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The Politics of Negotiating EU Readmission Agreements: Insights from Morocco and Turkey

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Abstract

The subject of this article is the politics of instrumentation of EU Readmission Agreement (EURA) negotiations with Morocco and Turkey. Refusing to sign an EURA for more than ten years, they share a similar position of 'hard bargainers'. Recently though a 'negotiation turn' took place, Turkey initialling an EURA in June 2012 and Morocco committing to sign an EURA within the framework of a Mobility Partnership (MP) in June 2013. Unpacking the role of EU incentives and third countries' preferences, this article reveals that beyond the function of this instrument to co-opt third countries in EU's fight against irregular migration, a series of obstacles forced the EU to revise the design of EURA and to take into account domestic and regional factors. This article engages with the meanings and representations carried by EURAs in third countries and implications for the logic of consequences and appropriateness within the framework of EU external migration policy.

1 Introduction

This article analyses the politics of instrumentation of EU Readmission Agreement (EURA) from a third country perspective. The role of EU incentives

and third countries' preferences in the negotiations of this policy instrument originally designed as 'new policy instruments in the construction of rational and orderly immigration regimes'[1] are scrutinised. Through the case studies of Morocco and Turkey, it evidenced that policy instruments are inherently political and cannot be neutral devices. Refusing to sign an EURA for more than ten years, both countries share a similar position of 'hard bargainers'. Recently though a 'negotiation turn' took place, Turkey initialling an EURA in June 2012 and Morocco committing to sign an EURA within the framework of a Mobility Partnership (MP) in June 2013.

With this research puzzle in mind, this article shows that beyond the functional need of EURAs to co-opt third countries in EU's fight against irregular migration, a series of obstacles forced the EU to revise the design of EURA. New EU incentives were offered: a Mobility Partnership (MP) to Morocco and Visa liberalization to Turkey. Yet, in spite of fine-tuning EU incentives over time, this article finds that third countries' political domestic and regional dynamics conditions the politics of EURA instrumentation. Concerned with the implications for EU external migration policy more broadly, the meanings and representations carried by EURAs in third countries, following Le Gales and Lascoumes' approach, are also relevant to this study. For these authors a public policy instrument is 'a device that is both technical and social, that organizes specific social relations between the state and those it is addressed to, according to the representations and meanings it carries. It is a particular type of institution, a technical device with the generic purpose of carrying a concrete concept of the politics/society'.[2] This necessarily implies looking at the issues of power and appropriateness of EURAs as external migration policy instruments.

In nature, EURAs are both agreement and incentive-based policy instruments. As a bilateral agreement their purpose is to return irregular migrants. Third countries readmit their own nationals and third country nationals having transited through their territory.[3] The Council opens EURAs negotiations

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1 M. Baldwin-Edwards, 'The Emerging European Immigration Regime: Some Reflections on Implications for Southern Europe', 35 *Journal of Common Market Studies* (1997) 497–519, at 511.

2 P. Lascoumes and P. Le Gales, 'Introduction: Understanding Public Policy through its Instruments – From the Nature of Instruments to the Sociology of Public Policy Instrumentation', 20 *Governance* (2007) 1–21.

3 The third-country nationals clause is the most polemical clause of the agreement with third countries which need to be process the detention and return of those non-nationals,

on the basis of a recommendation from the Commission. After several rounds of negotiations, the Commission as lead negotiator issues a proposal to the Council to adopt the decision authorizing the signature of the EURA by qualified majority voting.[4] The European Parliament needs to give its assent. In the third country, EURA can be ratified by Parliament, depending on the domestic constitutional arrangements.

EURAS' negotiations take place in a multi-level governance setting both within the EU and with third countries, challenging the traditional state-centric approach to public policy instruments.[5] Originally, readmission agreements at national level date back to the 19th century[6] and have been widely used after the WWII. After the Amsterdam treaty, EU member states delegated this competence at EU level. It aroused a lot of attention in the literature given the turf wars it generated between the European Commission and EU member states.[7] Compromising on a shared competence, the Commission 'has not withdrawn its claimed on exclusivity'.[8] It is regularly in conflict with the Council, which since Lisbon has reasserted its ultimate political role over JHA issues such as visa liberalization.[9]

Negotiations and implementation of EURAS with third countries are also often undermined by EU member states' informal bilateral readmission mechanisms. Those 'non-standard agreements' take the form of memorandum of understanding and letters of exchange with third countries. Allowing for

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therefore perpetuating the chain of readmission. Administrative capacities but also strong legal systems should ensure the safe and humane detention.

4   Articles 79.3TFEU and 218TFEU.

5   H. Kassim and P. Le Galès, 'Exploring Governance in a Multi-Level Polity: A Policy Instruments Approach', 33 *West European Politics* (2010) 1–21.

6   N. Coleman (2009), *European Readmission Policy: Third Country Interests and Refugee Rights*, Leiden: Brill.

7   The broader political finalite of an EURA seems to be what motivated EU member states to enter into an EURA. This is exemplified by an inquiry of the House of Commons asking the British Minister of Interior what was the added value of EURA to UK readmission policy. He replied that EURAS do not have any major impact on improving readmission for EU member states like the UK. Rather, the added value lies in the ability to reach further agreements and comprehensive negotiations on the fight against irregular migration (House of Commons, 2011).

8   Coleman (2009), see note 6, at p. 75.

9   S. Wolff (forthcoming), Integrating in Justice and Home Affairs: swinging between deliberation, politics and operationalization. In: C. Bickerton, D. Hodson and U. Puetter (eds.), *European Politics in the Post Maastricht Period: States, Supranational Actors and the New Intergovernmentalism*. Oxford: Oxford University Press.

flexible and informal readmission, they fall outside parliamentary and/or judicial scrutiny[10] and undermine the credibility of EU readmission policy as well as human rights and international protection guarantees.[11]

EURAS are also incentive-based instruments coupled with migration, border management operational and financial support, visa facilitation/liberalization or mobility partnerships (MP).[12,13] The nature of incentives nonetheless varies depending on EU's geographical and strategic priorities. As of April 2013, out of 15 EURAS in force with third countries,[14] only 7 were coupled with a visa facilitation agreement, mainly in the Western Balkans plus Georgia, Turkey and Ukraine. Until the Arab Spring, visa facilitation was never offered to Southern Mediterranean countries.

If EURA policy drift, inefficiency, security focus as well as fundamental rights deficiencies have been extensively researched, fewer studies have investigated third countries' role. The concept of 'partnership' at the core of the Global Approach to Mobility and Migration (GAMM) has been criticized, especially

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10   J.-P. Cassarino, *Readmission Policy in the European Union. Study requested by the Directorate-General for Internal Policies*. Policy Department C: Citizens' rights and constitutional affairs, Civil liberties, Justice and Home Affairs. Brussels: European Parliament.

11   European Commission (2011), *Communication from the Commission to the European Parliament and the Council. Evaluation of EU Readmission Agreements*. Brussels, 23 February 2011, COM(2011) 76 final, p. 4.

12   EU Mobility Partnerships organizes cooperation with third countries on legal migration, migration and development and the fight against irregular migration, in a comprehensive approach. It takes the form of non-legally binding Joint Declaration, which lists project initiatives. Monitoring is taking place through a 'mobility partnership scoreboard'. According to the European Commission, 'the weight of each element depends on the particular situation and needs of the partner country'. Source: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/international-affairs/global-approach-to-migration/specific-tools/index_en.htm

13   F. Trauner and I. Kruse, 'EC Visa Facilitation and Readmission Agreements: A New Standard EU Foreign Policy Tool?', 10 *European Journal of Migration and Law* (2008) 411–438.

14   Hong Kong, Macao, Sri Lanka, Albania, Russia, Ukraine, Macedonia, Bosnia and Herzegovina, Montenegro, Serbia, Moldova, Pakistan, Georgia, Cabo Verde, Armenia. Mandates were given to the European Commission for China, Algeria and Belarus but the negotiations have not yet been formally launched. Morocco can be considered as having formally launched the negotiations.

towards Southern countries.[15,16] Research on EU-Morocco migration governance stressed the importance of domestic organisational factors,[17] while the AKP's government's adherence to the EURA would be the consequence of European Commission's leadership.[18] The Europeanization literature has also looked at the impact of EURA on third countries' policy, polity and politics. Following its signature, Cabo Verde reformed its drug-trafficking and irregular migration policies.[19] In Albania, institutional and procedural changes enabled to enforce the third country nationals clause.[20]

Building on the above-mentioned work, this article analyses the politics of instrumentation of EURA from a third country perspective, notably at the level of negotiations. Turkey and Morocco account for a most different systems research design as they display important differences in their relationship to the EU and in their political, social and economic systems. Yet they share a similar hard bargainers position and a recent shift in EURA negotiations. Investigating Morocco's and Turkey's resilience to sign an EURA, this article finds that EU incentives had to be revised and fine-tuned over time by linking it to a MP for Morocco and to a visa liberalization dialogue for Turkey. These incentives have nonetheless been constrained by domestic and regional factors. Finally, beyond their 'hard bargainer' discourses, this article finds that Morocco's and Turkey's border management and migration control practices fit the meanings and representation of EU migration governance carried over by EURA as a policy instrument. Document and content analysis

15   S. Lavenex and R. Stucky (2011), Partnering for migration in EU external relations, In: R. Kunz, S. Lavenex and M. Panizzon (eds.), *Multilayered Migration Governance: The Promise of Partnership*. London: Routledge, pp. 116–142.

16   A. Adepoju, F. van Noorloos and A. Zoomers, 'Europe's Migration Agreements with Migrant-Sending Countries in the Global South: A Critical Review', 48 *International Migration* (2010) 42–75.

17   D. Wunderlich, 'The limits of external governance: implementing EU external migration policy', 19 *Journal of European Public Policy* (2012) 1414–1433.

18   A. Bürgin, 'European Commission's agency meets Ankara's agenda: why Turkey is ready for a readmission agreement', 19 *Journal of European Public Policy* (2012) 883–899.

19   European Commission (2008) *Cap Vert-Communauté Européenne. Document de Stratégie Pays et Programme Indicatif National pour la période 2008–2013*, available online at http://ec.europa.eu/development/icenter/repository/scanned_cv_csp10_fr.pdf (accessed 15 April 2013).

20   S. Dedja, 'The Working of EU Conditionality in the Area of Migration Policy. The Case of Readmission of Irregular Migrants to Albania', 26 *East European Politics and Societies* (2012) 115–134.

of EU, Moroccan, Turkish officials declarations and press releases are used to process-trace the negotiations. A number of targeted interviews were also held between April 2013 and July 2013 with EU officials from DG Enlargement, DG JHA, Turkish and Moroccan officials, NGOs, as well as Member States.

2   Explaining the Politics of EURAs: EU Incentives and Third Countries' Preferences

This article researches why third countries negotiate EURA and whether the path of negotiations can lead to changes in the design of the policy instrument. In doing so, it analyses the 'power dynamics and social relations that underlie the selection of instruments' but also what EURA negotiations with hard bargainers' countries can reveal about the way 'instruments change over time and their (intended and unintended) consequences for politics and policy'.[21] This implies exploring the 'wider social and political context in which instruments are adopted and operationalized'[22] by a third country.

I adopt a four-steps approach. First, I analyse EU incentives since 'there is no single third country that is happy to sign an EURA',[23] which are seen as 'EU monologues where little interest exists on the other side'.[24] Negotiating an EURA is costly domestically, especially when readmitting third country nationals. Countries signing an EURA are usually motivated by (i) the perspective of enlargement and (ii) the perspective of visa facilitation/visa liberalization.[25] This is the case for EU's Eastern neighbours and the Western Balkans where EURAS combined to visa facilitation regimes help to 'mitigate the negative side effects of the eastern enlargement'.[26] This was the case for Albania where the prospect of pre-accession was motivated high-level officials to comply with the EURA requirements, in spite of 'high domestic costs'.[27] The 'external incentive model' has theorized the successfulness and credibility of EU incentives, which rely on international, and domestic factors as well as material gains

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21   Kassim and Le Galès (2010), p. 7.

22   Kassim and Le Galès (2010), at 11.

23   Interviewee C.

24   A. Roig and T. Huddleston, 'EC readmission agreements: a re-evaluation of the political impasse', 9 *European Journal of Migration Law* (2007) 363–387, at 374.

25   Roig and Huddleston (2007).

26   Trauner and Kruse (2008), at 411.

27   Dedja (2012), at 131.

and legitimacy issues.[28] I therefore expect that Turkey and Morocco should be inclined to sign an EURA where EU incentives are 'clear, credible and sizeable'. My first hypothesis is:

> *The more the external incentive is clear, credible, sizeable and temporally close the more likely is the signature of an EURA.*

Second, wider domestic political dynamics matter. Signing an EURA domestically depends on the costs it implies for adopting the new rule by the government. Costs can be material but also institutional and societal through veto players. Societal mobilisation, supportive formal institutions as well as administrative capacities can foster or hamper EU conditionality, which will affect differently policy outcomes[29] depending on their preferences.[30] EURA are usually high-level and informal involving Moroccan and Turkey veto players that can range from the heads of state and government, coalition governments, constitutional courts. They are empowered differently, depending on the nature of the regime (nondemocratic, presidential, parliamentary). My second hypothesis is therefore:

> *The higher the number of veto players domestically, the more difficult will be the EURA.*

Third, due to the regional nature of migratory fluxes though (see editorial), it is also necessary to analyse the broader regional power dynamics of EURAs negotiations. The third hypothesis is:

> *The higher the costs for the regional position of the third country, the more difficult will be the EURA.*

Fourth, the domestic appropriateness of EURAs in the third country is relevant. In the sociological tradition, actors engaged in a negotiation can be

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28   U. Sedelmeier, 'Europeanisation in new member and candidate states', 6 *Living Reviews in European Governance* (2011), available online at http://www.livingreviews.org/lreg-2011-1 (accessed 6 September 2013).

29   G. Tsebelis, 'Veto players and Law production in Parliamentary democracies: An empirical analysis', 93 *American Political Science Review* (1999) 591–608.

30   S. Ganghoff, 'Promises and Pitfalls of Veto Player Analysis', 9 *Swiss Political Science Review* (2003) 1–25, at 13.

socialized to EU norms such as the concept of 'circular migration' and the 'control of borders'. EURA negotiations can lead to 'persuasion' and 'socialisation' strategies to politicize or depoliticize EURA as a policy instrument and impact its appropriateness at domestic level.[31] This requires looking at the public debate; the media and the discourse of policy-makers at home in order to understand which norms are seen as appropriate. EURA negotiations can lead to 'intense (discursive) struggles and re-produce meanings, subjects and resistances'.[32] Through politicization it become 'contested amongst a widening circle of political actors'.[33] Inversely de-politicization removes an instrument from this platform of debate and contestation, by putting forward its technical and output-oriented nature.[34] New EU migration policy instruments designed around the concept of 'circular migration', 'partnerships' and 'cooperation' since the mid-2000s helped the Commission to break away from the old coercive style.[35] Yet, EU incentives are at odds with the functional reality of migration fluxes, thereby reflecting highly political choices and power struggles, which contrast with the 'logic of appropriateness' of third countries. In 2012, 86% of the total EU external borders' detections occurred on either the Central Mediterranean route namely from Libya and Tunisia, on the Turkish/ Greek border and the Western Mediterranean route going from Morocco and Algeria to Spain.[36] And yet, up until the Arab Spring no visa facilitation was offered by the EU. This can then affect the 'logic of appropriateness' in the third country. My fourth hypothesis is therefore:

> *The more appropriate is EU external migration policy in the eyes of a third country, the higher are the chances of the EURA to be signed.*

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31   Sedelmeier (2011), at 11.

32   R. Kunz and J. Maisenbacher, 'Beyond conditionality versus cooperation: Power and resistance in the case of EU mobility partnerships and Swiss migration partnerships', 1 *Migration Studies* (2013) 196–220, at 196.

33   L. Hooghe and G. Marks (2006), The neo-functionalists were (almost) right: politicization and European integration, In: C. Crouch and W. Streeck (eds.), *The diversity of democracy. A Tribute to Philippe C. Schmitter*, Cheltenham: Edward Elgar, pp. 205–222.

34   G. Majone (1996) *Regulating Europe*. London: Routledge.

35   Kunz and Maisenbacher (2013), at 197.

36   Frontex (2012), *Annual Risk Analysis*, available online at http://www.frontex.europa.eu/ assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2012_final.pdf, p. 14.

3   EURA Negotiations with Morocco

Between the start of the negotiations with Morocco in 2000 and the political agreement reached in March 2013 on a Mobility Partnership (MP), EURA negotiations were stalled. While the draft text of the EURA was received by Morocco in April 2001, 'informal preparatory meetings, as well as discussion within the EU-Morocco Association Council, was necessary to convince Morocco to comments formal negotiations finally in April 2003'.[37] Between April 2003 and November 2005, eight rounds of unsuccessful formal negotiations took place.[38] In 2004 though, at the occasion of the negotiations on the ENP Action Plan, the Council declared that its key priority included the 'effective management of migration flows, including the signing of a RA with the European Community, and facilitating the movement of persons in accordance with the acquis, particularly by examining the possibilities for relaxing the formalities for certain jointly agreed categories of persons to obtain short-stay visas'.[39] In total, as of 2013, there were 15 rounds of unsuccessful negotiations; the last round taking place on 10 may 2010.[40] A breakthrough happened nonetheless in March 2013 with a political agreement on a MP, which was then signed in June 2013.

3.1   *EU Incentives' Evolution over Time*

Very early on, high-level Moroccan officials were concerned of being the 'Gendarme' on behalf of the EU and still continue to do so.[41] Unlike other Euro-Mediterranean Association Agreements, Morocco does not have a readmission clause. In 2000, a 'permanent dialogue on immigration' was initiated between Morocco and the High-Level Working Group on Asylum and Migration

37   Coleman (2009), at 150.

38   Coleman (2009), at 151; Council of the European Union (2005) *Fifth meeting of the EU-Morocco Association Council*. Brussels, 22 November 2005, 14738/05.

39   Council of the European Union (2004), *Proposal for a Council Decision on the position to be adopted by the European Community and its Member States within the Association Council established by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, with regard to the adoption of a Recommendation on the implementation of the EU/Morocco Action Plan*, 16162/04.

40   A. Belguendouz (2013), *Reflexions sur le projet de partenariat euro-marocain pour la mobilité*. available online at http://nancy.maglor.fr/index.php?option=com_content&view=article&id=1773%3Areflexions-sur-le-projet-de-partenariat-euro-marocain-pour-la-mobilite&catid=139%3Aaccueil&Itemid=83 (accessed 13 April 2013).

41   Interviewee E.

(HLWG).[42] The HLWG, created in 1998, prepared 'cross-pillar Action Plans for the countries of origin and transit of asylum seekers and migrants' including Afghanistan, Somalia, Sri Lanka, Iraq, Albania and Morocco. The Moroccan authorities considered the Action plan towards of 11 October 1999 as 'lack[ing] balance, particularly in its emphasis on the 'security dimension''.[43] Difficulties of implementation, the lack of EU member states' commitment and the lack of measures of 'effective implementation of existing readmission agreement' were raised. Morocco also had the 'impression of imbalance in the Action Plans and the countries at which the plans are directed feel that they are the target of unilateral policy by the Union focusing on repressive action'.[44] In 2002 the EU provided €70 million for the development of Northern Morocco to encourage EURA negotiations,[45] along with several other financial incentives since then.[46] They failed though to facilitate EURA negotiations until 2013.

The Commission realised early on that EURA negotiations would be extremely difficult unless EU member states would be ready to offer credible incentives such as visa facilitation. In the case of Morocco progress did not happen until 'it became a very comprehensive programme and the perspective of visa facilitation was integrated in a "package deal"'.[47] The later was negotiated in parallel to the ENP Action Plan for 2012–2016 negotiations, also known as the Advanced Status Action Plan, which involved negotiations on a Deep and Comprehensive Free Trade Agreement.[48] According to DG Home affairs' officials, EURA negotiations sensibly shifted from the moment the Commission was able to convince EU member states of the value of the MP as a substantial incentive. The Arab Spring played in favour of the Commission in its plea towards EU member states providing a 'momentum to change the approach'. Before 'visa facilitation was absolutely out of question for MS'. [49]

A joint political declaration on a Mobility Partnership (MP) between the EU and Morocco was agreed in June 2013, following a high-level commitment

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42   Council of the European Union (2000), *High-level working group on asylum and migration. Report to the European Council in Nice*, available online at http://www.consilium.europa .eu/uedocs/cms_data/docs/pressdata/en/misc/13993.en0%20ann.doc.html

43   Council of the European Union (2000).

44   Council of the EU (2000).

45   GADEM (2010), *The Human Rights of Sub-Saharan Migrants in Morocco*. Open Society Justice Initiative Report, p. 7.

46   S. Wolff (2012), *The Mediterranean Dimension of EU's Internal Security*. London: Palgrave.

47   Interviewee C.

48   Interviewee C.

49   Interviewee A.

of President Barroso and Commissioner Malmström.[50] It was preceded by a joint document by Lady Ashton and President Barroso on '*A Partnership for Shared Democracy and Prosperity*' and a DG Home-led communication on '*A dialogue for migration, mobility and security with the southern Mediterranean countries*'.[51] Content analysis reveals a shift towards more 'mobility' in the Commission's discourse. The word 'mobility' is used 40 times in the document, amongst which 15 times under the form of 'mobility partnership'. References to 'security' are less prominent (12 times), 'irregular migration' 9 times, 'readmission' 7 times and 'control' only 3 times. Incentives include a financial 'package of capacity building measures, technical assistance on legal migration (i.e., to develop 'active labour market policy programs', avoiding brain drain, diminishing fees for remittances and diaspora investment). In line with the EU concept of circular migration, migrants will come temporarily to Europe and be supported through a series of measures, including 'voluntary return arrangements' to go back to their home country. Security support is also offered through the conclusion of 'working arrangements with Frontex', developing border management capacities, cooperation on the 'EUROSUR project', with the European Asylum Support Office (EASO) and with Europol.[52]

   The June 2013 Joint Declaration on the MP specifies further the partnership around four main objectives: (i) to manage the labour migration more effectively' (ii) to strengthen cooperation on migration and development 'in order to exploit the potential of migration and its positive effects of Morocco and European countries' (iii) combat illegal immigration, human being trafficking and smuggling, to promote an effective readmission policy respectful of fundamental rights and 'ensuring the dignity of the people concerned' and (iv) to comply with international instruments on the protection of refugees. The EURA negotiations should, in this context, be 'resumed'.[53]

   The new MP however does not yet challenge the long-term structuring role that EURA has had on EU-Moroccan migration cooperation.[54] First, this structuring has been exploited by Morocco. The stalling of the negotiations of the

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50   Interviewee F.

51   European Commission (2011), *A dialogue for migration, mobility and security with the southern Mediterranean countries.* Communication COM(2011) 292 final, Brussels, 24 May 2011.

52   Council of the European Union (2013), *Joint declaration establishing a partnership between the Kingdom of Morocco and the European Union and its member states.* Brussels, 3 June 2013, 6139/13.

53   Council of the European Union (2013), at 7.

54   C. Halpern, 'Governing Despite its Instruments? Instrumentation in EU Environmental Policy', 33 *West European Politics* (2010), 39–57, at 45.

EURA has been paralleled by a satisfactory cooperation through bilateral 'non-standards agreements' between EU member states and Morocco. Morocco has concluded readmission agreements, although only for Moroccan nationals, with Germany (1998), France (1993, 2001), Portugal (1999), Italy (1998, 1999) and Spain (1992, 2003).[55] This led to 'unintended consequences', drifting away from the original goal of EURAS.[56] Pursuing negotiations with the EU in parallel helped nonetheless Morocco to gain influence on the EU's agenda by forcing its way in and putting forward more 'comprehensive' migration demands on the table.

Second, structural differences between the Commission and EU member states remain. For the Commission the MP is an opportunity to provide a forum where to discuss visa facilitation issues with Morocco as a credible incentive. For EU member states though the MP constitute a new opportunity to pursue national preferences[57] and to remain in control of cooperation with Morocco. In the Joint Declaration on the MP, it is thus worth noting that out of the 37 new projects listed, 28 tackle irregular migration, 14 legal migration, 7 migration-development issues, and 6 international protection. By opting for issue-linkage with the MP, EU member states keep a firm hand on pilot projects where they take the lead. This also increases their bargaining power vis-à-vis the Commission and Morocco.[58] The MP reveals an inherently political choice behind issue-linkage of policy instruments, displaying power struggles through a technocratic language that occasionally covers it. [59]

This is illustrated by the absence of visa liberalization in the MP. The objective is to establish a visa facilitation agreement for some categories of travellers such as students, researchers and businessmen.[60] The MP is also not a Common Agenda on Migration and Mobility (CAMM), envisaged by the revised 2011 GAMM and that would focus on the notion of 'partnership'.[61] The two main objectives are therefore to ease EU visa policy towards some categories of Moroccan citizens and to sign an EURA. At the time of writing, the

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55   A. Di Bartolomeo, T. Fakhoury and D. Perrin (2009), *CARIM Migration Profile. Morocco*,
      available online at http://www.carim.org/public/migrationprofiles/MP_Morocco_EN.pdf
      (accessed 18 April 2013).

56   Halpern (2010), at 45.

57   N. Renslow, 'Deciding on EU External Migration Policy: The Member States and the
      Mobility Partnerships', 34 *Journal of European Integration* (2012) 223–239.

58   Kunz and Maisenbacher (2013), at 202.

59   I. Bache. 'Partnership as an EU Policy Instrument: A Political History', 33 *West European
      Politic* (2010) 58–74; Kunz and Maisenbacher (2013).

60   Council of the European Union (2013).

61   Belguendouz (2013).

text of the MP is 'far from ideal' for EU member states, [62] who prefer 'to sign the EURA first and that later on we will discuss visa facilitation'.[63] This contrasts with the official position of Menouar Alem, the Moroccan Ambassador to the EU who asked 'why should a country like Morocco, the last stop before 'the European Eldorado', take all the responsibility?'[64] Instead the Ambassador called for visa facilitation, blaming the 'double standard' discourse of the EU [65] and reiterating one of the constant Moroccan demands to facilitate channels of legal migration to the EU.[66]

Linking the EURA negotiations to the MP confirms our first hypothesis according to which EU incentives need to be clear, sizeable and credible. Our analysis reveals two additional dimensions. First, there are politicization dynamics at hand, the Commission having managed to push for visa facilitation while EU member states remain the gatekeepers of the incentive through the choice and design of the MP. Second, power interdependences are reflected in the wording of the June 2013 MP declaration, which is conditioned to the implementation of both 'visa and readmission facilitation agreements'.[67] Morocco managed to link the EURA to a broader agenda with the MP, which deals as much as with borders, than with migration and development.[68] Dynamics of (de) politicization are therefore key in understanding the impact of EU incentives.

3.2   *Domestic and Regional Context: The Politicization of EURA*

Beyond EU incentives, domestic veto players and regional dynamics are also key in driving Morocco's preferences on the EURA negotiations.

First, in spite of Morocco being governed since 2011 by the Justice and Development Party (PJD), an Islamist party, the official line remains that Morocco is not the 'EU Gendarme'. The PJD has been co-opted by the Makhzen and the King remains the main arbitrator. It leads a cumbersome coalition with little power in Parliament: 'it holds only 107 out of 395 seats in the lower elected house of parliament and 11 out of 31 cabinet posts. The upper house, indirectly elected by municipal notables, is still dominated by the King's supporters. The

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62   Interviewee F.

63   Interviewee F.

64   EPC (2012), EU Readmission Agreements: towards a more strategic EU approach that respects human rights? *Policy Dialogue*, 21 March 2012.

65   EPC (2012), at 5.

66   Roig and Huddleston (2007), at 377.

67   Council of the EU (2013), at 11.

68   Interviewee F.

PJD is also constrained by leading a coalition government that includes both ex-communists and pro-royalists.[69] The King ultimate political role, including on the EURA remains, as illustrated by the French Ministry of Interior Manuel Valls' visit in July 2012 to discuss visa facilitation arrangements with France.[70] Even though the PJD won the elections on a Social justice and antipoverty political programme, migration policy towards sub-Saharan migrants is absent, perpetuating past policies of previous governments. The only measure on migration mentioned is measure 156, which aims at combatting discrimination against Moroccans throughout the world, focusing on emigration rather than immigration policy, like in the old days.[71] On the ground, Moroccan readmission is also not so much at odds with the structuring of the EURA. Security cooperation between Morocco and Spain has been reinforced since Benkirane is Prime Minister. A bilateral agreement to facilitate visa procedures for some categories of citizens was signed in 2011.[72] The implementation of EU projects is monopolised by the Moroccan Ministry of Interior reproducing therefore its repressive side.[73] The PJD has therefore little say in a domestic setting where Moroccan migration policy veto players remain high-level and can easily influence EURA negotiations. With respect to H2, what matters is not the number of veto players at the domestic level but rather the nature of the political system.

Secondly, domestic practices of readmission confirm that EURA are not being negotiating in a complete political vacuum, on the contrary. Morocco has put forward the 'technical, legal and ethical difficulties' of the EURA. Technical issues include the length of detention, the proof of the nationality of the irregular migrant as well as the 'technical' issue that most of the irregular migrants come from the Southern border of Morocco, namely Algeria.[74] Beyond this official discourse on domestic costs, there is a gap with the practice

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69   D. Ottaway (2012), *Morocco's Islamists: In Power Without Power' Moroccan News Board*, available online at http://moroccoboard.com/component/content/article/492-news-release/5670-morocco-s-islamists-in-power-without-power (accessed 17 April 2013).

70   Jeune Afrique (2012a) *Manuel Valls a Rabat: la France souhaite faciliter l'obtention de visas pour les Marocains*. Accessed on 17 April 2013 at http://www.jeuneafrique.com/Article/ARTJAWEB20120726171912/france-maroc-immigration-cooperationmanuel-valls-a-rabat-la-france-souhaite-faciliter-l-obtention-de-visas-pour-les-marocains.html.

71   Political Programme (2011), available online at http://fr.slideshare.net/AnasFilali/synthese-pjd-legislative-2011 (accessed 17 April 2013).

72   Jeune Afrique (2012), *Maroc-Espagne, une relation qui s'intensifie*, available online at http://www.jeuneafrique.com/Article/ARTJAWEB20121003173414/ (accessed 17 April 2013).

73   Wunderlich (2012), at 1426.

74   Interviewee E.

of readmission, which is structured by securitization. Irregular migration has been criminalized with law no 02–03 passed unanimously by the Parliament after the 16 May 2003 attacks on Casablanca.[75] Later on, following the events of 2005 in Ceuta and Melilla, Morocco recruited 9000 supplementary agents into the army and adopted a new policy to improve its border control capacities.[76] Return operations of Sub-Saharan migrants are regularly taking place. In 2003 Nigerians were returned from the Oudja airport (416 people), Nador (on 3 November 2003, 207 people), Fes-Saïs (480 people on 20 December 2003), as well as from Tanger and Rabat.[77] Several other instances have been reported by the GADEM.[78] Readmission with EU Member states is also considered as quite advanced, and was successful in the Canary Islands with Spain.[79] The official discourse of 'ethical difficulties' also contrasts with the situation of Sub-Saharan migrants in Morocco, who, according to Doctors without borders are in 'precarious living conditions', 'forced to live in and the widespread institutional and criminal violence that they are exposed to' which influence their 'medical and psychological needs'.[80] In fact, the NGO maintains that 'the period since December 2011 has seen a sharp increase in abuse, degrading treatment and violence against sub-Saharan migrants by Moroccan and Spanish security forces [...]. [There are] shocking levels of sexual violence that migrants are exposed to throughout the migration process and demands better assistance and protection for those affected'.[81]

Rather, interviews reveal that two main regional concerns have driven Morocco's position in negotiating with the EU. First, a key concern is that the EU has been unsuccessful to secure EURAS with Cotonou countries, therefore fearing to become the country of return by proxy for African countries refusing to reaccept their nationals.[82] Interviewees called for the EU to get involved with African countries, but also more specifically with Algeria. According to

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75   Wolff (2012), at 75.

76   M. Lahlou (2007), *Migrations transméditerranéeennes et strategies euro-africaines. Med. 2007. L'année 2006 dans l'espace euroméditerranéen*, Barcelona: IEMED, CIDOB, p. 47; Wolff (2012), at 75.

77   A. Belguendouz, 'Expansion et sous-traitance des logiques d'enfermement de l'Union européenne: l'exemple du Maroc', *Cultures & Conflits* (2010) 155–129.

78   Gadem (2010).

79   Interviewee G.

80   Doctors without Borders (2013), *Violence, Vulnerability and Migration: Trapped at the Gates of Europe. A report on the situation of sub-Saharan migrants in an irregular situation in Morocco*, New York, NY: Doctors without Borders.

81   Doctors without Borders (2013).

82   Coleman (2009), at 151; EPC (2012).

Moroccan officials, 95% of Morocco's readmission with EU countries concerns migrants coming from the Algerian border.[83] At the same time, EU has asked Morocco to revise its 90 days visa-free policy towards Algeria, Tunisia, and Libya as well as towards Mali, Niger, Senegal, Guinea and Ivory Coast.[84]

This evidences the importance of the perception and image of Morocco amongst its regional partners. As Interviewee C puts it 'Morocco wants to be the best student amongst ENP neighbours, but does not want to be the worst student vis-à-vis its African partners either'. Morocco wants to continue to have good relationship with its African partners and avoid any kind of accusation by Algeria, which vetoes its accession to the African Union and with whom relations are poisoned by the Western Saharan conflict. This regional dimension pushed Morocco to influence the EU to adopt a more comprehensive and regional approach in its migration instrument. This regional consultative process, by focusing on intergovernmental operational cooperation and the exchange of best practices is believed to favour trust and cooperation in an area 'characterised by great uncertainty in a high degree of policy interdependence'.[85] The Rabat Process enabled Morocco, confronted to a high degree of uncertainty, to find more networking opportunities and to influence the Global Approach to Migration at the 2005 Hampton Court EU Summit.[86] At the same time, it helped to forge its regional leadership role vis-à-vis African partners in the field of migration management. Morocco displayed a strong preference for information-based and operational support via a Regional Consultative Process, which favours practical cooperation instead of the EURA. Concerns vis-à-vis other regional partners remained constant demands of Moroccan officials.[87] They are reflected in the June 2013 Political Declaration on the MP which specifies that the EURA negotiations should be accompanied by ' the promotion of active and efficient cooperation with all regional partners will be essential in order to support efforts in this area'.[88]

3.3 *Interim Conclusion*

The analysis of EURA-Morocco negotiations confirms our first hypothesis. Since financial incentives were not enough and in the absence of credible

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83   Interviewee E.

84   Belguendouz (2010).

85   J. Kohler (2011), What Government Networks do in the Field of Migration: An Analysis of Selected Regional Consultative Processes. In: R. Kunz et al., p. 70.

86   Wolff (2012).

87   Interviewees E.

88   Council of the EU (2013), p. 6.

EU incentives under the form of visa facilitation/mobility discussions, the EU had to adapt its strategy and decided to link up EURA negotiations to the discussion on a MP. This however only happened after the Arab Spring, member states resisting such issue-linkage until then, through the leadership role of the Commission mainly in coupling EURA negotiations to the MP. Yet, this 'learning' process hides the politics of MP instrumentation whereby EU member states remain the gatekeepers of EU migration policy towards Morocco. Hypotheses 2, 3 and 4 are then interrelated. At domestic level, what matters is not the number of veto players but rather the fact that the ultimate decision-making power lies with the King (hypothesis 2 is disconfirmed). EURAS' appropriateness (hypothesis 4) is linked to the findings on broader regional political dynamics (hypothesis 3). The analysis finds that surprisingly, in spite of an official discourse resisting playing 'the Gendarme on behalf of the EU', there is a gap with the practice of Moroccan readmission with regional partners and its demands for 'ethical' concerns in EURA negotiations. Rather, the role and image of Morocco as a regional migration player play a bigger part in the politics of instrumentation. Hypothesis 3 is therefore confirmed and hypothesis 4 is disconfirmed.

4   EURA Negotiations with Turkey

The opening of accession negotiations in October 2005 was one of the most controversial EU decisions. In spite of the initial opposition of Austria and Cyprus, the EU was confronted to a 'normative entrapment' to consider Turkish application, with no valid reason to oppose it.[89] The European Commission also 'certified that Turkey had made significant progress in complying with the EU's political norms'.[90] Since 2006 though accession negotiations have been blocked due to the Cyprus issue as well as by France on some chapters of accession. In its 2012 progress report on Turkey, the Commission raised its concerns on 'Turkey's lack of substantial progress towards fully meeting the political criteria', on the 'respect for fundamental rights' especially towards the Kurdish minority'.[91] It is in this political context that the first round of

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89   F. Schimmelfennig (2011), EU Membership Negotiations with Turkey: Entrapped Again, In: D. Thomas, *Making of EU Foreign Policy. National Preferences, European Norms and Common Policies*, London: Palgrave, pp. 111–130, at p. 113.

90   Schimmelfennig (2011), at p. 114.

91   European Commission (2012), *Key findings of the 2012 progress report on Turkey*. Reference: MEMO/12/771, 10/10/2012.

EURA negotiations started in May 2005. In June 2012, Turkey agreed to 'initial' the EURA but refused to sign it in the absence of a credible EU commitment on visa liberalization. This took the form of an EU roadmap that was subsequently negotiated in the Council and finalised in November 2012.

4.1   *Visa Liberalization Dialogue: Still Not Credible Enough?*

In 2002, even before the opening of Turkish accession negotiations, the Council mandated the Commission with an EURA negotiating directive. The Commission, and in particular DG Home, 'rallied support internally for the creation of a link [with the readmission agreement negotiations] with the start of accession talks'.[92] Accordingly, before the European Council agreed to the candidate status of Turkey in 2004, the Commission 'repeatedly called upon the Member States to use their bilateral relations and diplomatic contacts to push Turkey for a prompt start of negotiations for a Community readmission agreement'.[93] The first round of EURA negotiations took place between May 2005 and December 2006, but was put on hold until 2009.[94] Turkish partners started to ask for equal treatment with the Western Balkans that had just been given visa liberalization. Interview H confirmed that surprisingly before that Turkey had not requested visa liberalization and focused until 2007 on financial demands for border management.[95] Turkey then aligned with biometric passports requirements and put in place an Integrated Border Management strategy.[96]

However, instead of opening a visa liberalization dialogue, EU ministers of interior committed to a very loose 'dialogue on visa, mobility and migration' during the JHA Council of 24 and 25 February 2011, which was 'the diplomatic equivalent of a slap in the face'.[97] DG Home and DG Enlargement pushed MS to commit and to link the EURA to visa liberalization, the two Directorate-Generals working hand in hand.[98] After 2009, the negotiations made some progress on 19 articles but some conflicts occurred on five articles. One of the key concerns for Turkey was to secure some funding from the EU to support

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92   Coleman (2009), at 181.

93   Coleman (2009), at 181.

94   See detailed timeline of the negotiations in the European Commission Directive, available online at http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52012PC0239:EN:HTML.

95   Interviewee H.

96   Interviewees A and H.

97   A. Stiglmayer, 'Visa-Free Travel for Turkey: in Everybody's Interest', 11 *Turkish Policy Quartely* (2012) 99–109.

98   Interviewees A and B.

resettlement policies from the European Refugee Fund.[99] Also it feared that in the absence of a strong EURA, there would be an increase in the log of complains to the European Court of Human Rights in Strasbourg.[100]

Accordingly, 'three further formal negotiation rounds took place on 19 February (Ankara), 19 March (Ankara) and 17 May 2010 (Brussels). An additional meeting between the Chief negotiators was held on 14 January 2011 in Ankara. Those meetings brought the negotiations to the end at the level of Chief Negotiators'.[101] The re-launching of the negotiations in January 2011 took place under the European Commission leadership that managed to overcome resistance from Germany and France to open up a visa liberalization dialogue.[102] Endorsing a cost-benefit approach, Burgin argues that 'the political gain of the Commissions' offer to consider visa exemption for Turks outweighed the financial and social costs of readmitting irregular immigrants and the lack of credible EU membership perspective'.[103]

In June 2012, visa liberalization talks started as part of a broad political re-launch of the negotiations for EU accession. The conditions in which the Roadmap was offered to Turkey highlight nonetheless the contradictions and the lack of credibility of this incentive. According to interviews, 'Turkey's position was that we would initial the EURA only when the mandate in the Council on VL would be secured'.[104] Following the reverse logic, EU member states wanted first Turkey to sign the EURA and then to provide Turkey with a roadmap. A visa liberalization roadmap is technically a European Commission document. Member states are only officially consulted. Yet, the consultation became more of a political negotiation in the Council and took longer than usual, lasting until November 2012.[105] Transmitted to Turkey, the roadmap is at the time of writing under consideration by Ankara. This created a 'real problem

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99   http://migrantsatsea.wordpress.com/2010/06/01/eu-turkey-readmission-agreement-negotiations-continuing/.

100   Turkey has indeed a series of cases in front of the European Court of Human Right in Strasbourg. One of the most symbolic cases is the *2009 Abdolkhani and Karimnia v. Turkey* (Application no. 30471/08) that condemned Turkey for breaching the European Human Rights Convention (EHRC) for willing to return two Iranian refugees (who had been granted this status by UNHCR during their stay in Iraq) back to Iran, contravening therefore to *the principle of non-refoulement.*

101   European Commission (2012).

102   A. Burgin, 'European Commission's agency meets Ankara's agenda: why Turkey is ready for a readmission agreement', 19 *Journal of European Public Policy* (2012) 883–899, at 884.

103   Burgin (2012), at 884.

104   Interviewee H.

105   Interviewee B.

of trust (though not with the Commission)',[106] with a concern that visa liberalisation would never happen. Prior experience from the Balkans has shown that once the roadmap negotiations started, 'it is highly likely that it will be completed'.[107] This was the case with five Western Balkans that opened negotiations with a roadmap in 2000, leading to visa liberalization three years later.[108] Yet, it seems that Turkey feels different from other candidate countries, rightly so for having been discriminated in the past.

The roadmap specifies that 'progress in the visa liberalization process should be founded on the performance based approach and conditioned on effective and consistent implementation by Turkey of those requirements vis-à-vis the EU and its Member States'.[109] The main elements include mobility of bona fide travellers; improving border management especially on the Greek-Turkish and Bulgarian-Turkish borders and with Frontex and Europol; improving migration management through cooperation with EU immigration liaison officers, information on countries of origin concerning illegal migration, promoting joint return flights and raising awareness about the risk of illegal migration in public information campaign; the provision of assistance and protection to asylum-seekers; the fight against terrorism and the fight against Transnational organised-crime. The Roadmap identifies several legislative and administrative reforms that Turkey needs to embark upon in order to 'establishing a secure environment for visa free travel'. These areas include document security, migration and border management, public order and security, as well as fundamental rights.[110]

Like for the Kosovo roadmap, the concept of 'reinforced consultation' indicates a stronger involvement of the Council in the process.[111] This confirms the high-level political nature of the roadmap. The Commission needs to take 'into utmost consideration the political discussions in the Council'.[112] Like Kosovo,

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106   Interview H.

107   G. Knaus (2013), Turkey, EU to develop more trust through plans for visa-free regime. *Todays Zaman*, 27 January 2013, available online at http://www.todayszaman.com/news-305251-.html. (accessed 10 April 2013).

108   Knaus (2013).

109   Council of the EU (2012), at p. 5.

110   Council of the EU (2012), at p. 13.

111   ESI (2012), *Moving the goalposts? Comparative analysis of the visa liberalisation roadmaps for Kosovo and other Western Balkan countries*, 6 July 2012, p. 3, available online at http://www.esiweb.org/pdf/Moving%20goalposts%20-%20A%20critical%20look%20at%20the%20Kosovo%20visa%20roadmap%20%286%20July%202012%29.pdf (accessed 10 April 2013).

112   Council of the EU (2012), at p. 5.

but unlike the Western Balkan countries, it is also expected that progress will be benchmarked against performance indicators, which include 'Commission's assessments of the expected migratory and security impacts of the liberalisation of the visa regime with Turkey'.[113]

EU member states' different views on Turkish accession have also weakened the credibility of the EU's incentive. In 2012, during discussions in the Working Party for Enlargement and Countries Negotiating Accession to the EU, France 'maintain[ed] a reserve' and argued that 'preventing illegal immigration from third countries through Turkey would require an alignment of Turkish policy with the EU visa policy regarding these countries'. This was opposed by 'a number of other delegations' that thought it could only be asked at the moment of the visa liberalization.[114] Divergent EU Member States positions contribute to perpetuate distrust in the negotiations.

The lack of clarity, especially from EU Member States, has weakened the power of the visa liberalization dialogue, in the form of a roadmap, as a credible EU incentive. Turkey is now hesitant in signing the EURA before getting satisfaction on the EURA. Hypothesis 1 is therefore confirmed but needs to be analysed in conjunction with domestic and regional factors.

4.2 *Domestic and Regional Political Dynamics*

If Turkish migrant legislation can be defined as 'conservative', its visa policy towards Middle East and Caucasus neighbours is rather liberal. In 2009, visa requirements were abolished mutually with Syria, Albania, Libya, Jordan, Tajikistan, Azerbaijan, Lebanon and Saudi Arabia, leading to the 'construction of a new Schengen area in the Middle East'.[115] It is also in line with the Turkish 'zero problem' foreign policy adopted by Erdogan to re-establish Turkish regional leadership. EU requirements in the roadmap are putting at risk this liberal model while requiring Turkey to embrace Schengen, a model that it has been criticizing for discriminating against Turkish citizens. Turkey has also agreed in 2009 to visa-free travel with Russia and Iran, enabling for the latter 'large numbers of regime opponents to flee the country and enjoy temporary protection in Turkey before settling elsewhere in the West'.[116] Reforming

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113   Council of the EU (2012), at p. 28.

114   Council of the EU (2012), at p. 2.

115   S.P. Elitok and T. Straubhaar, 'Turkey as a Migration Hub in the Middle East', 13 *Insight Turkey* (2011) 107–128, at 125.

116   A. Evin, K. Kirişci, R.H. Linden, T. Straubhaar, N. Tocci, J. Tolay and J.W. Walker (2010), *Getting to Zero. Turkey, its Neighbors and the West*. Washington, DC: Transatlantic Academy, p. 30.

Turkish visa policy would be an economic challenge but could also undermine its regional position, which would suffer from EU requirements on visa, and 'would not be good for business'.[117]

Turkey, fearing to have to readmit non-Turkish nationals, has adopted a 'delaying tactic' vis-à-vis the EU by securing readmission obligations from other countries before agreeing on an EURA.[118] This regional readmission policy is viewed as 'a solution to this problem while distributing the responsibility for transit migration over the region, and creating a scope for return and readmission to countries of origin'.[119] Hence the liberal visa-free policy is matched by the same conditionality than the EU is applying to Turkey through the EURA. Turkey has signed formal readmission agreements with Greece (2002), Syria (2003), Romania (2004) Kyrgyzstan (2004), Ukraine (2005), Russia (2011) and negotiations have been completed with Pakistan (2011). Discussions are on-going with Azerbaijan, Bangladesh, Belarus, Bosnia and Herzegovina, FYROM, Georgia, Lebanon, Libya, Moldova, and Uzbekistan.[120]

A Council document analysing the bilateral practice of readmission with Turkey concludes that in spite of the absence for 'nearly all' EU member states of any bilateral readmission agreement with Turkey, paradoxically 'nearly all responding delegations are however able to carry out returns to Turkey' for Turkish nationals only. Only Romania, Greece and the UK have readmission arrangements with Turkey. In 2010, Greece returned almost 100 000 Turkish nationals, followed by 9035 returned by Germany and only 2500 by The Netherlands. Regarding the return of non-Turkish nationals, the UK is the only country to admit this possibility while for instance 'Norway added that transits of third country nationals in Turkey are not allowed even if the returnees are escorted by police'.

The Turkish Ministries of Foreign Affairs and EU Affairs have been coordinating EURA negotiations. The Ministry of Interior was involved only from an expert perspective, accordingly because there is less trust of the AKP into the Ministry of Interior.[121] Opinions towards what should be done diverge within the Turkish government. Some officials consider that reforms such as the one on asylum law are in fact useful to advance Turkish legislation and to comply with international normative requirements. While the political system is also

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117   Interviewee H.

118   Coleman (2009), at 180.

119   Coleman (2009), at 179.

120   House of Commons (2011), EU Readmission Agreements. European Scrutiny Committee – Twenty-Sixth Report Documents considered by the Committee on 27 April 2011.

121   Interviewee G.

highly centralized with the final authority in signing the EURA residing in the Prime Ministers' decision, interviews revealed that there is a greater diversity of views. This has to do more generally with the diversity of views regarding Turkish accession to the EU.

Turkish migration and asylum stakeholders usually put forward 3 main critical arguments:[122] (i) the costs of change, (ii) the unfairness towards Turkey, and this is often the case with the discourse on 'equal treatment' and (iii) the faultiness of certain EU migration policy, and some 'hypocrisy' on the Schengen visa policy. Distrust is also an official argument, the Turkish ambassador asking whether Turkey can really trust the Council in granting a visa-free regime to the EU. Yet other research shows that Turkish NGOs and elite levels frequently refer to European norms of fundamental rights and freedoms to support asylum and migration reforms in Turkey.[123] High-ranking officials and bureaucrats 'tend to appreciate the fact that, in the EU, there is an existing official framework, a clear and intentional immigration policy and allocated means that allows for a more comprehensive and consistent state policy towards migration'.[124]

Therefore, it is possible to identify in practice a phenomenon of 'Europeanization' of Turkish JHA domestic legislation. On border management, if initially, Turkey said it found it too costly to agree to an EURA and to reaccept also non-Turkish national, it has been cooperating intensively with Frontex to reduce those numbers. The Greek-Turkish border is one of the main points of entry for irregular migrant, one of the main 'hot spots of irregular migration' especially on the Evros river. Turkish borders need to be policed over around 3000 km of land border and 6500 km of sea borders together with migration source countries such as Syria, Iraq, Iran, notwithstanding Kurdistan.[125] Several security actors police the border. If the General Directorate of Security is in charge of border control of people, the Gendarmerie is in charge of the Iran and Iraq borders, the Land Forces of the rest of the land borders and the Coast Guards of sea borders.[126]

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122   J. Tolay (2012), Turkey's 'Critical Europeanization': Evidence from Turkey's Immigration Policies, In: S. Paçacı Elitok and T. Straubhaar, *Turkey, Migration and the EU: Potentials, Challenges and Opportunities.* Hamburg: Hamburg University Press, p. 54.

123   Tolay (2012), at p. 50.

124   Tolay (2012), at p. 51.

125   T. Ertuna Lagrand, *Immigration law and policy. The EU acquis and impact on the Turkish legal order.* Nijmegen: Wolf Legal Publishers, p. 180.

126   Ertuna Lagrand (2010).

The detections at the border crossing between Greece and Turkey have declined significantly since 2010.[127] Frontex conducted several operations on the Turkish/Greek border including the Poseidon Joint Operation at the sea border but also land operations to identify irregular border crossings. Several cases revealed that migrants are also using lorry transports to enter the EU, for instance from Turkey to Slovakia or to Bulgaria and Romania.[128] The Eastern migratory route is also used for smuggling of cigarettes and for all sorts of organized-crime activities such human being trafficking and smuggling of Middle East migrants into Europe[129] and the smuggling of Iraqi and Kurdish migrants.[130]

Political difficulties between Greece and Turkey have traditionally hampered an effective readmission policy between the two countries. Recently though the readmission agreement signed between Greece and Turkey in 2001 was implemented in 2010.[131] This relatively good working cooperation at the operational level, combined to a Syrian refugee crisis and changing migratory fluxes highlights a gap between Turkish official position of 'hard bargainer' and the practice.

Finally, changes in Turkish migration and asylum law, requested in the roadmap, are not only linked to the EU incentive of visa liberalization but also to fluctuating regional migratory routes. For a long time Turkey cooperation with European countries was driven by the presence of important diasporas in Germany and the conclusion of guest workers programmes in the 60s on labour migration with Austria, Belgium, The Netherlands, France, as well as Sweden[132] which were framed in an 'emigration' narrative. In the 1970s, some Turkish refugees came to Europe to flee the military regime. Nowadays, in Turkey, the Kurdish minority mainly lodges asylum applications.[133] With

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127   Frontex (2012), *Annual Risk Analysis*, available online at http://www.frontex.europa.eu/assets/Publications/Risk_Analysis/Annual_Risk_Analysis_2012_final.pdf, p. 18.

128   Frontex (2012).

129   Europol (2013), *Successful action against people smuggling and irregular migrants*, available online at https://www.europol.europa.eu/content/successful-action-against-people-smuggling-illegal-immigration.

130   Europol (2012), *Iraqi people smuggling network dismantled*, available online at https://www.europol.europa.eu/node/1894.

131   T. Strik (2013), *Migration and asylum: mounting tensions in the Eastern Mediterranean Committee on Migration, Refugees and Displaced Persons*. Report to the Parliamentary Assembly of the Council of Europe, No 13106, 23 January 2013.

132   K. Kirişçi, 'Turkey: A Country of Transition from Emigration to Immigration', 12 *Mediterranean Politics* (2007) 91–97.

133   Kirişçi (2007), at 96.

the war in Afghanistan, Turkey has become a key transit country for Afghan migrants, but also from Iraq, Iran or Pakistan. The current Syrian crisis is certainly impacting Turkish's strategy vis-à-vis the EU. Since the beginning of the Syrian crisis, around 150 000 refugees have found shelter in Turkey, while 70,000 Syrians are estimated to be leaving in urban area. UNHCR estimates that in 2013 there will be a need for around 500 000 refugees from Syria in Turkey.[134]

4.3   *Interim Conclusion*

At the time of writing hypothesis 1 is confirmed since the EURA has not yet been signed, Turkish officials distrusting EU Member States to ever grant Turkey a visa-free regime. Like in the case of Morocco hypotheses 2, 3 and 4 are interrelated. If the number of domestic veto players (hypothesis 2) is not relevant, regional costs and perception of Turkey by regional partners matter (hypothesis 3). Finally, the official position of 'hard bargainer' in EURA is challenged by the discourse-practice gap identified and migration practices which tend to invalidate the inappropriateness of EU demands' thesis (hypothesis 4 is disconfirmed).

5   Conclusions

The study of Morocco and Turkey in EURA negotiations reveals that beyond EU incentives, broader domestic and regional political dynamics are key to the study of the politics of EU migration instrumentation. There is also a need to differentiate between an official discourse of 'hard bargainers' and the practice of readmission, which reveals that EURA negotiations have structured Morocco's and Turkey's migration cooperation with the EU. Our most dissimilar system research design evidences that beyond the relevance of EU incentives, the differential empowerment of domestic veto players combined to regional factors explain what drives third countries' preferences and negotiations strategy on the EURA. The appropriateness of EU policies in the eyes of third countries is however tactically played out in official discourse, but does not hold as a strong factor in practice.

Linking back to the debate on EU migration policy instruments, this article corroborates that EURAs are not functional instruments set in stone, which

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134   UNHCR (2013), *2013 UNHCR country operations profile – Turkey*, available online at http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e48e0fa7f&submit=GO; UNHCR (2013), *2013 UNHCR regional operations profile – North Africa*, available online at http://www.unhcr.org/pages/49e45ac86.html (accessed 13 April 2013).

respond to EU's migration policy rational needs. Rather, further research might look into how EU migration instruments are being structured by a complex process of politicization and (de)politicization dynamics, involving not only EU actors but also third countries. Politicization dynamics include EU turf wars between the Commission and EU member states. Reluctance from EU governments to lift up visa requirements for Turkish citizens is driven by electoral concerns and a fear that asylum-seekers application would increase.[135] Yet, with the Western Balkans the EU was able to suspend visa-free regime. In April 2013, the European Parliament has indeed given its approval to provisionally suspend visa-free regime for countries like Serbia and Macedonia that are thought to abuse the asylum application system in Germany, the Netherlands, France, Luxembourg and Belgium.[136] As explained by Sander Luijsterburg, from the Dutch Permanent Representation, 'readmission and return policy' are key to 'help to win public support for other parts of migration policy'.[137] The Commission strategy to de-politicize EURA negotiations by coupling it to a more comprehensive and innovative approach such as the MP in the case of Morocco cannot hide political turf wars over the implementation of the projects by EU member states who remain in control of migration cooperation with Morocco.

At domestic level, EURA negotiations have been the object of high-level politicization by Moroccan and Turkish officials who have refused to police EU's borders. A close analysis of domestic readmission and migration practices nonetheless highlights an important discrepancy with this politicization. As if, on the ground, EU demands were the object of a de-politicization responding to the reality of migration fluxes. This politicization of EURAS has also been motivated by the meanings and perception it carries for the regional position of Morocco and Turkey.

More generally, beyond the case of Turkey and Morocco, this analysis calls for a reflection on EU migration policy instruments over time as complex political and cognitive processes. As social and political institutions, they structure power relations both within the EU and in relation to third countries. They do not always respond to the original intended effect and can escape the objectives assigned to them. This is specifically reflected in most of our interviews, which revealed an emerging debate on the very relevance of EURA as migration policy instruments. While Commission officials raised the validity of third

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135   Stiglmayer (2012), p. 104.

136   Agence Europe (2013) JHA: MEPs say yes to provisional suspension of visa-free regimes for Balkans. *Bulletin Quotidien Europe*, 10823 10/4/2013.

137   EPC (2013).

country clauses, member states officials' views included withdrawing some of the EURA mandates given to the European Commission.

Acknowledgements

Appendix A: Interview Coding

A   confidential interview, DG Home official, 22 April 2013, Brussels
B   confidential interview, DG Enlargement official, 22 April 2013, Brussels
C   confidential interview, EEAS official, 23 April 2013, Brussels
D   confidential interview, NGO expert, 22 April 2013, Brussels
E   confidential interview, Moroccan officials, 19 July 2013, Brussels
F   confidential interview, Permanent Representation, 23 April, Brussels
G   confidential interview, European Commission official, 23 April, Brussels
H   interview with Selim Yenel, Turkish Ambassador to the EU, 22 April, Brussels