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Study EU and German external migration policies: The case of Morocco

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Leonhard den Hertog
Research Fellow, Justice and Home
Affairs Programme, CEPS



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Foreword

This Study was carried out by the Centre for European Policy Studies (CEPS) Justice and Home Affairs (JHA) Programme and commissioned by the Heinrich Böll Stiftung's (hbs) North Africa Office in Rabat. CEPS is an independent think tank based in Brussels, focusing on EU laws and policies. The research for this report has been carried out fully independently, without any involvement or direction from the hbs. The research process involved carrying out interviews in Berlin and Brussels, as well as phone interviews and requests for information from EU officials in Rabat and from staff of the German Development Agency (GIZ). Moreover, data and documents were gathered about the specific projects financed by the EU and Germany in Morocco. A draft of the Study has been shared with the hbs's Rabat office, but CEPS has independently determined whether or not to take into account the received comments and suggestions.

1. Introduction

Cooperation on migration between the EU, its Member States and third countries has proven to be one of the key priorities in European policy making. In the aftermath of the so-called 'European refugee crisis', new plans and agreements for such cooperation have emerged. The much-debated and contested EU-Turkey Statement has been a case in point. Recently, the EU support for actors in Libya has also topped the policy debates on irregular migration across the Central Mediterranean.

In all these discussions, there has been a surprising lack of attention for what is among the longest standing cooperation with a third country on these matters: the EU-Moroccan cooperation. This cooperation is often either not covered or taken for granted as a success story or 'model'.¹ A more in-depth account of this cooperation is however needed to understand the assumptions and concrete actions marking it. Moreover, the recent uptick in border crossings at the Moroccan-Spanish land and sea borders has brought the Western Mediterranean Route back into picture. This reflects the event-driven attention of European policy making on migration – often triggered by visible events and incidents at the external borders.

In light of this rather shortsighted political attention cycle, what is needed is an analysis of concrete cooperation activities, contextualised in longer term dynamics and policy frameworks. This is what this study aims to do. It gives an overview of the policy priorities of the EU and Germany and of the projects that they are funding in Morocco in the field of migration. In doing so, it also takes into account the policy developments from the Moroccan side. Germany is an interesting Member State to focus on, as it has become increasingly active in this field recently (see Section 4 below).

The case of EU cooperation with Morocco on issues of migration, borders and asylum is highly informative. It provides a look into the 'mechanics' of how long-term cooperation with third countries is shaped by the EU and its Member States. More importantly, Morocco constitutes a third country with clearly articulated migration policy goals. In the form of the new migration policy and its National Strategy on Immigration and Asylum (NSIA)² adopted by the Moroccan authorities, the EU has a counterpart with an agenda to reckon with.

The EU cooperation with Morocco on migration is wider ranging than with most – if not all – countries in the Southern Mediterranean. On border surveillance, operational cooperation between the Spanish and the Moroccan authorities is long standing.³ It is partly channeled through the EU level as well, with the involvement of the EU Border Agency 'Frontex' (now the European Border and Coast Guard Agency).⁴ Regarding the contentious issue of readmission, negotiations on an EU Readmission Agreement (EURA) are stuck since long, but bilateral cooperation is happening. On asylum, the Moroccan authorities have set out plans to adopt an asylum law and establish an authority for status

1 But see : Sergio Carrera et al., "EU-Morocco Cooperation on Readmission, Borders and Protection: A Model to Follow?," CEPS Papers in Liberty and Security in Europe, no. 87 (2016).

2 See: Conseil national des droits de l'Homme, "Etrangers et Droits de l'Homme Au Maroc - Pour Une Politique D'asile et D'immigration Radicalement Nouvelle - Résumé Exécutif" (Rabat, 2013); MCMREAM, "Stratégie Nationale de l'Immigration et de l'Asile" (Rabat, 2015).

3 Carrera et al., "EU-Morocco Cooperation on Readmission, Borders and Protection: A Model to Follow?"; Xavier Ferrer-Gallardo, "The Spanish-Moroccan Border Complex: Processes of Geopolitical, Functional and Symbolic Rebordering," *Political Geography* 27 (2008): 301–21.

4 Sergio Carrera and Leonhard den Hertog, "A European Border and Coast Guard: What's in a Name?," *CEPS Papers in Liberty and Security in Europe*, no. 88 (2016).

determination procedures. To date, those elements are however not yet in place, but progress is expected by some.⁵ Two regularization campaigns imply that around 30,000 or more irregular migrants are regularized. This means that they are being given temporary *cartes de séjour*. On legal migration, cooperation with EU Member States bilaterally has been extensive. At the EU level, cooperation more limited. This is also due to the EU's limit on its legal competence regarding the admissions of volumes of labour migrants.⁶

Morocco could serve as an interesting case with potential lessons to be learned for broader EU cooperation with third countries. A better understanding of the opportunities and limits of cooperation with Morocco can inform this broader debate, especially since cooperation with Morocco is long-standing. To put it bluntly: if cooperation will not 'work' with Morocco, it is hard to imagine it 'working' anywhere else in the Southern Mediterranean. Nowhere else, with perhaps the exception of Tunisia on some issues, does Europe have a counterpart third country government that is so invested in the migration issue. Morocco is taking forward the migration policy dialogue also beyond Europe, as it is attempting to attain a regional role vis-a-vis (West) Africa. The Rabat Process, the joint German-Morocco chairmanship of the Global Forum on Migration and Development (GFMD) as well as some recently financed projects (See Section 5 below) are proof of this.

This Study first outlines the general background of EU-Morocco cooperation on migration, borders and asylum in Section 2. In Section 3 the specificities of the German-Moroccan cooperation are presented. Consequently, in Section 4 an overview is given of the migration-related projects financed by Germany in Morocco, followed by an overview of EU funded projects in Section 5. Section 6 then finishes with a number of cross-cutting conclusions.

5 Interview official European Commission, Brussels, and indicated in: European Commission, "Annexe 1 À La Décision D'exécution de La Commission Relative Au Programme D'action Annuel 2016 – Partie 3 En Faveur Du Maroc, Document D'action Pour Le Programme D'appui Aux Politiques Migratoires Du Royaume de Maroc," 2016, 5–6.

6 See Art. 79(5) Treaty on the Functioning of the EU (TFEU) and Paula García Andrade, "The Legal Feasibility of the EU's External Action on Legal Migration: The Internal and the External Intertwined," *European Journal of Migration and Law* 15, no. 3 (January 1, 2013): 263–81.

2. History and context of the EU-Morocco cooperation on migration

As an external actor on migration policy, the EU has slowly been carving out a role for itself over the past years. In line with successive EU Treaty reforms enhancing EU competences in this field, the European Commission has expanded its activities. This came to accompany bilateral relations between Member States and third countries, such as between Germany and Morocco.

The EU adopted its overarching strategy for the external policies of migration in 2005 under the heading of the 'Global Approach to Migration' (GAM), that later saw the addition of 'Mobility', making it the GAMM.⁷ It advocates working along four pillars, namely irregular migration (including border management and readmission cooperation), legal migration, migration and development, and international protection. In a broader context, the relations with Morocco do fall within the European Neighbourhood Policy (ENP), and particular within the Association Agreement and the 'Advanced Status' that Morocco obtained in that framework.

The EU cooperation on migration with Morocco however started before this, particularly in 2000 when the Council granted a negotiation mandate to the Commission for an EURA. The initial EU approaches prioritized the issue of irregular migration, especially borders and readmission, and did thus not take into account much the other dimensions such as migration and development. This was true for the EU's broader external approaches on migration in the early 2000s.⁸ At this point, there is still no EURA with Morocco and it is certainly not expected any time soon. The issue of having to readmit third country nationals is a red line for Morocco, but certainly not the only factor driving its resistance to an EURA.⁹ For bilateral cooperation on readmission, the picture is different. Morocco is cooperating with various Member States on this issue, including with Germany (see Section 3 below).

On the border management side, the EU-Moroccan cooperation has since long been regarded as a 'model', when measured merely in numerical terms of irregular flows into Europe.¹⁰ Any full understanding of the effects of this policy should of course also take into account the human costs. At the operational level, the border management cooperation is mostly a Spanish-Moroccan affair.¹¹ However, the EU Border Agency Frontex has since long coordinated and financed operations, including those led by Spain.¹² In fact, the often heard thesis that Morocco has transformed from a country of origin to a transit or destination country,¹³ can be partly understood as flowing from the fact that crossings to Europe have become difficult for certain categories of migrants. That, amongst other things, has created the policy impetus for the Moroccan authorities to start developing a new migration policy.

The case of Morocco also shows the extent to which EU external policies on migration are event driven. It was in fact the mediatized crossing of the Spanish enclaves Ceuta and Melilla in 2005 that triggered the Commission to develop

7 Commission, "The Global Approach to Migration and Mobility (COM(2011) 743 Final)" (Brussels, 2011).

8 Georgia Papagianni, "Forging an External EU Migration Policy: From Externalisation of Border Management to a Comprehensive Policy?," *European Journal of Migration and Law* 15, no. 3 (January 1, 2013): 283–99.

9 Nora El Qadim, *Le Gouvernement Asymétrique Des Migrations. Maroc/Union Européenne* (Paris: Dalloz, 2015).

10 Carrera et al., "EU-Morocco Cooperation on Readmission, Borders and Protection: A Model to Follow?"

11 Ferrer-Gallardo, "The Spanish-Moroccan Border Complex: Processes of Geopolitical, Functional and Symbolic Rebordering"; Inmaculada García González, "The Spanish-Moroccan Cooperation on Immigration: The Summary Returns Cases of Isla de Tierra-Alhucemas (2012) and Ceuta and Melilla (2014)," *Spanish Yearbook of International Law*, 2015, 349–56.

12 Leonhard den Hertog, "Funding the EU-Morocco 'Mobility Partnership': Of Implementation and Competences," *European Journal of Migration and Law* 18 (2016): 275–301.

13 Hein de Haas, "Morocco: Setting the Stage for Becoming a Migration Transit Country," 2014.

its GAM. And then, in 2011, the Arab Spring events and movements led to the Commission's response of broadening the scope of the GAMM, and to offer the Mobility Partnerships (MPs) to Southern Mediterranean countries.¹⁴ MPs are joint political declarations focusing on the four pillars of the GAMM, with an Annex or 'Scoreboard' attached with projects for its implementation. Before 2011, the MPs had only been offered to the Eastern 'neighbours' of the EU. The EU-Moroccan MP was concluded in 2013, with the involvement of 9 Member States, among which Germany.¹⁵

The reasons behind the conclusion of the MP between the EU and Morocco are manifold. Although the MP mentions the political commitment to negotiate an EURA, it was arguably the ambiguity of that commitment that made it acceptable to the Moroccan authorities. Moreover, the MP came at the time of a new migration policy in Morocco, for which outside (financial) support and legitimacy was certainly welcome. In the foreign policy context of Morocco in 2013, both pursuing its *politique africaine*¹⁶ and aiming for a better image in Europe, the conclusion of the MP as a non-legally-binding political declaration came with political and funding opportunities and limited binding commitments.¹⁷

The launch of the Moroccan new migration policy and the NSIA also changed the EU's engagement on migration in Morocco. The Moroccan approach to the issue had so far been marked by the immigration law of 2003 that takes a securitarian approach, criminalizing irregular entry and stay.¹⁸ Various reports documented how government actions on the ground led to human rights concerns.¹⁹ The newly announced policy was first publicly articulated by a report of the Moroccan National Council for Human Rights (CNDH),²⁰ with strong backing by the King. This report as well as the NSIA aimed to replace the immigration law, as well as to adopt new laws and institutions on asylum and anti-trafficking. Moreover, it foresaw the regularization of irregular migrants residing in Morocco, and a strategy for their integration into the Moroccan socio-economic life. The reasons for this policy shift can be found in the wish to establish a more humane migration policy in Morocco, as has been commended by international organisations,²¹ as well as in foreign policy (notably Morocco's *politique africaine*)²² and security considerations (registering individuals through regularization).

The EU has been actively supporting this new policy and strategy, also through the funding available under the MP. As can be seen from Section 5 below, several EU-funded projects connect to this, and support in particular the revamped

14 Commission, "Communication - A Dialogue for Migration, Mobility and Security with the Southern Mediterranean Countries - COM(2011) 29" (Brussels, 2011); Sergio Carrera, "The EU's Dialogue on Migration, Mobility and Security with the Southern Mediterranean: Filling the Gaps in the Global Approach to Migration," CEPS Liberty and Security in Europe, 2011; Sergio Carrera, Joanna Parkin, and Leonhard den Hertog, "Eu Migration Policy After the Arab Spring: The Pitfalls," Think Global - Act European Policy Papers, 2013.

15 Council, "Joint Declaration Establishing a Mobility Partnership between the Kingdom of Morocco and the European Union and Its Member States" (Brussels, 2013).

16 Pierre Afouda Adimi, "Nouvelle Offensive Diplomatique Du Maroc En Afrique Subsaharienne: Quel Regard?," *Paix et Sécurité Internationales – Revue Maroco-Espagnoles de Droit Internal et Relations Internationales*, no. 3 (2015): 109–24.

17 den Hertog, "Funding the EU-Morocco 'Mobility Partnership': Of Implementation and Competences."

18 Bulletin Officiel 11 November 2003, "Loi 02-03 Relative À L'entrée et Au Séjour Des Étrangers Au Royaume Du Maroc, À L'émigration et L'immigration Clandestine," n.d.

19 Médecins sans Frontières, "Violences, Vulnérabilité et Migration : Bloqués Aux Portes de l'Europe," 2013; Amnesty International, "Fear and Fences - Europe's Approach to Keeping Refugees at Bay," 2015.

20 Conseil national des droits de l'Homme, "Étrangers et Droits de l'Homme Au Maroc - Pour Une Politique D'asile et D'immigration Radicalement Nouvelle - Résumé Exécutif."

21 UN Human Rights Council, "Report of the Independent Expert on Human Rights and International Solidarity on Her Mission to Morocco (A/HRC/32/43/Add.1)," 2016.

22 This *politique africaine* has arguably been successful, as Morocco has been able to re-enter the African Union and is putting on the table the proposal to join the West African regional organisation ECOWAS.

Moroccan ministry for this purpose: the Ministry Charged with Moroccans Residing Abroad and Migratory Affairs (MCMREAM, French acronym).²³ In that way, the new Moroccan NSIA and the MP are heavily intertwined.

Today, four years after the adoption of this new policy and strategy and after the adoption of the MP, the balance of progress and cooperation is mixed. The main element attracting attention – the regularization – has been implemented. As mentioned above, well over 30,000 migrants could be regularized after two regularization rounds. In practice, however, the status obtained by the individuals concerned is not always a stable one, and the recognition rates as well as the access to rights is not even across the country. The position of Syrians remains difficult as they are not given a refugee status but are included in the regularization campaign.²⁴ Reports of problematic situations on the ground also sometimes surface, such as the events of earlier this year involving stranded Syrian families at the Algerian-Moroccan border who were eventually admitted into Morocco.²⁵

The true litmus test for the new policy and strategy concern the institutionalization of the foreseen reforms. The EU and Germany finance projects (see below Sections 4 and 5) that aim to build capacities in the fields of asylum and integration. Long-term legal commitments will however be needed if the new policy and strategy are to have a lasting effect beyond regularization campaigns. Especially, the adoption of an asylum law and the establishment of a fully independent national authority for asylum determination processes are central. The asylum law has so far not been formally discussed by the government and the House of Representatives, but some sources suggest this may happen in the coming months.²⁶ The actual repeal and replacement of the 2003 migration law by a new one would also signal the legal embedding of the new policy and strategy. So far, only the promised law on anti-trafficking has been adopted. The difficult government formation in Morocco has certainly slowed these legislative procedures, but it now remains to be seen whether it will be taken forward in the months to come.

At the same time, legal developments at the European side have also not always helped progress towards an EU-Moroccan cooperation on migration in line with the Rule of Law. In particular, the Spanish law and practice on so-called ‘hot returns’ has attracted criticism from international organisations, with a recent Court judgment by the European Court of Human Rights (ECtHR) finding violations of the Convention.²⁷

The changing policy context on the European side, especially the strong emphasis on border closure and returns, as is for example clear from the EU-Turkey Statement, also had its impact on EU-Morocco cooperation. As is explained below, countries like Germany have increasingly put the issue of readmission at the top of their agenda with Morocco. It remains however very much focused at bilateral cooperation, with no foreseeable way forward for the EURA.

A factor that intervenes in the EU-Morocco relations, including on migration, is the issue of the Western Sahara. This matter of potential discord is always in the background, but it came to the forefront when the Court of Justice of the EU (CJEU) ruled on an EU-Morocco agricultural trade agreement and its application to the Western Sahara. The

23 See: www.mre.gov.ma

24 UNHCR, “Morocco Update - Regularisation of Refugees by National Authorities - October 2015” (Rabat, 2015).

25 UNHCR, “UNHCR Statement on Syrians Stranded between Algeria & Morocco,” 2017.

26 Interview official European Commission, and: European Commission, “Annexe 1 À La Décision D’exécution de La Commission Relative Au Programme D’action Annuel 2016 – Partie 3 En Faveur Du Maroc, Document D’action Pour Le Programme D’appui Aux Politiques Migratoires Du Royaume de Maroc.”

27 ECtHR, Judgment, *N.D. and N.T. v. Spain*, Application Nos. 8675/15 and 8697/15, Strasbourg, 03.10.2017. See also: García González, “The Spanish-Moroccan Cooperation on Immigration: The Summary Returns Cases of Isla de Tierra-Alhucemas (2012) and Ceuta and Melilla (2014).”

first judgement of General Court in December 2015 led to Morocco officially blocking all contacts with the EU at the political level.²⁸ The Council of the EU appealed the initial judgement. The appeal Court of Justice judgment of December 2016 did not fundamentally alter the situation, even though it took a different stance by declaring that the agreement did not apply to the territory of the Western Sahara.²⁹

As a result of the judgments, the blocking of political dialogues included all Association Councils under the Association Agreement and its different involved sub-committees, talks on a Deep and Comprehensive Free Trade Agreement (DCFTA), as well as the dialogues and negotiations in the framework of the MP (e.g. on readmission and visa facilitation). However, migration cooperation at the project level did not immediately suffer. Several new projects have been launched since, as Sections 4 and 5 below show. This was a conscious choice made in the EU institutions, based on the assumption that relations with Morocco would only deteriorate if cooperation at the project level would be halted.³⁰ These developments have clearly deteriorated the EU-Moroccan relations in general, especially over the year 2016.³¹

One could interpret the recent uptick in numbers of entry into Spain, both over land and over sea, as being partly the result of these tensions. There is no single factor that can definitively explain this rise. One could point to the increased pressure following the drop in numbers on the Central Mediterranean Route. This can only be a partial explanation, as the profiles of arrived migrants only overlap to a very limited extent across the Central and Western Mediterranean Routes. It could be suggested that the rise in numbers is due to the generally deteriorating relations with the EU and (some) of its Member States, but there is no conclusive evidence for that. An alternative explanation could be a general ripple effect of the EU's increasing cooperation with third countries at the borders of Europe, such as with Turkey and Libya. The increased funding available for cooperation with third countries could be perceived as a resource for Morocco to claim a larger share of. Certainly, migration flow 'containment' has become the ever stronger card in the hand of the Moroccan authorities in their negotiations with the EU and its Member States. The reactions to the migratory phenomena on the Eastern and Central Mediterranean Routes expose that Europe is willing to pay a high price for achieving its public policy dogma of limiting arrivals and increasing returns.³²

In light of these contextual factors of EU-Moroccan cooperation on migration, we could well see a renegotiation of the terms and conditions of that cooperation. This is all the more so the case as the main EU instrument – the MP – is beginning to lose relevance as the focal point of cooperation. Previous research³³ as well as data collected from interviews at German ministries and with EU officials highlight the MP's limited actual impact on the daily work of European officials.³⁴ At the EU political level, the MP is being partly overtaken by the new approaches under the European Agenda on Migration (EAM). For the external relations of migration, this has led to the Commission proposing the 'Partnership Framework' with third countries, with its primary instrument of 'Compacts'.³⁵ This does

28 Interview official European External Action Service.

29 See for a legal analysis: Sandra Hummelbrunner and Anne-Carlijn Prickartz, "EU-Morocco Trade Relations Do No Legally Affect Western Sahara - Case C-104/16P Council v Front Polisario (European Law Blog)," n.d.

30 Interview official European External Action Service.

31 Interviews officials European Commission and European External Action Service.

32 Sergio Carrera, Leonhard den Hertog, and Marco Stefan, "It Wasn't Me! The Luxembourg Court Orders on the EU-Turkey Refugee Deal," *CEPS Policy Insights*, no. 15 (2017).

33 den Hertog, "Funding the EU-Morocco 'Mobility Partnership': Of Implementation and Competences."

34 Interviews officials BMZ and FFO, Berlin.

35 Commission, "Communication on Establishing a New Partnership Framework with Third Countries under the European Agenda on Migration - COM(2016) 385 Final" (Brussels, 2016).

not replace the GAMM and its primary instrument, the MP. Morocco is also not a priority country under this new framework for the moment. However, the PF and its Compacts strike a different balance on the priorities involved, for example putting more emphasis on readmission.

In addition, the EU's financial responses to the 'refugee crisis' have seen a diversion of funds into special funding instruments, such as the EU-Turkey Refugee Facility and the EU Trust Fund for Africa.³⁶ These have also impacted the relations with Morocco, as it is also a country benefiting from the latter Trust Fund, as is explained below in Section 5.

Clearly then, the EU-Morocco relations on migration, borders and asylum are in flux. This brief overview underlines that these relations can never be understood in isolation – they form part of broader processes between partners.

³⁶ See for an overview: Leonhard den Hertog, "Money Talks: Mapping the Funding for EU External Migration Policy," *CEPS Papers in Liberty and Security in Europe*, no. 95 (2016).

3. The specificity of German-Moroccan cooperation

The German policies vis-a-vis Morocco on migration are connected to the broader approaches and trends in EU external policies described above. The 2013 'Rabat Declaration' between the Foreign Ministers of Germany and Morocco clearly inscribes the issue of migration in the context of the EU-level initiatives such as the MP.³⁷ However, German-Morocco relations on migration have also had strong bilateral elements, especially on readmission, and have recently seen some idiosyncratic shifts. This has mostly been caused by the political internal agendas of both countries, rather than by EU-induced policy changes as such. From the view of EU officials, the role that Germany plays in relations with Morocco on migration has gained more profile in the past years.³⁸ Next to traditionally important Member States, such as Spain and France, Germany is increasingly claiming a central role in the EU relations with Morocco.

The German-Moroccan cooperation on migration has gone through similar stages in the past as that of many European countries. Germany was among the countries to sign a labour force agreement in the 1960s, leading to so-called 'guest worker' programmes. However, the numbers have always stayed relatively low, especially if compared to other destination countries for Moroccan nationals, such as Spain, France, Belgium and the Netherlands. Although migration has thus always formed part of the German-Moroccan bilateral relations, it has gained more prominence in the past two years. As is clear from the 2013 'Rabat Declaration', the issue of migration featured but certainly did not constitute the main issue of concern at that point.³⁹ That has changed nowadays.

Since several years, the German cooperation with Morocco on migration is centered on achieving a 'balanced' approach focusing across the four areas of legal migration, asylum, irregular migration and migration and development. As the overview of projects in Section 4 below clearly shows, in all of the four pillars, Germany has engaged with the Moroccan authorities. However, two recent developments have arguably altered the German-Moroccan cooperation on these issues, leading to more attention for two specific elements: 1) migration and development, and 2) return and readmission.

First, the two countries hold the joint chairmanship of the GFMD, thereby providing an opportunity for closer contacts. The dynamic of the GFMD cooperation since 2017, as well as the preparatory works for it since as early as 2015, have helped to create a mutual interest among the two countries' authorities. The GFMD provided for a network of policy makers on both sides, where especially the informal contacts were found to be useful.⁴⁰

The growing importance of the migration and development issue in German-Moroccan relations has led to an ever deeper involvement of the German Development Ministry (BMZ) in these relations. Especially on the level of the project financing, there is a growing number of initiatives. As can be seen below, this ranges across different aspects, also including fields traditionally more off-limits for development actors such as return and reintegration. In this latter field, the BMZ has recently launched a programme dealing with (the consequences of) return and readmission, emphasizing in particular the reintegration aspect.⁴¹

37 Minister of Foreign Affairs of Morocco, Mr Saad Dine El Otmami, Minister of Foreign Affairs of Germany, Mr Guido Westerwelle, Rabat Declaration, 12.09.2013.

38 Interviews officials European Commission and European External Action Service.

39 Minister of Foreign Affairs of Morocco, Mr Saad Dine El Otmami, Minister of Foreign Affairs of Germany, Mr Guido Westerwelle, Rabat Declaration, 12.09.2013.

40 Interviews at SWP, and with officials at BMZ and FFO, Berlin.

41 Interview official BMZ, Berlin, see: BMZ, "Freiwillige Rückkehr Und Reintegration – Mit Perspektive, Das Rückkehrer-Programm

Different Ministries from the German federal government have also launched a number of initiatives aimed at the development of the MENA/Africa region over the past years, all of which also address the issue of migration. After the Arab Spring, the German Federal Foreign Office (FFO) has been putting forward 'Transformation Partnerships' with countries, including with Morocco. In the context of the German G20 Chairmanship, it has further proposed 'Compacts' with African countries. This proposal concerns mostly investment plans for these countries, and has also been pushed by the Federal Finance Ministry.⁴² The BMZ has also launched its 'Marshall Plan' for Africa in early 2017.⁴³ The practical and long-term implications of this Plan are however not clear altogether. In the meantime, the GFMD process and the UN Global Compacts processes (both on asylum and migration) seem to dominate some of the policy formulation agenda in these field, serving as frameworks for German policy makers in the Foreign and Development Ministries.⁴⁴ In light of the most likely protracted coalition talks for a new federal government in Germany, no further clarity on these initiatives is to be expected in the coming months.

Second, due to internal political pressures after the much mediatized events that took place in the New Year's night of 2015/2016 and the Berlin Christmas market attack of 2016, the focus of German policy makers shifted towards return and readmission. This focus has certainly not always been there. Eurostat data shows that Moroccan nationals have consistently constituted a small group of those third country nationals (TCNs) ordered to leave the territory of Germany. This is true both compared to Moroccan nationals ordered to leave other EU countries as well as compared to other TCNs from Germany. As the table below shows, Moroccan nationals have never constituted more than 4.5% of all TCNs ordered to leave the territory of Germany. Only a very recent increase in numbers can be seen over 2016.

Table 1 - Moroccan nationals ordered to leave the territory of selected Member States (Source: Eurostat, own compilation)

Country/Year	2008	2009	2010	2011	2012	2013	2014	2015	2016
Belgium	4,060	4,220	4,255	7,430	7,820	6,405	5,670	5,025	4,915
Germany	320	355	360	410	385	580	940	875	2,990
Germany all TCN ordered to leave	11,985	14,595	19,190	17,550	20,000	25,380	34,255	54,080	70,005
% Mor. of Total	2.67%	2.43%	1.88%	2.34%	1.93%	2.29%	2.74%	1.62%	4.27%
Spain	17,325	15,625	12,445	13,085	11,005	7,305	10,300	7,810	6,570
France	9,505	8,795	8,005	7,065	6,630	7,550	7,780	6,520	6,585
Italy	11,520	9,450	7,900	4,095	4,770	3,955	5,530	7,570	8,205
Netherlands	2,545	2,570	1,685	1,575	950	1,410	1,465	990	1,420
Austria	180	220	280	270	230	275	0	80	895

'Perspektive Heimat'" (Bonn, 2017).

42 See: <https://www.compactwithafrica.org/content/compactwithafrica/home.html>

43 BMZ, "Afrika Und Europa - Neue Partnerschaft Für Entwicklung, Frieden Und Zukunft - Eckpunkte Für Einen Marshallplan Mit Afrika," 2017.

44 Interviews at SWP, and with officials at BMZ and FFO, Berlin.

The German federal government also proposed in 2016 to add Morocco (alongside Algeria and Tunisia) to the German list of safe countries of origin.⁴⁵ As such, this would not directly concern the return process itself, even though it was presented in that light. Rather it would allow for expediting the asylum process. However, the proposal finally failed due to lacking support in the German *Bundesrat*. In the recent coalition talks for a federal government, these issues are back on the table.⁴⁶ Morocco is already listed as a safe country of origin by the Netherlands government.⁴⁷ Despite several initiatives at the EU level, there is not yet an EU-wide list of safe countries of origin.⁴⁸

Regarding readmission, Germany had concluded in the late 1990s a bilateral protocol with the Moroccan authorities on the identification and laissez-passer procedures.⁴⁹ This protocol (*procès-verbal*) is still used today for this purpose.⁵⁰ According to interview data, the recent operational cooperation on readmission between Morocco and Germany is progressing. The increased German political pressure on Morocco, including from the highest level of the Chancellor, seems to have led to more operational cooperation, especially on identification procedures and issuing laissez-passer documents. However, interviews also revealed that limits persist, such as around the use of charter flights and the readmission of Moroccan nationals who have been in Germany since before 2015.⁵¹

Moreover, the German-Moroccan cooperation on readmission shows how complex the operational and legal steps are that lead to an actual return. This concerns steps such as identification, issuing laissez-passer documents, physically getting the individuals at the right place at the right time, and having the adequate monitoring systems and human resources in place.⁵² This reveals how the 'problem' with readmission is not just the third country 'unwillingness' to readmit individuals, but is also located in the countries that aim to expel individuals. In the case of this Study, it emerged that there were even situations in which the German authorities were unable to follow the pace of the Moroccan authorities, e.g. being unable to pick up the actually issued laissez-passer documents or locating the individual to be returned/readmitted.⁵³

The German case study also shows the persistent trend of bilateralism in cooperation regarding return and readmission. From the German policy makers' perspective, the bilateral protocol is good enough as long as 'it works', with little perceived enthusiasm for an EURA. This also echoes the EU's shift away from insisting on only binding EURAs, towards other tools that are seen to deliver concrete cooperation. This is explicitly mentioned in the EU's new PF and was seen to be a positive aspect during some of the interviews carried out for this research.⁵⁴ The PF's element

45 Bundesregierung, "Gesetzentwurf Der Bundesregierung - Entwurf Eines Gesetzes Zur Einstufung Der Demokratischen Volksrepublik Algerien, Des Königreichs Marokko Und Der Tunesischen Republik Als Sichere Herkunftsstaaten (18/8039)" (Berlin: Deutscher Bundestag, 2016).

46 Interview official German Bundestag, Berlin.

47 See for the full list: <https://www.rijksoverheid.nl/onderwerpen/asielbeleid/vraag-en-antwoord/lijst-van-veilige-landen-van-herkomst>

48 The last proposal was made by the Commission in 2015: European Commission, "Proposal Establishing an EU Common List of Safe Countries of Origin for the Purposes of Directive 2013/32/EU of the European Parliament and of the Council on Common Procedures for Granting and Withdrawing International Protection, and Amending Directive 2," 2015.

49 Government of Morocco and Government of Germany, "Procès-Verbal Entre Le Gouvernement de Royaume Du Maroc et Le Gouvernement de La République Fédérale d'Allemagne Relatif À L'identification et À La Délivrance de Laissez-Passer Consulaires," 1998.

50 Interview official FFO Berlin.

51 Ibid.

52 See also: Sergio Carrera, *Implementation of EU Readmission Agreements - Identity Determination Dilemmas and the Blurring of Rights* (Springer, 2016); Jean-Pierre Cassarino, "Readmission Policy in the European Union (EP Study)" (Brussels, 2010).

53 Interviews officials FFO Berlin.

54 Ibid. See, for the mention in the PF: Commission, "Communication on Establishing a New Partnership Framework with Third

to use various EU policy fields and instruments as 'leverage' to obtain more cooperation from third countries on readmission is also reflected in German thinking on this. However, interviewees were careful to point out that 'more-for-more' is more promising than 'less-for-less', and that development cooperation budgets should in principle not become direct leverage. Rather, leverage was seen to exist in the field of e.g. visa policy.⁵⁵

Countries under the European Agenda on Migration - COM(2016) 385 Final," 7.
55 Interviews officials BMZ and FFO Berlin.

4. German-funded projects on migration in Morocco

Germany has become a more active financier of migration-related projects in Morocco over the past year. Even though the involvement of the FFO is crucial, most of the actual financial support is channeled through the BMZ. As German development policy agency, GIZ is implementing the German-funded development projects in Morocco. The German projects on migration are spread over different areas, as can be seen below.

Current German-Moroccan migration projects

- Asylum
- 'German-Moroccan partnership for asylum and international protection' (2015-2017, 1.4 mln €, FFO-GIZ)
- Migration & Development
- 'Programme Migration for Development' (2012-2019, multi-country, BMZ-GIZ)
- Legal migration
- 'German-Moroccan educational partnership' (2015-2018, 1.5 mln €, MENA Transition Fund G20 Deauville-ANAPEC/GIZ)
- Integration
- 'Strengthening selected municipalities in the management of migration' under French abbreviation 'RECOMIG' (2015-2018, 3.5 mln €, BMZ-GIZ)
- 'Strengthening of Moroccan communities in improving reception facilities of migration' under French abbreviation 'RECOSA' (2015-2019, 8 mln €, BMZ-GIZ)
- Return and Reintegration
- 'Migration advice centre in Casablanca' (2017-no end date foreseen, budget unknown, BMZ)

Figure 1 - German-Moroccan migration projects, for each indicating the title of the project, its duration, the amount of funding, the funding organisation, and the implementing organisation (Source: BMZ, GIZ, World Bank)

There are further horizontal German-funded projects in Morocco that could also contribute to policies on migration, such as a fund for regulatory and policy advice as well as a study and experts fund, both of which are implemented by GIZ. Overall, the GIZ implements 30 projects in Morocco, with a value of 149 million Euro.⁵⁶ In the remainder of this section, some more details are given on the projects listed above.

The project on **asylum and international protection** is one of the few projects by international donors in Morocco actually focusing on this topic.⁵⁷ The project includes mostly capacity-building activities, training and supporting officials that would be involved in the status determination and judicial review procedures under a functioning

⁵⁶ See for the full overview of GIZ projects in Morocco: https://www.giz.de/projektdaten/index.action?request_locale=en_EN#?region=3&countries=MA (accessed on 17.10.2017)

⁵⁷ There has also been an EU-funded project on this with the involvement of the European Asylum Support Office (EASO) in the past.

Moroccan asylum system. This covers mostly legal issues, such as the relevant international legal standards, as well as more managerial aspects of asylum systems.⁵⁸ As highlighted above in Section 2, the institutionalization of a proper Moroccan asylum system has not yet taken place, meaning that there is not yet an asylum law nor an independent and fully functioning authority for status determination (The *Bureau des Réfugiés et des Apatrides (BRA)*). This has hampered the viability of capacity-building in the area of asylum, as the long-term commitment in this field of Morocco is not clear.

The **Programme on Migration and Development** that is implemented by the GIZ is focused mostly on activating members of the Diaspora for the economic development of third countries. It is a multi-country project in which Morocco is just one of the 26 partner countries. The overall amount for the complete project is 67 million Euro.⁵⁹ The main focus of this project in Morocco is the return of technical experts from Germany to Morocco.⁶⁰ Further elements include cooperation with Diaspora organisations in Germany, stimulating entrepreneurship among migrants, and policy advice to the Moroccan government on Migration and Development. This project is implemented by the Germany-based CIM (Centrum für Internationale Migration und Entwicklung / Centre for International Migration and Development), an initiative of both the GIZ and the Federal Employment Agency. In Morocco, the local project partner is the German Chamber of Commerce and Industry.

On **Legal Migration** the German-Moroccan educational partnership is a project that is funded by the 'MENA Transition Fund', set up in 2011 during the Arab Spring events by the G8 in the context of its 'Deauville Partnership'. This Fund is managed by the World Bank, and draws on contributions from 15 countries totaling 252 million Euro, including Germany with a contribution of 23.3 million Euro.⁶¹ This particular project is about a recruitment experience in Germany for young Moroccans, specifically in the tourism and hospitality sectors. It consists of a professional apprenticeship for up to 150 candidates in German companies.⁶² The Moroccan employment agency ANAPEC (*Agence Nationale de Promotion de l'Emploi et des Competences*) is mostly in charge of pre-selecting these candidates, in cooperation with GIZ, even though the final recruitment decision is for the German partner companies to make. The pre-selected candidates will also receive trainings, including on language, 'intercultural' skills and 'expectation management' to prepare them for their time in Germany.⁶³ Through this particular project, the capacities of ANAPEC are also foreseen to be strengthened. In July 2017, 108 participants obtained a certificate giving them access to

58 Interview official GIZ Berlin.

59 See: https://www.giz.de/projektdaten/index.action?request_locale=en_EN#?region=3&countries=MA

60 See: <http://marokko.ahk.de/dienstleistungsangebot/rckkehrende/rueckkehrende-fachkraefte/>

61 See: <https://www.menatransitionfund.org/donors-and-partners>

62 World Bank, "Project Paper for a Small RETF Grant from the MENA Transition Fund in the Amount of USD 1.75 Million Equivalent to the Kingdom of Morocco for the Accessing Overseas Employment Opportunities for Moroccan Youth Project" (Washington, 2014). »title» : «Project paper for a small RETF grant from the MENA Transition Fund in the Amount of USD 1.75 million equivalent to the Kingdom of Morocco for the Accessing Overseas Employment Opportunities for Moroccan Youth Project», «type» : «article» }, «uris» : [«http://www.mendeley.com/documents/?uuiid=8927fbdf-4b7f-4bf0-b5ae-13249b40ec94», «http://www.mendeley.com/documents/?uuiid=c19c684e-de47-48a1-b86c-7c95b7a7d3ea»] }, «mendeley» : { «formattedCitation» : «World Bank, \u201cProject Paper for a Small RETF Grant from the MENA Transition Fund in the Amount of USD 1.75 Million Equivalent to the Kingdom of Morocco for the Accessing Overseas Employment Opportunities for Moroccan Youth Project\u201d (Washington, 2014

63 Ibid., p. 14.

the apprentice scheme in Germany. Since August 2017, several groups of participants have arrived in the German regions of Thuringia and Bavaria.⁶⁴

The two projects funded on **integration** are embedded in and envisaged to contribute to the Moroccan NSIA, as explained above in Section 2. Concretely this entails that they focus on the regularized migrants in Morocco and the way they can be included in the cultural, social and economic life in Morocco. Both projects that Germany is funding in this area are aimed at the local level primarily, but aiming as well to connect them to the national level (especially the NSIA piloted by the MCMREAM), and to the international level (especially with West African States, the countries of origin of most of the regularized migrants). The two projects are somewhat similar in approach and in geographic coverage. Differences exist in, for example, whether or not the local capacities to deal with Moroccan returnees are also included.⁶⁵

The opening in September 2017 of the '**Migration advice centre in Casablanca**' is the latest initiative and follows from a programme with a multi-country approach.⁶⁶ Similar centres were set up in Kosovo, Albania, Serbia and Tunisia, and this approach is now rolled out to Morocco as well as to countries in sub-Saharan Africa. The centres are a key element of the BMZ's work on migration, and they are implemented by GIZ. They offer advice on training, education, job search and loans for entrepreneurship in Morocco, and on legal migration routes to Germany. The primary policy objective served with these centres is to stimulate and facilitate return and reintegration from a development perspective.⁶⁷ This entails an engagement with returnees to re-integrate them into the Moroccan labour market or education system, or helping them to establish themselves as entrepreneurs. The focus on return and reintegration of this project does underline the recent importance given to this priority by the German federal government. The centre is also intended to prevent irregular migration by furnishing information on legal migration opportunities and/or on employment and labour opportunities in Morocco. As this centre has just opened in Casablanca, there are not yet any lessons learnt. Its success will hinge on the actual and concrete opportunities the centre can offer in terms of training and work places available in Germany and Morocco.

64 This most up to date information has been gathered from the facebook page of this project: <https://www.facebook.com/dm.ausbildungspartnerschaft/> (accessed on 17.10.2017). See also: <http://aujourdhui.ma/emploi/109-jeunes-marocains-qualifies-integrent-le-tourisme-allemand?key=alm> (accessed on 17.10.2017).

65 The project entitled 'Strengthening selected municipalities in the management of migration' does also include that element, the other project does not.

66 See: http://www.bmz.de/de/presse/aktuelleMeldungen/2017/september/170914_pm_100_Deutschland-und-Marokko-eroeffnen-Migrationsberatungszentrum-in-Casablanca/index.jsp (accessed 16.10.2017).

67 See: BMZ, "Freiwillige Rückkehr Und Reintegration – Mit Perspektive, Das Rückkehrer-Programm 'Perspektive Heimat.'"

5. EU-funded projects on migration in Morocco

The EU is funding projects in Morocco under several funding instruments and across the four pillars of the GAMM. The scope of this study does not allow for an in-depth description of all these funding instruments' details.⁶⁸ Rather, it suffices for this Study to distinguish between four 'channels' of EU funded projects:

Current EU funding 'channels' in Morocco on migration			
<p>1. MP Scoreboard projects: this includes 96 projects under various Member States and EU instruments with a total of 20-25 mln €, of which 2 are EU-funded projects designed explicitly for the MP implementation:</p> <ul style="list-style-type: none"> - The 'Sharaka' project aimed at supporting the Moroccan strategy on migration and asylum, especially at institutional level (2014-2017, 5 mln € (+ co-financing France and Netherlands), Expertise France. - Project aimed at the integration of migrants in line with the Moroccan strategy on migration and asylum (2015-2019, 10 mln €, several ministries and private organisations) 	<p>2. Budget support under the European Neighbourhood Instrument (ENI): i.e. funding not project-based but directly supporting the budget of Moroccan authorities.</p> <ul style="list-style-type: none"> - Budget support for the implementation of the national strategy on migration and asylum (2016-2020, 35 mln €, out of which 8 mln € for UNICEF and MS implement. agencies (incl. GIZ), several Ministries). 	<p>3. Projects under the 'EU Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration and Displaced Persons in Africa' (25 mln € for Morocco, not all contracted yet).</p> <ul style="list-style-type: none"> - A project on South-South cooperation on migration (2017-2020, 10 mln € (1.7 mln € co-financing from BMZ), GIZ, Spanish impl. agency, others) - A project on non-discrimination of migrants in Morocco (2017-2020, 5.5 mln €, several ministries and private organisations) 	<p>4. Frontex-funded joint operations. Morocco participated in the European Patrol Network (EPN) Operations 'Indalo' and 'Minerva'. These operations are focused at control of borders and curbing migration flows (Over 2013-2016, budget for operations where Moroccan participation is confirmed: 8.8 mln €, out of an overall much larger amount spent by Frontex on operations coordinated by Spain aiming to curb irregular migration from Morocco, where latter is not listed as participating country)</p>

Figure 2 - Current EU funding 'channels' in Morocco on migration (Sources: European Commission, Expertise France, Frontex)

⁶⁸ den Hertog, "Money Talks: Mapping the Funding for EU External Migration Policy."

A first reservation has to be made regarding this overview table: it leaves out a few multi-country EU-funded projects where Morocco is one of the several participating countries, such as projects coordinated by UN Agencies. Another example of such multi-country projects focused on exchange and capacity-building are the 'EUROMED Migration IV' or the 'MIEUX III' projects, implemented by the ICMPD and focused on various countries, including Morocco.⁶⁹ It is well beyond the aim of this Study to give an exhaustive list of all such horizontal projects.

The primary instrument of the EU is **the MP and its attached Scoreboard**. This Scoreboard gives an overview of all the projects that are presented as linked to the MP, including those funded by the EU, international organisations and EU Member States. As previous research has concluded, that Scoreboard (essentially an Excel file with basic project data) only gives a limited and often not up-to-date picture of the actual cooperation projects.⁷⁰ From interviews it also became clear that the Scoreboard is not of daily relevance for some involved policy makers, meaning that new information regarding projects is not immediately included and shared.⁷¹ Even more, the Commission has outsourced the updating of the MP Scoreboard to an external contractor, the International Centre for Migration Policy Development (ICMPD). This updating process is currently underway.⁷² Even though the EU-Morocco MP's Scoreboard contains more projects than any other MP, a closer look reveals that a serious portion of these projects are either not currently being implemented or were projects that are not explicitly linked in substance to the MP.⁷³ As other studies have also made clear, including a Special Report by the European Court of Auditors, the access to and overview of the information on all the involved projects is not always available.⁷⁴

The remainder of this Section briefly discusses the projects included in Figure 2 above.

At the time of writing, the '**Sharaka**' project activities are in their last phases. This project is led by the French development agency 'Expertise France' (EF), with a further six Member States involved in the project, including Germany through the GIZ.⁷⁵ At the Moroccan side, the main partners are the MCMREAM and ANAPEC. This project was specifically intended by the Commission as a 'support to the EU-Morocco Mobility Partnership', to which Germany was initially listed as co-financer of 500,000 €. ⁷⁶ At the time of establishing the project, the new Moroccan policy on migration and asylum came about, thus leading to enlarging the project focus to also include the professional integration of regularized migrants in Morocco. The typical activities in this project are the elaboration of studies, the organisation of events and visits, and the exchange of expertise. The project focuses on five thematic area:

1 - Migration and development, primarily with a view to map existing practices⁷⁷ to better integrate Moroccans residing abroad in the economic development;

69 See for more information on EUROMED IV: https://www.icmpd.org/fileadmin/ICMPD-Website/EUROMED/EMM4_infosheet-2015.pdf, and on MIEUX III: <https://www.icmpd.org/our-work/capacity-building/multi-thematic-programmes/mieux-iii/>

70 den Hertog, "Funding the EU-Morocco 'Mobility Partnership': Of Implementation and Competences." See more in general on MP implementation dynamics: Natasja Reslow, "EU 'Mobility' Partnerships: An Initial Assessment of Implementation Dynamics," *Politics and Governance* 3, no. 2 (2015): 117.

71 Interviews officials FFO Berlin, European Commission and EEAS, Brussels.

72 Ibid.

73 den Hertog, "Funding the EU-Morocco 'Mobility Partnership': Of Implementation and Competences."

74 Leonhard den Hertog and Fanny Tittel-Mosser, "Implementing Mobility Partnerships: Delivering What?," in *Pathways towards Legal Migration into the EU - Reappraising Concepts, Trajectories and Policies*, ed. Sergio Carrera et al. (Brussels: CEPS, 2017), 95–105; European Court of Auditors, "Special Report No 9/2016 - EU External Migration Spending in Southern Mediterranean and Eastern Neighbourhood Countries until 2014, Together with Replies of the Commission" (Luxembourg, 2016).

75 These Member States are Germany, Belgium, Spain, France, Italy, the Netherlands and Sweden.

76 Commission, "Action Fiche for 'Support to the EU-Morocco Mobility Partnership'" (Brussels, 2013).

77 The result of this mapping can be seen here: <http://mre-initiatives.gov.ma/>

- 2 - Closely linked to this, the strategic planning of how to mobilize the Moroccans residing abroad;⁷⁸
- 3 - The international placement of Moroccan workers, specifically assessing the capacities of ANAPEC in this field and the needs of the private sector, leading e.g. to report drafted by the Belgian-Walloon employment agency⁷⁹;
- 4 - The professional integration of regularized migrants in Morocco, leading e.g. to a report on the capacities of ANAPEC in this field by the Swedish employment agency⁸⁰ as well as further reports on ANAPEC's further development of these capacities⁸¹;
- 5 - The return and reintegration of Moroccans residing abroad, leading e.g. to reports on how different EU Member States stimulate (voluntary) return and reintegration, and recommendations on a national strategy on return and reintegration.⁸²

As this project is now almost finished, an evaluation of the project is currently carried out.⁸³ It is important to draw lessons from this project, as it was the first EU funded project explicitly aimed at the MP and the national strategy on migration and asylum. The key question will certainly be to what extent the different reports, expertise exchanges and working groups have been operationalized in the work of the relevant actors implementing these policies.

The second project that is concretely aimed at the new national strategy is the project '**Promoting the integration of migrants in Morocco**'.⁸⁴ This project is still underway, and there was a recent call for proposals for a specific part of this project (namely regarding point 4 below).⁸⁵ At this point, there is thus only limited information available on the outputs of this project. The aims of the project however fall within five broad areas of activity, namely:

- 1 - Medical coverage for regularized migrants, implemented by the Ministry of Health;
- Integration of migrant children in the Moroccan schools, implemented by the Ministry of National Education and Professional Training;
- 2 - Improving the medical, social and psychological assistance to vulnerable migrants, implemented by various NGOs in cooperation with Moroccan authorities;
- 3 - Professional integration trajectories for migrants, helping them to access education or (self-) employment, implemented by the MCREAM and various educational and private actors;
- 4 - Technical assistance to the MCMREAM, primarily for its role in piloting the national strategy.

The **budget support** on migration that the Commission has decided for the 2016 annual action programme for Morocco represents one of the largest amounts of EU funding available for Morocco on migration since a several

78 See: <http://www.sharaka.ma/dmsdocument/33>. See for a mapping study of initiatives here: <http://www.sharaka.ma/dmsdocument/90>

79 See: <http://www.sharaka.ma/dmsdocument/83>

80 See: <http://www.sharaka.ma/dmsdocument/36>

81 See: <http://www.sharaka.ma/dmsdocument/37>

82 See: <http://www.sharaka.ma/dmsdocument/1>

83 See: <http://www.cota.be/?p=5021&lang=en>

84 Information for this paragraph comes from a document drawn up by the EU Delegation: EU Delegation in Rabat, "Projets Finances Par l'Union Européenne Au Maroc Dans Le Domaine de La Migration," 2015.

85 See: <https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1503928338734&do=publi.detPUB&-searchtype=AS&zgeo=35501&ccnt=7573876&debpub=&orderby=upd&orderbyad=Desc&nbPubliList=15&page=1&aoref=156714>

years.⁸⁶ The term 'budget support' means that it is not linked to a project, but rather directly flows into the budget of a third country. In this case this is true for 27 out of the 35 million € foreseen, the rest will flow to EF, GIZ, AECID (the Spanish development agency) and UNICEF.⁸⁷ Often, as in this case, this is linked to a sectoral reform that the support will facilitate. This budget support is aimed to reinforce the Moroccan implementation of the NSIA, as well as of the national strategy for MRE. Specifically, the four main areas of focus are:

- 1 - The legislative and institutional elements of the Moroccan migration policy, i.e. adopting the outstanding laws and establishing independent institutions;*
- 2 - The knowledge and understanding of migration;*
- 3 - Implementation of the migration policies in the fields of social assistance and labour policies;*
- 4 - The Moroccan capabilities for voluntary return of migrants to their countries of origin.*

The emphasis on the legislative and institutional elements is important, as the NSIA has so far remained without the anticipated laws on migration and asylum. Accompanying the various implemented policy measures with this legal foundation will reduce legal uncertainty for individuals. It is interesting to note that the Commission has stipulated that the first tranche of budget support is conditional upon the proposal of an asylum law transmitted to the parliament by 31 August 2017.⁸⁸ This has not yet happened, and as a consequence there should expectedly be delays in the disbursement of this budget support.

As indicated above, there have been two EU funded projects so far decided for Morocco under the EU Trust Fund for Africa (EUTF Africa). This EUTF Africa was launched at the November 2015 EU-Africa Summit on migration. A 25 million € contribution from the ENI funds into the EUTF Africa for specific projects in Morocco has been approved by the Commission.⁸⁹

The largest project concerns a regional project in which Morocco would play a key role in a **South-South cooperation on migration**, in particular with the West African States of Senegal, Mali and Ivory Coast. As highlighted above in figure 2, this project is co-financed by the BMZ and its implementation will be led by GIZ, in collaboration with EF.⁹⁰ Morocco has in the past concluded Memoranda of Understandings (MoUs) with the three mentioned West-African countries. However, according to the Commission, the implementation of these MoUs is for the moment weak. This is the main problem this project aims to address. The project would be led from Rabat, as Morocco is seen as the most advanced country in the region as concerns migration policy, and could thus share practices with the three selected West African countries. Specifically, the project has three stated areas of work:

- 1 - Migration and development, especially as concerns the role of Diaspora therein;*
- 2 - Integration and reintegration, especially with a focus on protecting the rights of migrants;*

⁸⁶ The Interior Ministry received institutional support of 68 million Euro in the past, see for more information on previous EU funding for Morocco: El Qadim, *Le Gouvernement Asymétrique Des Migrations. Maroc/Union Européenne*, chap. 3.

⁸⁷ European Commission, "Annexe 1 À La Décision D'exécution de La Commission Relative Au Programme D'action Annuel 2016 – Partie 3 En Faveur Du Maroc, Document D'action Pour Le Programme D'appui Aux Politiques Migratoires Du Royaume de Maroc."

⁸⁸ Ibid.

⁸⁹ European Commission, "Commission Implementing Decision of 18.11.2016 on the Second Special Measure for the 2016 ENI Contribution to the European Union Emergency Trust Fund for Stability and Addressing the Root Causes of Irregular Migration and Displaced Persons in Africa, to B," 2016.

⁹⁰ European Commission, "Document D'action de Fonds Fiduciaire de l'UE À Utiliser Pour Les Décisions Du Comité Opérationnel - Coopération Sud-Sud En Matière de Migration," 2017.

3 - Legal migration, especially with a focus on the mobility of professionals, students, trainees and volunteers.

It is clear that this project connects closely to Morocco's renewed engagement with (West) African countries, and its key role in the Rabat Process.⁹¹ The project description is also clearly inscribed in the EU policy priority of increasing returns. Mali and Senegal are selected under the EU PF as priority countries, with considerable attention for returns.⁹²

The second project so far approved under the EUTF Africa for Morocco is a project that aims to **advance non-discrimination of migrants** and counter xenophobia and racism. The implementation of this project is led by the Spanish development agency AECID. A large number of further actors will be involved, such as the CNDH, the MCMREAM, as well as civil society actors and, for example, the network of equality bodies in Europe (EQUINET).⁹³ Specifically, the project foresees five objectives:

- 1 - Analyzing the applicable norms in Morocco regarding discrimination on racial and/or ethnic grounds, and improving institutional capacities to eradicate such discrimination;
- 2 - Improving independent monitoring and complaint mechanisms;
- 3 - Strengthening the capacities of public administrations to prevent racism and xenophobia, especially in the social assistance, education, justice, law enforcement and health sectors;
- 4 - Strengthening the capacities of civil society actors in this field;
- 5 - Prevent racism and xenophobia through information and positive discourses, working specifically with media.

Finally, as indicated in Figure 2 above, Morocco has participated in **Frontex joint operations** several times. Frontex, now officially the European Border and Coast Guard Agency, finances these operations but the host member state (in this case Spain) plays an important role in command and control of such operations.⁹⁴ The objectives of the joint operations are mainly border surveillance and control. For example, the EPN Minerva 2014 joint operation, in which Morocco participated, aim was:

"To implement coordinated operational activities at the external borders of the Western Mediterranean region in order to control irregular migration flows towards the territory of the Member States of the European Union and to tackle cross-border crime."⁹⁵

It is not always clear what exactly the role of the Moroccan authorities is in such Frontex-coordinated joint operations. Mostly it covers the exchange of surveillance data, and the operational cooperation on vessels or in seaports, building on the long-standing operational cooperation with Spain at the land and sea borders, such as through its 'SIVE' surveillance system.⁹⁶ As highlighted above, the Western Mediterranean Route has recently shown an increase in irregular crossings into Spain. This could well lead to more political priority given to operational cooperation with

91 See: <https://www.rabat-process.org/fr/>

92 Commission, "Communication on Establishing a New Partnership Framework with Third Countries under the European Agenda on Migration - COM(2016) 385 Final."

93 European Commission, "Document D'action de Fonds Fiduciaire de l'UE À Utiliser Pour Les Décisions Du Comité Opérationnel - Vivre Ensemble sans Discrimination: Une Approche Basée Sur Les Droits de L'Homme et La Dimension de Genre," 2017.

94 See on the new EBCG: Carrera and den Hertog, "A European Border and Coast Guard: What's in a Name?"

95 This information can be found on Frontex' website section 'Archive of Operations', see: <http://frontex.europa.eu/operations/archive-of-operations/IIOGnE>

96 Carrera et al., "EU-Morocco Cooperation on Readmission, Borders and Protection: A Model to Follow?"



Frontex or to a specific EU funded project on this matter to build Moroccan capacities further.

6. Conclusions

This Study gives an overview of the EU and German funded projects on migration in Morocco, as well as the political context in which cooperation on migration figures. This concluding Section presents a number of cross-cutting conclusions.

First, it is evident that the project and the political levels are not always synchronized. Whereas the EU-Moroccan relations at the political level have been difficult in recent years, the amount of EU funding for migration related projects in Morocco has steadily increased. In the same vein, whereas the EU and German political discourses focus heavily on return and readmission, this is reflected only to a limited (but growing) extent in the projects funded by the EU and Germany. This is in itself an important finding of this study, and in line with previous research, namely that there is no 'true' priority that is revealed by 'following the money'.⁹⁷

Second, the complex web of involved German Ministries, GIZ, Commission Directorate-Generals, the EU Delegation, Moroccan Ministries and Agencies, and further Member States and international organisations can explain the scattered agenda pursued throughout the political and project levels. Each have their understandings of the priorities to be pursued and their vested interests, leading to projects being designed and decided upon in their inter-organizational relations and struggles. The resulting variety of projects is not necessarily 'incoherent' in the negative sense of the word. It may actually be seen as part of a diversified approach whereby, whether really intended or not, several priorities are pursued at the same time.

The availability of national level (such as German) and EU level instruments also creates a dynamic of complementarity between these levels. This results in the possibility for European policy makers to make parallel use of these levels as well as of different types of instruments to pursue their priorities. A certain 'division of labour' thus emerges between the Member States' and EU levels, as well as between different 'types' of actors (such development versus interior ministry actors, 'political' versus project level actors). For example, border surveillance practices are preferred to remain largely bilateral affairs. However, they can be partly facilitated by EU funding. Another example: most of the funded projects do not explicitly deal with expulsion and readmission, and the overall funding addresses many different priorities to show a 'balanced' approach. Paradoxically perhaps, this in turn makes a conversation about expulsion and readmission actually possible, as 'one of the' areas to be addressed. This echoes the 'venue shopping' hypothesis suggested in the literature.⁹⁸ The central tenet of the 'venue shopping' hypothesis is that the scattered and parallel use of 'venues' (policy levels and instruments) is not coincidental. Rather, it is the result of strategies to pursue priorities through those venues where constraints are minimal or where side-effects of choices can be compensated for. The scattered or 'balanced' EU-German funding landscape in Morocco should thus not be mistaken for a policy in which all priorities are of equal political importance.

Third, and despite the various priorities pursued throughout different projects, we see nonetheless an increasing attention for return and reintegration, both within the German and EU funded projects. These projects are not directly funding expulsions, but rather foresee support for voluntary return and reintegration activities. The increasing

97 den Hertog, "Funding the EU-Morocco 'Mobility Partnership': Of Implementation and Competences."

98 Virginie Guiraudon, "European Integration and Migration Policy: Vertical Policy-Making as Venue Shopping," *JCMS: Journal of Common Market Studies* 38, no. 2 (2000): 251–71.

involvement of development actors in return and reintegration, such as the BMZ and the GIZ, could be seen as positive, namely bringing a development perspective to this field. However, it should be underlined that this involvement fits within a broader German and EU policy agenda that speaks of getting the 'return rate' up, whether voluntarily or forced.⁹⁹ There is a risk that development funding is reprioritized for dealing with the consequences of return policies, rather than for addressing the development and rule of law issues that developing countries face.

Fourth, an open question is whether the evident 'oligopoly' of implementing organisations as shown in this Study does not produce challenges to the value for money and local ownership of some of the funded projects. Under the recent EUTF for Africa, the fact of Member States' development agencies implementing the majority of available projects is even clearer (in particular GIZ).¹⁰⁰ It goes beyond the scope of this study to draw conclusions on why this is the case. However, it is self-evident that the more experts, organisations and civil society actors from Morocco itself are involved in these projects, the more these projects will have a local and lasting impact.

Fifth, the case of Morocco shows the extent to which a third country can actually shape the EU funding priorities, and in this case part of the MP implementation.¹⁰¹ All recent EU and German projects are clearly inscribed in the Moroccan pursuit of a new migration policy and the NSIA. As highlighted in Section 2, the MP does thus indeed provide Morocco an opportunity to have large parts of this new policy funded by EU actors. Specifically, the MCMREAM has profited from this dynamic quite substantially as it is the main interlocutor for many of the discussed projects. As a point of departure, the existence of the NSIA as a central political commitment and the existence of one Ministry piloting this strategy is positive.

Four years into this new approach, it is however time for the EU and Germany to evaluate the NSIA progress so far and adapt if necessary its funding needs. In particular, for the NSIA and the European funding involved therein to have a lasting impact, there should now be attention to legally and institutionally embedding the commitments.

An illustrative example is the GIZ-led project on asylum and international protection. This is a project with positive potential for international protection standards and institutions in Morocco. Without the asylum law and the status determination authority in place its potential is nevertheless threatened not be realized. It would be positive if reported hopes about the asylum law being proposed in the coming months will indeed materialize. In that light, it is also positive that part of the ENI budget support for migration is conditioned on that (see Section 5). Of course, positive steps by developing countries to increase responsibility-sharing for international protection should however not be discouraged by EU governments using those steps to justify further restrictions to access to asylum in Europe.

Last, the case of EU-Moroccan cooperation also goes to show that there are no 'easy' fixes for the EU cooperation with third countries on migration. Even in this case, often considered a 'model' of cooperation on migration, borders and asylum, one observes continuous tensions over readmission, fluctuating flows across semi-permeable borders, as well as challenges to Rule of Law compliance and the rights of migrants. This serves as a reminder that any EU external migration policy that aims for 'zero entry' and/or a 100% return rate is not only unrealistic and comes at

99 See e.g. the Commission's 2016 Partnership Framework or the Council's 2015 Conclusions on return: Commission, "Communication on Establishing a New Partnership Framework with Third Countries under the European Agenda on Migration - COM(2016) 385 Final"; Council, "Conclusions on the Future of the Return Policy" (Brussels, 2015).

100 See also: den Hertog, "Money Talks: Mapping the Funding for EU External Migration Policy."

101 Natasja Reslow, "The Role of Third Countries in EU Migration Policy: The Mobility Partnerships," *European Journal of Migration and Law* 14 (2012): 393–415.



human costs, but will also come at a considerable price for the EU, both in funding terms and legitimacy abroad.

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