1 Introduction

With its New Pact on Migration and Asylum, the European Commission will propose a reform of the European asylum system to achieve two overarching objectives: to ensure that the same adequate standard of refugee protection applies throughout the EU; and to distribute responsibility for refugee protection and border management equitably among EU member states. In the coming months, the Commission proposal will be scrutinized and debated intensely by member states, the European Parliament, civil society, and the European public.

One area of particular concern is the 'external dimension' of migration and asylum policies—particularly the joint management of migration together with migrants' countries of origin and transit. This is important because the external dimension is key to the success of asylum reform: any system for distributing responsibility for asylum applicants 'internally' among EU member states will come under severe stress if the total number of applicants rises too high. Hence, to maintain a functioning asylum system, it is essential to manage the number of applications such that member states are not overwhelmed by their allocated responsibilities.

Doing so effectively and humanely requires agreement and close cooperation with neighboring countries and countries of origin and transit in several policy areas. First, refugees who have obtained international protected status in low- to middle-income, non-EU countries need to be supported so they can lead dignified lives and have few incentives for secondary migration to the EU. In addition to financial support as under the 2016 EU-Turkey Statement, this calls for the resettlement of some especially vulnerable refugees to EU member states.

Second, irregular migration leads to many deaths among migrants as well as their exploitation by people smugglers.[1] Most activity by people smugglers takes place outside the EU where it is also most effectively combatted. Therefore, cooperation with countries of origin and transit is essential.

Third, although several EU member states on the external border have erected fences to discourage irregular entry, these are costly to build, maintain, and police; furthermore, it is difficult to secure sea borders in this way. Fences may also prevent non-EU citizens from applying for asylum, jeopardizing human rights commitments and the Geneva Convention. At the same time, EU visa policy and member state policies for labor migration limit entry to the EU to individuals who meet certain requirements. If member states could smoothly return those foreign citizens to their countries of origin who have no permission to remain in the EU, this would discourage irregular immigration without the need for physical barriers at the border. Again, return and readmission requires cooperation between countries of destination, transit, and origin.

While the EU and its member states are keenly interested in reducing irregular immigration (and this position is also in line with the Global Compact for Safe, Orderly, and Regular Migration),[2] countries of origin often find it difficult to implement policies that restrict the international movement of their citizens or to cooperate with their mandatory return. This is not only because will they lose external financing in the form of migrant remittances, but governments may also lose political support from citizens who have invested heavily in their own irregular migration or that of their relatives and friends.

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[1] Technically speaking, people smugglers are usually understood to be illegal service providers who act in agreement with the wishes of migrants, whereas traffickers use force to exploit migrants. In many environments (such as Libya), this distinction has become blurred and migrants are subject to abuse and exploitation from the same people through whose services they hope to travel to Europe.

[2] United Nations, Resolution adopted by the General Assembly on 19 December 2018, Global Compact for Safe, Orderly and Regular Migration, A/RES/73/195, January 11 (2019), https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/73/195.

Thus, when it comes to responding to irregular immigration, the EU and its member states need to choose between three approaches, which they can combine to some degree: (i) effectively leave their external border open for anyone to cross irregularly, possibly apply for asylum, and live in the EU indefinitely; or (ii) set up a new iron curtain, trying to prevent irregular entry through physical barriers and policing at the external border; or (iii) negotiate agreements and work with countries of origin and transit to reduce irregular migration, including through mandatary return and readmission, while rewarding partner countries for their support through economically and politically meaningful measures including enhanced legal migration opportunities (MEDAM 2019).

This report explores how the third approach may be adopted consistently. We start by summarizing key developments in EU asylum policy over the last year and identify important challenges (chapter 2). Debates and negotiations among EU member states on how responsibility can be shared more equitably (the 'internal dimension' of asylum policy) have become bogged down (section 2.1). Meanwhile, many EU agreements with low- and middle-income countries now include provisions on migration management, especially on the readmission by their countries of origin of non-EU citizens who have no permission to remain in the EU (section 2.2).

Such agreements often make EU actions that are favorable to the partner country, especially in the area of visa issuance or visa facilitation, conditional on the partner country's cooperation with the readmission of its citizens (and sometimes non-EU citizens who have passed through the partner country's territory). In chapter 3, we discuss the possible benefits as well as risks inherent in such conditionality from the viewpoint of the EU. Concerns relate particularly to poor targeting (when mandatory return does not work well, this is often not due to the country of origin) and collateral damage to other EU objectives (such as to mobility for education, development cooperation, or tourism).

In chapter 4, we report on field research on how migration and migration policy are viewed by the public, civil society, and policy makers in West Africa. Above all, mobility within countries, within West Africa, and between continents is viewed as a way of life and an opportunity for individuals and their families to improve their lives. As such, attempts to restrict migration or to make emigrants return home if they have no permission to remain in the destination country are challenging for citizens and their governments.

These diverging positions render it challenging for EU member states and African countries of origin and transit to jointly manage migrant flows and to combat people smuggling and irregular migration (chapter 5). Any agreement that provides for the kinds of restrictions on irregular migration that the EU and its member states want to see, will also need to acknowledge the desire of African populations and their governments for (legal) migration opportunities and travel to Europe. Enabling measures, such as vocational training for prospective labor migrants, are required to ensure that any new legal pathways come within the reach of an economically and politically significant number of African workers, which is not the case for existing migration channels.

Although new legal opportunities may not directly benefit the same people who now migrate irregularly, such opportunities may still help to reduce irregular migration because they would strengthen political support for country-of-origin governments that cooperate with the EU and its member states in migration management.