;
- Strengthen the positive impact of migration on development, as well as address the root causes of irregular migration and forced displacement;
- Ensure international protection and the respect of the rights of refugees and persons in need of international protection, in line with international obligations.

The 17 May EMWP meeting also heard a report from the Commission on meetings with **Pakistan** in the framework of a “talent partnership roundtable”; the Commission and Germany reporting back on the senior officials meeting of the **Khartoum Process** in Cairo on 17-18 April 2024; on **North Macedonia** joining the **European Migration Network (EMN)** as an observer; and on a meeting with **Libya** in the framework of a technical mission on 16 May.

At the [19 April MOCADDEM meeting](#), updates on the implementation of partnerships with Tunisia and Mauritania were provided, alongside information on the state of play regarding “the Strategic and Comprehensive Partnership with Egypt”. An analysis in the [previous edition of this bulletin](#) examined the EU-Mauritania migration deal. The MOCADDEM “action file” on Mauritania offers some further insight into cooperation on migration, with the EU viewing Mauritania’s presidency of the African Union as “an opportunity to build on the EU’s solid partnership with Mauritania to advance the EU-AU partnership, in particular in view to the upcoming EU-AU Ministerial [meeting].” Notably, Frontex opened an AFIC (Africa Frontex Intelligence community) risk analysis cell in Mauritania in September 2022, for regular knowledge and information sharing in the field of border security (migration flows and cross-border criminality), and the mandate of the Frontex liaison Officer based in Senegal was extended in 2023 to also cover Mauritania and The Gambia.

Budgets and funding

The documents produced and discussed by MOCADDEM demonstrate well the scale of EU spending on externalisation. The [revised action file on Mauritania from 18 April](#) details expenditure on several projects, coming to a total of at least €75 million. Morocco is the beneficiary of almost 200 million, and Tunisia at least €100 million. An analysis in this edition of the bulletin examines in more detail overall EU budget increases for externalisation.

A bottomless pit: billions more euros for externalised border controls

Leonie Jegen and Zina Weisner for *migration-control.info*

In view of the recently concluded mid-term review of the EU's budget, funding for the externalisation of migration control has been at the top of the political agendas of EU member states and institutions. In the [words](#) of the European Commission and the European External Action Service, funding “ensure[s] that the actions undertaken... continue delivering results.” A substantial increase in the EU budget is on the cards, at the same time as a possible shift towards a supposedly new “preventive model” for external migration control.

Funding externalisation under the 2021-2027 EU budget

Under the current budget, EU border externalisation initiatives are funded through three Commission Directorate-Generals: Neighbourhood and Enlargement Negotiations (DG NEAR), International Partnerships (DG INTPA) and Migration and Home Affairs (DG HOME). They oversee a variety of different funds that, either in whole or in part, provide what in EU jargon is called “external funding” – that is, funding for projects outside EU territory.

DG NEAR is responsible for the Instrument for Pre-accession Assistance ([IPA III](#)) as well as the Neighbourhood, Development and International Cooperation Instrument ([NDICI](#)) funds earmarked for the EU's “neighbourhood.” DG INTPA administers NDICI funds which are destined for countries beyond the EU's immediate neighbourhood. This fund, also referred to as “Global Europe,” channels the biggest share of external funding.

DG HOME is responsible for the [Asylum Migration and Integration Fund \(AMIF\)](#), the [Border Management and Visa Instrument \(BMVI\)](#), and the [Internal Security Fund \(ISF\)](#). With regard to externalisation, the AMIF focuses “on supporting actions that are not development-oriented and serve the interest of internal Union policies.” The ISF focuses on enhancing cooperation with third countries “in areas of relevance to the Union's internal security,” including “combating cross-border criminal smuggling networks.” A report by *Statewatch* and the *Transnational Institute* [explains in more detail](#) how the home affairs funds finance border externalisation.

Finally, certain agencies, such as Frontex, the European Asylum Agency (EUAA) and Europol, hold their own budgets which may be used for migration and border related projects beyond EU borders.

NDICI: institutionalising “containment development”

NDICI is fundamental to the external dimension of EU migration control. With a budget of [€79.5 billion](#), it replaces and merges ten different external funding instruments into one. It is the EU's main development instrument and, as set out in the founding legislation, 93% of NDICI funds must comply with [Official Development Assistance \(ODA\) criteria](#), such as recipient country ownership. ODA is supposed to promote and specifically target the economic development and welfare of developing countries.

At the same time, the [NDICI Regulation](#) sets a target for 10% of the total fund to be “dedicated particularly to actions supporting management and governance of migration and forced displacement.” As the Commission’s report on the use of external funding instruments for 2022 [shows](#), 13.6% of the total committed in 2022 was dedicated to migration. This not only underscores the often-raised criticism of diverting development aid for migration control purposes, but also represents a risk to the integrity of ODA. Evaluations of funding under the NDICI by [CeSPI](#) and [Oxfam](#) have further cemented these concerns.

Some of the projects funded under NDICI are a direct continuation of projects financed by the European Trust Fund for Africa (EUTF), a €5 billion initiative [launched in 2015](#) which fostered what has been termed [the “containment” approach to development](#). Through this, development interventions for issues such as job creation or adaptation to climate change are based on the idea that addressing these “root causes” will diminish majority world citizens’ ambitions to move to Europe.

A draft [action file](#) produced by the Council of the EU’s Operational Mechanism for the External Dimension of Migration (MOCADDEM) in January 2023 shows that NDICI is seen as a direct continuation of the EUTF. There is therefore an evident [path dependency and normalisation](#) of such migration-related interventions creeping into broader development aims.

This instrumentalisation of development is further highlighted by the built-in “flexible incitative [sic] approach” of NDICI. This “positive” conditionality mechanism aims to reward countries for their willingness to engage in, for example, fighting against smuggling and trafficking or showing cooperation on deportation and readmission. However, making access to development aid conditional on migration control objectives has been [criticised](#), not least because it goes against the EU’s own development principles and leads to ineffective assistance when funding does not go where it is most needed.

For the EU’s “Southern Neighbourhood”¹ there is a “Multi-Country Migration Programme for the Southern Neighbourhood” ([MCMP](#)) which is supposed to “provide a flexible source of funding”, allowing for special measures and “country-specific actions that... offer to selected countries an incentive to go beyond what their country MIP [multiannual indicative programme] offers, in line with a flexible incitative approach”. In Sub-Saharan Africa this approach is operationalised through the action “Flexible Mechanism for Migration and Forced Displacement”. However, there is a lack of transparency regarding what is funded under this mechanism, which has so far mobilised €200m, and how countries are selected to receive additional funding.

Member states in the driving seat

While [civil society](#) and the [European Parliament](#) lament a lack of oversight and transparency of NDICI projects, member states have increased their role through the “NDICI Coordination Group on Migration,” which was set up specifically for member states to oversee migration programming under the NDICI.

¹ Encompassing Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria and Tunisia.

Member states are also highly involved in the [Team Europe Initiatives](#) (TEIs). These are initiatives involving EU and national institutions and agencies “[around which European funding instruments and modalities coalesce to bring a transformational impact](#)” in a selected priority area – one of which is irregular migration. NDICI projects are supposed to support these initiatives, but other funding methods and partners are also used.

For example, the TEI on the Central Mediterranean brings together the European Commission and the European External Action Service (EEAS), along with 11 EU and Schengen member states,² which have together mobilised [€1.13 billion](#) in national and EU funding. The TEI on the Atlantic/Western Mediterranean Route is taken forward by the Commission and the EEAS, with nine EU and Schengen member states,³ which have so far mobilised [€908 million](#). Even if “Team Europe” is essentially a branding exercise, it is one which provides another way to create alliances for further externalising migration control.

Mid-term review: more funding for migration control

The mid-term review of the current EU budget, the Multi-Annual Financial Framework (MFF) 2021–27, was finalised this spring. It was [launched](#) by the Commission in June 2023, with the institution calling for an increase in the EU budget due to the economic situation and the war in Ukraine, which had “pushed the resources of the EU budget to the point of exhaustion.”

Several important changes have been agreed. Earlier this year, the Council [gave final approval](#) to a total of €64.6 billion in additional funding, which was [approved](#) by the Parliament. Of this amount, €7.6 billion is for NDICI, aiming at, amongst other things, the “continuation of actions previously undertaken through the EU Trust Fund for Africa.”

Increases in NDICI funding	
Syrian refugees (Syria, Jordan, Lebanon)	€1.6 billion
Syrian refugees (Türkiye)	€2.0 billion
Southern Neighbourhood	€2.0 billion
Western Balkans	€2.0 billion
Total	€7.7 billion

An additional €2 billion will go to the AMIF and BMVI funds, as well as the budget of the EU Asylum Agency (EUAA). This is to address “urgent challenges and needs related to migration and border management” and the implementation of the Pact on Migration and Asylum, including the [heavily criticized](#) border procedure.

² Austria, Belgium, Germany, the Czech Republic, Denmark, France, Italy, Malta, Netherlands, Spain, and Switzerland

³ Belgium, the Czech Republic, Denmark, France, Germany, Italy, Netherlands, Spain, and Switzerland

Increases in EU migration and border control funding	
Asylum, Migration, and Integration Fund (AMIF)	€0.8 billion
Border Management and Visa (BMVI)	€1.0 billion
European Union Asylum Agency (EUAA)	€0.2 billion
Total	€2 billion

Finally, the maximum amount of the Solidarity and Emergency Aid Reserve (SEAR) has been increased by €1.5 billion. This fund is dedicated to both natural disasters on European territories and natural disasters and humanitarian crises in non-EU states.

A Spanish Council presidency paper discussed in the following section gives some indication of how the additional funding may be used.

Spanish presidency paper: proposals to improve the “effectiveness” of externalisation funding

A [November 2023 document](#) illustrates both the priorities of the Spanish Council presidency (in place from July-December 2023) and grants some insight into how the increased funding may be used. It builds on an earlier presidency paper that [called](#) for the necessity “to achieve more and better funding for the external dimension of migration.”

The paper contains several suggestions to render internal EU coordination more efficient. It proposes strengthening [existing Council working parties](#) or establishing a new ad hoc Council mechanism to monitor the use of funds more closely. It also calls for more regular and systematic dissemination of information on externalisation funding, including the improvement of online databases such as the [Financial Transparency System \(FTS\)](#) and [EU Aid Explorer](#).

A “migration marker” used by EU officials to track the use of NDICI funds for migration purposes could be extended to other funds, the paper suggests. It also strongly emphasises the need for more “executive and short-term funding mechanisms” to prevent irregular migration, and highlights that the development objective of NDICI restrains the more operational needs required for a “preventive model”.

The Spanish presidency’s proposed “preventive model” (a term [coined](#) in September 2023) deviates from the more common, but equally [contested](#), understanding of a preventive approach that focuses on “root causes”. Instead, it is primarily concerned with operational border and migration management efforts in non-EU states: for example, the purchase of vehicles, vessels, and surveillance equipment; or meeting the needs of forcibly displaced persons hosted by partner countries. To back up this approach, the paper says EU member states “should consider the possibilities of strengthening other funding tools of our external dimension toolbox.”

Whose crisis?

According to the Spanish Presidency, a “preventive approach” is necessary because longer-term actions focusing on root causes both fail to “effectively address the migration crises that

have already erupted” and “to prevent impending crises that are building up.” This framing overshadows the structural reasons that cause “crises” to emerge in the first place and demonstrates the [productivity of crisis labelling](#).

Firstly, labelling something as a “migration crisis” shifts the focus from the humanitarian crises produced by the absence of safe and legal pathways to a perceived crisis of state sovereignty. In doing so, it silences the fact that migrants encounter crises on their journeys, which are themselves the result of restrictive migration governance and the absence of legal pathways.

Secondly, crisis and emergency framing has been [used](#) by EU agencies and member states to [derogate](#) from legal norms and safeguards. An emphasis on operational cooperation with third states is likely to enhance this trend.

Thirdly, EU-funded border and migration control capacities in non-EU countries are likely to aggravate the very crises they aim to solve – rendering available pathways more dangerous without significantly reducing migration. This possibility is particularly concerning given the use of the “more for more principle,” heralded by the Spanish presidency as ensuring “genuine involvement of partner countries.” Ultimately, this means that more financial, material and other resources are given to the countries most willing to cooperate in the EU’s migration containment agenda.

Putting “capacity building” into perspective

The Spanish presidency’s emphasis on operational support and the “more for more principle” are not new. [Two decades ago](#), the EU set up its first financial instrument dedicated to the [provision of](#) financial and material support to non-EU countries for migration and border management operations. Meanwhile, the “more for more principle” was first [introduced](#) in 2011 under the EU’s Global Approach to Migration and Mobility (GAMM).

Since then, scholars have [considered](#) how this so-called capacity building has helped frame migration control initiatives as technocratic, neutral and apolitical. Other research has [shown](#) that it reproduces Eurocentric categories of migration governance that do not neatly map onto, for example, less state-centric notions of mobility in countries such as Niger. Further, research has [warned](#) of the possibility of it negatively affecting freedom of movement within the Economic Community of West African States (ECOWAS). Finally, scholars have [pointed](#) to the often self-serving nature of capacity building as such, often [profiting](#) and being [driven](#) by the European (and global) border-industrial complex.

Migration control considerations that require strengthening the security apparatus of partner states are a central element in capacity building initiatives. Strong concerns have been raised by journalists and rights groups. These concerns pertain to human rights abuses and a lack of scrutiny.

EU funding for so-called migration management has [resulted](#) in pushbacks of refugees and migrant workers to the deserts of Morocco, Tunisia, and Mauritania. Finally, rights groups have repeatedly [warned](#) over the negative human rights implications of some projects funded under the NDICI in Tunisia and Libya, especially those building the capacities of the Tunisian and Libyan coast guards. Furthermore, recurrent drownings have been [reported](#) at the hands

of the Senegalese navy, which has [received](#) support from the EU and its member states, in particular Spain, for almost two decades.

Concerns also relate to the question of who is being funded. For example, prior to the outbreak of the current civil war in Sudan, EU migration funds have reportedly [indirectly supported](#) the Rapid Support Forces. Another recurrent question raised by journalists pertains to the question of what (else) is happening with donated materials. In Senegal, vehicles donated by the EU through the EUTF [were used](#) to violently repress democratic protests in 2023.

Finally, there is the collateral damage accepted by EU policy makers. These concerns have been [raised](#) strongly in regard to the EU's anti-smuggling agenda in pre-coup Niger, but also more recently in the context of the [EU- Mauritania deal](#) and its linked support for capacity building. Here, observers have [raised strong concerns](#) over how these measures aggravate acute risks for the Afro-Mauritanian community, (further) inflaming racial tensions and social polarization in the country.

Besides these concerns, shifting geopolitical alliances on the African continent also puts in question the future feasibility of the EU externalisation agenda. The ongoing political reconfigurations are likely to impact the EU's ability to be an "agenda setter". This is most starkly illustrated by the 2023 military coup in Niger which has resulted not only in the [suspension](#) of security cooperation and financial support to the country by the EU, but also the abrogation of the much-criticized 2015 law against migrant smuggling by the Nigerien government. In a statement announcing the repeal, the military government [stated](#) that the law "did not take into account the interests of Niger and its citizens."

Put differently, the shifting geopolitical context has enabled African states to challenge the EU and EU member states as hegemonic actors. Therefore, an additional question emerges: whether the EU is at risk of undermining its relations with non-EU countries when it pushes them to adopt migration policies which contribute to the [global racialized exclusion](#) of their citizens, [negatively affect local economies](#) and [lead to human insecurity](#).

Besides the wider concerns raised above, policies that perpetuate [longstanding](#) asymmetric and unequal relations in the field of migration and beyond, are untenable in the longer term. Working towards establishing *truly* mutually beneficial relations is not only advisable but necessary. The emphasis on enhancing operational cooperation in the EU's external migration and border management, mirrored both in the proposed MFF budget increase and the Spanish presidency paper, instead falls within the longer-term, broader logics of the increasingly challenged toolbox of EU security and migration control.

Ways forward

Billions more euros are being made available for EU migration and border control externalisation initiatives through the mid-term revision of the EU budget. The Spanish presidency paper offers a glimpse behind the scenes of the negotiations and offers some idea of what moving towards a "preventive approach", centred around operational capacity-building, means in practice.

While the risks of such an approach are not unknown, the key to challenging it is to build a better understanding of what is happening on the ground. To do so, European civil society needs to develop and reinforce alliances with partners in countries affected by EU policies, to enable joint challenges and confrontations to the externalisation agenda. Civil society may also make use of the concern of some member states – or, at least, the Spanish delegation – over the opacity of EU spending on externalisation. This may make it possible to exert pressure for more transparency of EU external migration funding and its translation into projects on the ground.

Analysis: Visa sanctions to increase deportations

Yasha Maccanico, *Statewatch*

Changes to the EU's rules on visa issuance that came into force in 2020 have made it possible for sanctions to be introduced against states that fail to cooperate with deportations. For example, non-EU states that consistently fail to provide identity documents for their own nationals facing deportation from the EU can have visa fees increased, or the examination of applications slowed down. The tool appears to be popular with EU institutions and member states, and changes are on the way to "improve" its functioning. This analysis examines the mechanism itself, measures proposed or adopted under the mechanism, and recent proposals to develop and reform the system, and considers the way in which the idea of "solidarity" (between EU member states and EU bodies) is used as a weapon against third countries.

Visas: privilege and apartheid

In May 2024 [the Commission published figures](#) indicating that 10.3 million worldwide short-stay visa applications were received by EU and Schengen-associated countries, a 37% increase compared to 2022's 5.9 million applications, but much lower than the figure for 2019 (17 million). A similar pattern applies to the number of visas issued (8.5 million in 2023; 5.9 million in 2022; and 15 million in 2019), as the visa refusal rate declined slightly (from 17.9% in 2022 to 16% in 2023). Over half the visas issued in 2023 (54.2%) allowed multiple entry, compared to 58.1% in 2022, marking a slight decrease. In addition, 85,200 uniform visas were issued at external border points in 2023.

The visa mechanism also operates within a context that has been [criticised](#) for establishing a situation of "passport privilege" and "visa apartheid", particularly regarding Africans' access to Europe and America. A [2020 study](#) documented the experiences of Tunisians suffering from higher costs and more restrictive policies, and complaints about the costly, burdensome and discriminatory nature of EU visa procedures often arise from civil society groups in non-EU countries. For instance, in late 2022 high refusal rates for north Africans were [criticised](#), and in November 2023 [complaints emerged](#) from Senegal about north-south discrimination, costs and profiteering practices linked to securing interviews and access to the procedure. The visa sanction mechanism outlined in this piece is likely to intensify such problems, yet this does not appear to have been considered amidst efforts to make cooperation between EU and non-EU states on deportation and readmission more "effective".

Article 25a: visa sanctions for deportations

The EU's longstanding push to increase deportations ("returns", in official jargon) has seen efforts targeted at all parts of the deportation procedure. The possibility for visa sanctions introduced by [article 25a](#) of [the Visa Code](#) relates to readmission procedures: the political and bureaucratic guarantees required from non-EU states to enable the return and admission of their citizens removed from EU territory into their country, such as agreeing to accept deportations in the first place, the provision of identity documents for individuals, or landing permits for deportation flights.

Article 25a(1) of the revised Visa Code establishes that insufficient cooperation by a non-EU state with readmission proceedings may entail a suspension of favourable measures for citizens of the country concerned that apply for Schengen visas. For example, the EU can choose to suspend:

- fast-track procedures for applicants “known to the consulate or the central authorities for his integrity and reliability, in particular as regards the lawful use of previous visas” (article 14.6);
- the waiving of visa fees for holders of diplomatic or service passports (article 16(5b));
- the 15-day time limit for decisions on applications (article 23(1));
- issuance of multi-entry visas (art. 24(2)) and five-year multi-entry visas (art. 24(2c)) for all nationals.

If the adoption of such measures fails to improve cooperation, higher visa fees (€120 or €160) for nationals of the third country in question (except for children under 12 years old) may be introduced.

The procedure under article 25a lays out a framework for continuous monitoring of cooperation on readmission and returns, with the Commission obliged to produce an annual report for the Council’s consideration. The criteria to be considered include return decisions issued, forced returns, readmission requests accepted (by member state), assistance in identification, acceptance of an EU travel document or laissez-passer for returns, acceptance of people to be returned to their home country, of return flights and operations. Attention is also paid to how many third-country nationals residing illegally in EU territory have transited through a third country, and whether they accept returns of people who travelled through their territory.

The intensive nature of this monitoring has led to member state complaints (see the “effectiveness of the visa leverage” section, below) about the administrative burden in relation to third states from which they have few visa applications and/or a low number of people subject to expulsion orders for illegal entry and stay. It must be noted that in the Visa Code itself, and in subsequent policy and discussion documents, third countries and their authorities feature merely as actors to be subjected to concerted pressure to secure cooperation.

Proposals to date

Since February 2020, when the Visa Code reform introduced the possibility to apply restrictive visa measures to third countries for inadequate cooperation on readmission, the Commission has tabled proposals concerning Iraq, Bangladesh, Senegal, The Gambia and Ethiopia. A [document](#) (17111/23) circulated by the Spanish Council presidency in January this year, for a meeting of the Council’s Working Party on Integration, Migration and Expulsion (IMEX), summarised the history of each proposal.

In the presidency paper, Iraq is repeatedly cited as an example of best practices. Adoption of a first proposal for restrictive visa measures in July 2021 was averted after constructive engagement by Iraq to help resolve the Belarus border crisis, although shortcomings in

cooperation continued, as reported by member states. Measures were proposed again in 2022, and Iraq promised to cooperate in March 2023. In May 2023, Iraq announced that it had lifted a moratorium on accepting forced returns, flanked by outreach towards EU states and indication of a willingness to sign bilateral readmission agreements. The EU deadline thus slid to the October meeting of the Justice and Home Affairs Council, when Iraqi willingness to conclude a non-binding EU-Iraq instrument on readmission and return resulted in the opening of a discussion, scheduled for January 2024.

Restrictive visa measures were proposed for Bangladesh in July 2021. Improved cooperation levels resulted in the measures not being adopted, but member states insisted on keeping the proposal on the table until improvement with all member states was deemed sustainable, but the quality of cooperation was reported as having decreased “significantly” in 2022.

In the case of Senegal, restrictive measures were proposed in November 2022 (and discussed in the Council’s Visa Working Party), alongside intense contacts and an improvement in cooperation with some member states, although the picture was mixed and the outcome of February 2024 elections was pending.

Germany notified the Commission in February 2021 of “substantial and persisting practical problems” with The Gambia, and restrictive visa measures were proposed in July 2021 and adopted in October. A Commission report concluded that the measures had been ineffective despite limited improvements, leading to the proposal and adoption of an increased visa fee in November and December 2022. Cooperation in organising return flights and operations led to repeal of the visa fee measure in December 2023, but the original visa restriction measures were maintained due to insufficient overall cooperation on readmission (assistance in identification, timely issuing of travel documents, frequency of flights). Nevertheless, deportations to The Gambia have resumed, with Yahya Sonko, an advocate for the rights of Gambian migrants in Germany, [recently said](#):

“...deportations exacerbate the already challenging situation in The Gambia, where the government is struggling to manage high youth unemployment rates. The return of hundreds of citizens each year without adequate reintegration support only serves to worsen the socioeconomic conditions for deportees and their families.”

In the case of Ethiopia, a Commission evaluation led to a proposal for visa sanctions in September 2023 (suspension of waiver of visa document requirement, of 15-day processing deadline, of multi-entry visa issuing and of visa fee waiver for diplomats and holders of service passports). The following month, a “note verbale” by the Ethiopian authorities announced resumption of the implementation of the 2018 readmission arrangement, alongside a request to renegotiate it. Discussion on the measures has taken place in the EU’s Visa Working Party, and The Commission proposed early 2024 meetings for the EU-Ethiopia working group. Significantly, acknowledgement of an armed conflict in northern Ethiopia from November 2021 to February 2022 did not interrupt these endeavours, nor bring into play considerations as to whether returns to Ethiopia may place people at risk, as reported return rates were low (10% in 2021 and 2022).

Member states discuss a “new approach”

In [a document](#) (5114/24) circulated for the January meeting of the Visa Working Party, the Spanish presidency proposed a “new approach” for the 25a procedure that would rejig the way in which internal EU discussions take place.

The proposed approach suggests that introducing punitive visa measures be discussed in the Working Party on Integration, Migration and Expulsion (IMEX) and MOCADÉM (operational coordination mechanism for the external dimension of migration), with the Visa Working Party (VWP) only to be involved “at a later stage.” Thus, after an IMEX decision that lack of progress on readmission cooperation warrants adopting visa measures, the VWP would approve such measures and analyse other visa-related aspects.

Alleged shortcomings in past Visa Working Party scrutiny are mentioned in the presidency document:

“...the Visa WP has so far missed the opportunity to examine further the implications of the considered visa measures, especially when adopting visa sanctions towards The Gambia. Those ‘visa-related aspects’ to be discussed could include: the number of visas delivered by the Member States in the third country, the additional administrative burden to be expected and to be considered when deciding on the entry into force of the measures, the potential problems that could arise from the adoption of the measures, etc.”

This appears to be an effort by member states and the Council to seize control of the mechanism and speed it up, as part of efforts to hold the Commission to deadlines to systematically issue visa restriction proposals and to speed up the cycle in pursuit of increased effectiveness (see below).

A [further discussion paper](#) (17110/23) on the “Visa Code Article 25a exercise” was circulated by the presidency on 9 January, to prepare the IMEX working party meeting on 16 January (it was also reported on by *Statewatch* [here](#)). The paper reaffirms the purpose of the “visa leverage” provided by article 25a, as the “only legal tool at our disposal for all third countries to improve readmission cooperation.” The “external dimension” (that is, relations with non-EU states) is deemed crucial to increase the number of returns and ensure satisfactory cooperation by third states to readmit “illegally staying third country nationals vis-à-vis all Member States,” regardless of their caseload. Prioritisation of this objective in this semester requires a “strategic discussion” on the visa leverage’s effectiveness, says the document.

The moving of preliminary discussions on the “state of play of outreach towards the relevant third countries and the developments in terms of cooperation on readmission” away from the VWP to the IMEX is also noted in the document, adding that this should “increase the coherence and the effectiveness of the mechanism.” Ensuring that the Commission has concrete deadlines to issue proposals on restrictive visa measures is viewed as potentially fruitful, and follow-up to proposals that are on the table are to be discussed within IMEX.

Weaponising “solidarity” against third countries and a systematic adoption of visa measures

The presidency document on “effectiveness of the visa leverage” ([17110/23](#)) contains a troubling assessment of the mechanism’s “credibility, strategy and solidarity.” Credibility requires “a search for the right and delicate balance between incentivizing cooperation by

giving enough time and space for dialogue and taking restrictive visa measures when no real progress is observed.” Member states are required to act jointly, “in a true spirit of solidarity, which sometimes might mean prioritizing a wider European interest over the national interests.” Thus, even if progress with some member states is observed, this should not impede visa restriction measures unless it applies to all member states, regardless of caseloads.

Member state requests to lessen administrative burdens by linking the information requested to the size of caseloads have led the Commission to adapt its data collection methods. A timeline adopted in December 2023 aims to reduce gaps between data collection, the Commission’s annual evaluation and subsequent visa measure proposals. The adoption of visa measures is deemed secondary to fostering progress in cooperation by third countries. As the presidency puts it, “[t]he power of the mechanism lies in the political message conveyed by the proposals, rather than the measures themselves,” strengthening the Commission’s credibility in outreach activities.

Nonetheless, “the Presidency believes that the Commission should issue more proposals with regard to other relevant third countries not yet concerned by the proposals currently on the table”. The adoption of positive measures like reducing the visa fee from 80 to 60 euros, the deadline for a decision from 15 to 10 days, or increasing the duration of multiple entry visas also features in the article 25a mechanism, but none have been proposed to date, because the third countries identified already had more favourable visa regimes.

Regarding the Commission’s selection of third countries to be targeted, the paper notes that having to consider the EU’s overall relations with the third country in question (rather than just cooperation on readmission) should not be treated as a “blocking element,” to prevent the mechanism becoming “inoperative towards some priority countries.” Following the Commission report, member states identify priority countries among those whose cooperation is deemed unsatisfactory, which fall into three categories: those facing visa restriction measures proposals; those not facing such proposals but identified by the Council as priorities; and those which do not face visa sanctions proposals and are not deemed priorities. Close scrutiny of all states that do not cooperate adequately is necessary, but its intensity should be tailored to their category, the presidency paper argues.

The strategy section argues that the European External Action Service’s (EEAS) contribution to assessing the “third country national context” is crucial for taking decisions in an “enlightened manner,” and that member state involvement when the Commission prepares outreach and visits to third states enables “strategic decision-making.” The communication of clear deadlines to third country authorities is deemed a best practice, drawing on the example of Iraq. Failure to make progress would result in restrictive visa measures, allowing “the EU to put pressure on the third country in a transparent and precise way.” Dilatory tactics (“delays in the appointment of interlocutors or hindrances to meetings”) should not excuse delays in improving operational cooperation. Formal steps like the negotiation or extension of readmission agreements or arrangements should be deemed separate from “concrete progress on readmission cooperation on the ground,” without affecting cooperation evaluation deadlines.

Regarding the stock of proposals for visa restriction measures under the article 25a mechanism, the management of existing proposals that have not been adopted for years could lead to the Commission withdrawing a proposal but, the presidency paper stresses, this should not be automatic. Moreover, the time that passes without substantial improvement should be a “decisive element” when considering adoption of a decision. Returns of third country nationals posing a security threat must be prioritised, requiring “smooth cooperation on identification, issuance of travel documents and readmission”, for which the article 25a mechanism could contribute to improvement.

The final section on “solidarity” is striking, because it spells out the power play theme mentioned above. In fact, working as “Team Europe” in a coordinated way, “the message brought collectively is more influential and bears concrete results,” says the paper. Iraq is again cited as an example of success in this regard. The possibility provided by article 25a for a simple majority of member states to compel the Commission to submit proposals within 12 months (while continuing efforts to improve cooperation) has not been used to date. Yet, it is viewed as a “solution” to demonstrate “solidarity” among member states and to “send a strong signal to third countries.”

Moreover, improving cooperation with some member states should not be deemed adequate to prevent adoption of restrictive visa measures towards a third country unless it applies to all member states regardless of caseloads. A united Council position to prioritise EU interests when outreach does not produce “substantial and sustainable progress” should adopt restrictive measures:

“The importance of solidarity between Member States at this stage of the mechanism is a key element to further put the third country under pressure and also to ensure the credibility of the Article 25a mechanism.”

Visa Code evaluation: speeding up cooperation on readmission

Whilst member states were considering ways to enhance the implementation of article 25a, the Commission was undertaking a broader assessment of the EU’s Visa Code. The evaluation includes an examination of cooperation on return, readmission and migration management, which suggests that procedures should be accelerated to increase effectiveness.

The main problem identified in the evaluation was the length of the cycles, which was deemed to have hindered accomplishment of the Visa Code reform’s three main goals (below). These are supposed to run annually but have previously exceeded a year in length, resulting in overlaps and faulty evaluation. Nevertheless, the Commission supports a need for flexibility to factor in different aspects to the discussion. The delay between approval of the Commission report and the submission of Commission proposals is identified as the main impediment. Seven member states, and the French and Czech Council presidencies, called for a shorter cycle to address these shortcomings.

Discussions mentioned in the annual evaluation of the Visa Code include the involvement of different stakeholders and Eurostat and Frontex data used in the annual assessment report, which the EU Court of Auditors identified as containing “weaknesses” in 2021. Frontex has

bemoaned the lack of a “robust, integrated electronic data collection system” in several member states, but it supports them in developing integrated return case management systems connected to a central hub operated by the agency, intended to improve data on removals and readmission. Despite member states putting mechanisms in place to temper such shortcomings and duly fill in the relevant questionnaire, they complain about the administrative burden involved.

The overall evaluation on the three goals that motivated the Visa Code reform complains that:

- visa fees did not fully cover administrative expenses incurred by member states for visa issuing;
- an unclear legal basis has resulted in discrepancies and in most member states developing “restrictive practices when issuing multiple-entry visas” (MEVs); and
- a lack of cooperation and “low levels of readmission and return of irregular migrants to countries of origin” persist.

Strikingly, while the EEAS called for further involvement in providing expertise about the situation in third countries for the annual article 25a evaluation report (and three member states calling for more information on the political context), this was opposed by the Commission because “including this type of political analysis would detract from the current technical focus and factual nature of the reports.” Eurostat data is used regarding expulsion decisions and effective return rates, whereas Frontex data is used for readmission requests (by member states) and travel documents issued (by third countries). This apparently restricts the scope of the article 25a requirement for the Commission to take into account overall relations with a third state when deciding upon proposals for visa restriction measures. It also appears to exemplify efforts to subordinate the formal level (such as ensuring that deportations do not violate the EU Charter of Fundamental Rights) in cooperation with third countries to the operative level, squarely focused on achieving strategic migration policy goals (like higher rates of removal, regardless of other considerations).

Single-minded approach

The documents examined display a wilful lack of critical scrutiny of the mechanism (other than on the basis of achieving operational goals) and of assessment on proportionality based on the size of caseloads and on conditions in third countries that may mean that some deportations may be unsafe from a formal viewpoint. There appears to be a strong drive to improve “effectiveness” and to speed up the process to pressure third country authorities, even if this may worsen the quality of decision-making and limit the information and stakeholders involved. Only four years after the mechanism was first introduced, amidst admissions that it is burdensome, the Council and some member states already appear eager to pile on pressure to cooperate on targeted third countries and to limit the Commission’s margins of appreciation and initiative before imposing or threatening to impose restrictions to visa access for their citizens, for the sake of “effectiveness”.

The idea of “solidarity” being used as a weapon to break a third country’s resistance to measures that may penalise their citizens – for example, by increasing the likelihood of them being targeted by police operations in the EU to enable deportations, to lessen remittances from abroad, or give rise to opposition by civil society – is not palatable. Moreover, successes and best practices that are highlighted may amount to the EU and its member states (as “Team Europe”) succeeding in achieving unlawful outcomes (in the case of returns that may place people at risk, for instance in Iraq and Ethiopia).

Furthermore, the risk that good cooperation on readmission and returns may lead to unsafe third countries being declared “safe” to enable swift refusals of asylum and/or protection, linked to speedy returns at the operative level, may restrict access to protection for bona fide refugees and protection seekers. There is no guarantee that people may not be targeted by authorities and/or armed groups in target countries like Senegal and The Gambia, whereas the Bangladeshi example also brings the issue of potential [climate refugees](#) into the picture.