



UNRISD

United Nations Research Institute for Social Development



UNITED NATIONS
UNIVERSITY
CRIS

Comparative Regional Integration Studies



ARNOLD
BERGSTRAESSER
INSTITUTE

Multilayered Migration Governance: The Partnership Approach in the EU and Beyond

Sandra Lavenex, University of Lucerne

Marion Panizzon, University of Bern

Draft paper prepared for the UNRISD Conference
Regional Governance of Migration and Socio-Political Rights:
Institutions, Actors and Processes
14-15 January 2013, Geneva, Switzerland



The United Nations Research Institute for Social Development (UNRISD) is an autonomous research institute within the UN system that undertakes multidisciplinary research and policy analysis on the social dimensions of contemporary development issues. Through our work we aim to ensure that social equity, inclusion and justice are central to development thinking, policy and practice.

UNRISD, Palais des Nations
1211 Geneva 10, Switzerland

Tel: +41 (0)22 9173020
Fax: +41 (0)22 9170650
info@unrisd.org
www.unrisd.org



The conference organisers would like to acknowledge the financial support received by the Fritz Thyssen Stiftung.

Copyright © United Nations Research Institute for Social Development

This is not a formal UNRISD publication. The responsibility for opinions expressed in signed studies rests solely with their author(s), and availability on the UNRISD Web site (www.unrisd.org) does not constitute an endorsement by UNRISD of the opinions expressed in them. No publication or distribution of these papers is permitted without the prior authorization of the author(s), except for personal use.

Abstract

The notion of “partnership” has come to replace the traditional focus on unilateral measures and limited bilateral agreements in the migration governance discourse. Migration or mobility partnerships are now introduced in bilateral relations between destination and sending countries of migrants, between the EU and third countries, and in Regional Consultation Processes. This paper scrutinizes the implications of the “partnership turn” in international migration governance and analyses these informal governance arrangements in three respects: a) their contribution to the broader framework of international migration governance b) the understanding of international cooperation conveyed through the notion of “partnership” and c) their relevance in terms of regulating states’ approach to population flows.

Introduction

International migration is not a stronghold of global governance. In the absence of a coherent international regime setting out the principles, norms and rules regulating the cross-border flow of persons, this policy field is usually depicted as an exception to the general trend towards international institutionalization and rule-making. The reasons for this exceptionalism relate to the sensitivity of the issue for state sovereignty and the deep clash of interests between the countries deemed to cooperate, i.e. the countries of origin, transit and destination. Yet, focussing one-dimensionally on the weakness of the formal multilateralism for international migration cooperation alone, overlooks the development of an intensifying web of regional and trans-regional cooperation arrangements and particularly dynamic patterns of bilateral cooperation. A particularity of this multilayered system is the proliferation of informal, process-oriented, experimental forms of transgovernmental governance, promoted by countries of destination in their relations with countries of origin and transit. Often called migration “partnerships”, these new venues of cooperation have been heralded as panacea for the crafting of win-win-win solutions, benefiting all parties, i.e. the countries of origin, transit and destination and the migrants alike. In Europe, the need to formulate a response to the Arab Revolutions has added new urgency to the search for new solutions in migration governance, and the EU institutions have been quick to propagate the conclusion of Mobility Partnerships as the favoured approach. It has oftentimes been difficult to see the added value of regional approaches and what the interrelationship between these two layers of governance might be. We query to what extent the bilateral agreements on migration partnerships concluded by EU Member States influence EU mobility partnerships and Regional Consultative Processes and whether the regional level of governance would exist without the bilateral norms.

In our paper we discuss three kinds of partnerships: bilateral migration partnerships concluded between individual countries of destination for migrants and sending countries; the EU mobility partnerships concluded with third countries; and the wider use of the partnership notion in EU external migration relations and Regional Consultative Processes. We analyze these informal governance arrangements in three respects: a) their contribution to the broader framework of international migration governance b) the understanding of international cooperation conveyed through the notion of “partnership” and c) their relevance in terms of regulating states’ approach to population flows.

The “partnership-turn” in international migration governance

Traditionally, international relations scholars have interpreted the absence of meaningful cooperation on international migration as an exception to the general trend towards international institutionalization and rule-making after World War II. The reasons for this exceptionalism are seen to lie in the sensitivity of the issue for state sovereignty and the deep clash of interests between the countries deemed to cooperate, i.e. the countries of origin, transit and destination (e.g. Bhagwati 2003; Ghosh 2000; Hollifield 1998; Trachtman 2009). Yet, the sole focus on the weakness of classical forms of formal multilateralism in international migration cooperation is rather short-sighted. In recent years, a few authors have started to argue that the absence of an international migration regime does not mean that international migration is free of governance. In contrast, a multitude of institutions and norms have proliferated over the last 50 years that regulate international migration, albeit in a highly fragmented, partial and often inchoate manner. Legal scholars have mapped the multitude of international norms applicable to migrants and have coined the metaphor of a

‘substance without architecture’ (Aleinikoff 2003). From an International Relations perspective, Alexander Betts (2011a and 2011b) has postulated the emergence of a system of ‘global migration governance’ including thin multilateralism, embedded norms in other sectoral regimes, and intensifying trans-regional cooperation. In our project, we have adopted a multilevel perspective on the established and emerging structures of international cooperation in the field and have coined the notion of a system of ‘multilayered migration governance’ (Kunz, Lavenex, Panizzon 2011). Accordingly, a fragmented set of multilateral rules is complemented by an intensifying web of regional and trans-regional cooperation arrangements and particularly dynamic patterns of bilateral cooperation (see also Lahav and Lavenex 2012). A particularity of this multilayered system is the proliferation of informal, process-oriented, experimental forms of transgovernmental governance, promoted by countries of destination in their relations with countries of origin and transit. Often called migration “partnerships”, these new venues of cooperation have been heralded as panacea for the crafting of win-win-win solutions, benefiting all parties, i.e. the countries of origin, transit and destination and the migrants alike. In Europe, the need to formulate a response to the Arab Revolutions has added new urgency to the search for new solutions in migration governance, and the EU institutions have been quick to propagate the conclusion of Mobility Partnerships as the favoured solution (European Commission 2011: 11).

The “partnership approach” reflects a broader development in international relations and has travelled across fields of cooperation. This approach combines a discursive component with an institutional one relating to the creation of supposedly horizontal and inclusive settings of dialogue and cooperation. One field where the partnership approach has seen a particularly wide reception is development cooperation. Here, the partnership concept describes new forms of North–South and aid relations (Abrahamsen 2004; Fowler 2002; Maxwell and Riddell 1998; Ruckert 2006). While the use of the partnership notion in the field of development can be traced back as far as 1969, when the Pearson Commission on Aid and Development called for ‘a new partnership based on an informal understanding expressing the reciprocal rights and obligations of donors and recipients’ (Commission on Aid and Development 1969: 127), it was only in the mid-ninety-nineties that the term became more prominently used, such as in the Organisation for Economic Co-operation and Development (OECD) report *Shaping the 21st Century: The Contribution of Development Co-Operation* (May 1996) or the UK Department for International Development (DfID) White Paper *Eliminating World Poverty: A Challenge for the 21st Century* (1997). The European Union has been particularly enthusiastic in embracing this partnership turn and uses this notion extensively in its external relations, be it in its Partnership and Association Agreements with Eastern European Countries, the Euro-Mediterranean Partnership to the South, its Strategic Partnerships with emerging economies, in more targeted sectoral policies, such as the Africa-EU energy partnership or, as analysed below, the Mobility Partnerships.

Generally speaking, the notion of partnership has positive connotations and is associated with a desirable and voluntary form of cooperation among equals, pursuing common goals based on mutual respect (Laakso 2007: 118). Thus, in the field of development, partnerships are often portrayed as a positive shift towards a more cooperative approach that contributes to return power to developing countries and to increase Southern ownership and participation (Abrahamsen 2004: 1455). Yet, critical scholars have depicted a differentiated picture of the partnership discourse in international development cooperation and advocated different perspectives. According to one critical perspective, development partnerships are mere rhetoric or ideology, a myth that serves to disguise ‘continued domination of the South by the North’, without transforming North-South relations (ibid: 1456). Thus, Harrison (2002: 587)

warns that such partnerships might not only conceal but also reproduce and legitimize this continued domination.

In the field of migration, the concept of partnership is more recent: it represents the latest turn in the search for new migration policy solutions and has emerged as a panacea for the cooperative governance of international migration between countries of origin, transit and destination. The Berne Initiative, launched in 2001 was the first consultative process addressing inter-state cooperation in the field of migration at the global level and substantiated the concept of partnership in its International Agenda for Migration Management (IAMM):

Migration management is an area for partnerships between interested stakeholders and for consideration of responsibility sharing between States involved in or affected by particular migratory movements. Continued exploration is required to identify additional ways by which governments, international organizations, non-governmental organizations and other private sector and civil society organizations can work together to develop greater confidence and effective and joint management tools, technical cooperation, cost and other responsibility sharing. (Federal Office for Migration 2004: 13)

The notion of partnership has been emulated by other international forums such as the Global Commission on International Migration (GCIM), the UN High-Level Dialogue on International Migration and Development, the International Organization for Migration (IOM), the Global Migration Group, and the Global Forum on Migration and Development. The GCIM Final Report also emphasises the need for cooperation and shared responsibility: ‘The very nature of transnational migration demands international cooperation and shared responsibility’ (GCIM 2005: 66). In his address to the UN High-Level Dialogue on International Migration and Development, the Secretary-General reiterated the partnership concept: ‘Governments are now beginning to see international migration through the prism of opportunity, rather than of fear. You are focused on magnifying the positive, mutually beneficial aspects of migration: on sharing your experiences, developing practical ideas, building partnerships.’¹

In short, the “partnership discourse” embodies the belief that migration can be addressed in a spirit of cooperation between all affected countries through win-win (including countries of origin and destination) or win-win-win (also including migrants) approaches; and the belief that such ‘mutual benefits’ can be achieved on the basis of a shared responsibility for migration management, based on trust, dialogue, capacity building and technical cooperation. This discourse represents a shift from earlier forms of framing international migration governance. Through its emphasis on common interests and shared responsibility, migration management (including immigration, transit migration and emigration) now is perceived as a task for countries of origin, which was not the case before. Thereby, countries of origin and transit are responsabilised to this task. The emphasis on effective management, capacity building and private-public cooperation has opened up the possibility for the involvement of a number of international actors in international migration governance, such as the International Organization for Migration (IOM), and technical migration and border management experts, most prominently the EU’s agency for cooperation at the external border FRONTEX.

¹ See: <http://www.un.org/migration/sg-speech.html>

The IAMM delineates in some detail also the more institutional parameters of partnerships in migration that are reminiscent of horizontal modes of networked coordination. Among the IAMM's Effective Practices for a Planned, Balanced, and Comprehensive Approach to Management of Migration figures a chapter on 'international cooperation', which contains a distinct entry entitled 'Partnerships in Managing Migration'. In terms of the legal format for such partnerships, the IAMM suggests that 'transparent and focused dialogue' and 'information exchange among States sharing an interest in particular migratory patterns' should only be a first step, eventually 'leading to possible responsibility sharing arrangements' (IAMM 2004). The international discourse generally adopts an inclusive definition of partnerships, which shall not be limited to those between states, but should include 'various stakeholders from governments to inter-governmental and non-governmental organizations, the private sector, members of civil society, including migrants themselves, and the media in contributing to more effective management of migration, on their own and through enhanced concerted, collaborative and complementary efforts' (IAMM 2004: 13).

The partnership approach therefore promotes an open structure of dialogue and iterated horizontal interaction. This is reminiscent of the 'experimentalist' or networked mode of governance, which has proliferated across levels and spheres of policy-making over the last decades (Héritier and Rhodes 2010; Sabel and Zeitlin 2010; Slaughter 2004). These modes of governance are characterised by their high degree of informality, their focus on voluntary agreement, their allegedly horizontal structure of interaction between equally empowered partners, their inclusivity towards various public and private stakeholders organized at different levels of policy-making, and their relatively open, process-oriented set-up. By adopting this governance approach, migration partnerships promise to be egalitarian platforms for legally non-binding, voluntary exchange between government officials and stakeholders, with a view of promoting policy approximation as well as developing joint policy instruments in a process-oriented manner.

Partnership in Regional Consultative Processes

A particular institutional vehicle incorporating the partnership approach at the international level are the Regional Consultation Processes (RCPs), usually coordinated by the IOM, which is mainly financed by western countries and the EU. Encouraged by the Cairo Conference in 1994, RCPs on migration proliferated during 1990s (Betts 2011c; Köhler 2011; Thouez and Channac 2006). RCPs are constituted as transgovernmental networks of migration officials within a certain region, sometimes taking hybrid forms and including a political level of ministerial meetings. They are process-oriented tools to foster dialogue and information exchange on migration issues among interdependent countries. The model for these RCPs is conventionally deemed to be the Intergovernmental Consultations on Migration, Asylum and Refugees (IGC) that were created in the 1980s among "like-minded" states in Europe, North America and Australia to exchange information and best practices in dealing with migration issues. In contrast to this early model, which gathered a rather homogeneous group of states, more recent RCPs mix source, transit and receiving countries. Therefore they face fundamentally different starting conditions for generating cooperation than the IGC in which joint measures could emerge more or less spontaneously on the basis of converging problem constellations and policy preferences. Analyses of recent RCPs, such as the Budapest Group and the Söderköping Process in Eastern Europe or the Migration Dialogues for Southern and Western Africa (MIDSA, MIDWA), conclude that they represent an 'instrument of policy transfer through the one-sided exchange of "best practices", equipment and "training"' (Lavenex 2008: 951) or, in the words of Alexander Betts, an exercise of "extra-territorial authority" (Betts 2011c: 41).

This notwithstanding, international actors have adopted the point of view that ‘in the absence of an international migration regime for international migration, regional consultative processes of an informal nature have become a key component of migration management’ (UN 2004: 155). As stated in the IOM World Migration Report from 2003, RCPs are seen to ‘manag[e] migration through partnership and cooperation’ (IOM 2003: 135). It is thought that RCPs are based on ‘common understandings, recognition of national and regional interests, state sovereignty, respect for the rule of law and internationally recognized principles, shared appreciation of sound practices in migration management, and mutual trust and partnership’, and ‘shared responsibility and consensus between countries of origin and arrival’ (ibid: 136, 173). This illustrates how RCPs are a key institutional ingredient of the partnership approach at the global level and contribute to spread the discourse on partnerships. The same is true for the IOM. Thus, for example, the Director General of IOM stated in a speech he made in Hanoi in 2010: ‘Working together, we must continue to evolve and expand our capacities through partnership to manage mobility in a human and orderly manner and to bring to bear our collective strengths and resources in order to think ahead, to plan for change.’²

Financed by earmarked funds from the EU and western states, the IOM has become the organizational anchor of RCPs. Given the asymmetry within these trans-regional networks and the predominance of destination countries’ agendas, RCPs and the IOM can thus contribute to disguise, reproduce and even legitimise existing asymmetries. Seen through the perspective of productive power, it can be argued that IOM and RCP activities have transformatory implications in expanding the realms of migration control closer towards the source countries. In sum, through the partnership approach, both IOM and the RCPs contribute to responsabilising states of origin to participate in managing migration and borders.

Partnership in EU External Migration Policies: Conditionality in Disguise?³

EU migration policies have developed an external dimension early on. Although cooperation among EU member states was officially framed in terms of the internal integration project, ideas about partnerships with countries of origin and transit can be traced back to the beginning of the communitarization of migration and asylum policy – at least in the discourse of the supranational institutions. However, it is only since the adoption of the Global Approach to Migration (GAM) in 2005 that these ideas have started materializing. The concept of Mobility Partnerships launched in 2007 bears the traces of two decades of European cooperation on immigration. As we shall show, the EU policy combines the discursive elements of the partnership turn with a clear legacy of the top-down conditionality approach that was first applied in the context of enlargement negotiations. The result are “conditional partnerships” whose institutionalization clearly vindicates the pre-eminence of EU member states’ priorities over those of the partner countries.

The development of common European asylum and immigration policies goes back to the mid-1980s when some member states decided to abolish the controls at their internal frontiers. Although cooperation focused on the common external border and, subsequently, the approximation of domestic laws, EU policies have had an external dimension from the start (Lavenex 2006). The opening up of the Eastern Bloc in 1989 coincided with the preparations

² Speech by Mr. William Lacy Swing, Director General, International Organization for Migration Delivered on Friday, 20-08-2010.

³ This section draws on Lavenex and Stucky 2011.

for the Maastricht Treaty and motivated the member states to establish a dense network of cooperation with the Central and Eastern European countries (CEECs) in order to assure the latter's support in the fight against irregular immigration. The enlargement policy soon provided a powerful instrument for transferring internal rules concerning border controls, asylum and immigration policy to the candidate countries, and for ensuring the latter's readmission of irregular migrants. The prospect of accession of the ten CEECs as well as the refugee crisis in the Western Balkan motivated the adoption of a wider external policy agenda which was officially embraced at the Tampere European Council in 1999. Notwithstanding some calls for a comprehensive approach, which already included elements of what was later to become the "partnership" model, this external dimension of EU immigration policies initially followed quite closely the top-down, hierarchical model of enlargement conditionality. Although a majority of member states voted against a conditional linkage of development aid with the commitment to fight irregular migration, it was decided to include compulsory readmission clauses in every EU trade or cooperation agreement from 2002 onwards (Lavenex 2002). The launch of the European Neighbourhood Policy (ENP) in 2004 intensified these efforts. Although officially geared at preventing the creation of new divides in Europe, the ENP put a strong emphasis on cooperation in Justice and Home Affairs and on neighbouring countries' inclusion in common efforts to fight undesired immigration. As a consequence, diverse instruments were developed with the aim to transfer EU policies, techniques and technology to its eastern (Moldova, Ukraine, later Armenia, Azerbaijan, Georgia and also, to a lesser degree, Belarus and Russia) and southern neighbours (including all countries bordering the Mediterranean Sea). Whereas initially, the EU sought to emulate the leverage it had so successfully exercised through the instrument of accession conditionality, in the absence of strong incentives capable of inciting neighbouring countries' compliance, it soon had to revert to less top-down, hierarchical modes (Lavenex and Wichmann 2009). Mobility Partnerships are the latest instrument developed in this regard: they promise co-ownership by linking efforts to fight irregular migration with measures facilitating mobility among the participating parties. The following sections retrace the discursive emergence of this partnership approach and its institutionalization.

Partnership Discourse

First elements of what was later to become the partnership discourse were already included in the Communications of the European Commission in the founding years of the common asylum and immigration policy. As early as 1991, and again in 1994, the Commission proposed a so-called global approach, a three-pronged strategy consisting of controlling immigration, strengthening integration policies and 'taking action on migration pressure, particularly through co-operation with the main countries of would-be emigration to Europe' (COM 1994: 11). Interestingly, this early notion of a 'global approach', unlike the GAM of 2005 (discussed below) did not link cooperation with third countries to migration control measures such as border controls or readmission.

Although this comprehensive approach proposed by the Commission was not endorsed by the Council of Ministers, it reappeared more forcefully at the end of the 1990s after the adoption of the Amsterdam Treaty. The Tampere European Council in 1999, which took place under the impression of the Kosovo refugee crisis, proclaimed a comprehensive approach to migration addressing political, human rights and development issues in partnership with countries and regions of origin and transit (EU Presidency Conclusions 1999: §10–12). Despite invoking the notion of partnership, however, subsequent policies and the accompanying discourse rather implemented a strict conditionality approach with a one-sided focus on Member States' priorities, i.e. the fight against irregular migration. Effective returns were seen as the first priority for which the cooperation of third countries should be solicited:

The effectiveness of Community action for return of illegal residents is therefore an essential aspect for the credibility of any policy for fighting illegal immigration. But for it to be fully effective, it must fit smoothly into a genuine management of migration issues, requiring ... enhanced dialogue with third countries, which will increasingly be *invited to be partners* in dealing with migration. (COM 2002: 4, emphasis added)

This quote illustrates nicely the instrumental understanding of creating partners for the purpose of migration management. These partners should be integrated into the emerging migration control system through their responsabilisation, that is, the suggestion that they had a responsibility for the irregular flows into Western Europe:

Member States' Justice and Interior Ministers recently expressed their view that the main problem does not lie in strengthening the cooperation between Member States, but is rather attributable to the unwillingness of third countries to take back their nationals and to ensure sustainable return. They have, therefore, the clear expectation that the third countries concerned should be *put under pressure* to be more co-operative both by the Community and by the Member States. (COM 2002: 9, emphasis added)

It is in this context that the idea of offering channels for legal migration in exchange for engaging in the fight against irregular migration took shape: at an informal Meeting of the Justice and Home Ministers in autumn 2003, the Italian Presidency proposed 'to conduct a study to define a legal migration quota system for Europe to be offered to the countries of origin and transit of the main legal migration flows in order to obtain their cooperation in reaching an agreement on admission' (COM 2004: 3).

Having realized that it lacked leverage in dealing with non-cooperative countries (Lavenex 2006), the Union started examining the addition of new incentives beyond visa facilitation or financial and technical support, thus preparing the most central element of the present concept of Mobility Partnerships – the idea of opening new channels for legal migration. The introduction of Mobility Partnerships occurred concomitantly with the launch of the Global Approach to Migration (GAM) at the informal European summit at Hampton Court in October 2005. The GAM was heralded as a 'balanced, global and coherent approach, covering policies to combat illegal immigration, and, in cooperation with third countries, harnessing the benefits of legal migration' (EU Presidency Conclusions 2005). With this new orientation the European Commission sought to allocate, under a comprehensive umbrella, the various pre-existing and new tools of EU migration policy. New soft instruments to promote dialogue and the exchange of information on migration (e.g. the establishment of migration profiles) were combined with the older (legally binding) readmission agreements, which became increasingly coupled to visa facilitation agreements (GAERC 2008).

The launch of the GAM must be seen in the context of the preparation of the UN High Level Dialogue on Migration and Development in 2006. The Commission was keen to present the EU as an 'important actor in the global debate on international migration' (COM 2006a: 1) and to sell its newly adopted Global Approach as a best practice in international migration cooperation. Stressing the mutual gains from legal migration in a globalizing world and the commonalities between sending and receiving countries, the Commission's Preparatory Document for the High Level Dialogue stated:

The EU believes that managing migration is a shared responsibility of countries of origin, transit and destination. This is all the more important as the distinction between these three categories of countries becomes increasingly blurred. Shared responsibility calls for

enhanced cooperation between States to better manage migration, taking into account the interests and concerns of all countries involved. (COM 2006a: 4)

The EU Statement at the High Level Dialogue on Migration and Development made a connection between the principle of shared responsibility of countries of origin, transit and destination and the mechanism of a flexible cooperation framework:

Shared responsibility calls for enhanced cooperation between States to better manage migration, taking into account the interests and concerns of all countries involved. The Commission believes that such mechanisms offer a flexible, non-binding framework for identifying solutions to shared challenges... (COM 2006a: 4)

In the subsequent years, the partnership discourse made its way into inter-regional relations, specifically with Africa, but also with Latin America. An interesting aspect of this discourse is the diagnosis of “new realities”, and the emphasis on the emergence of “powerful” interlocutors to the EU. This was expressed in 2007, when the Commission published a new Communication setting out the guidelines for a renewed EU–Africa Partnership stating that:

Africa is now at the heart of international politics, but what is genuinely new is that Africa – and the African Union (AU) in particular – is emerging, not as a development issue, but as a political actor in its own right. It is becoming increasingly clear that Africa matters – as a political voice, as an economic force and as a huge source of human, cultural, natural and scientific potential (COM 2007a: 1).

This statement can be read as an expression of orientalism regarding the role of “Africa” in world affairs. Yet, it is also an acknowledgement of the sending and transit countries’ power in relation to controlling migration, and hence of the necessity for the EU to secure their collaboration. This discursive acknowledgement of “Africa” illustrates the processes by which new partners for migration cooperation are first acknowledged and created, before attempting to responsibilize them in a second step, for what the EU portrays as common challenges. Supposedly, with the partnership approach, ‘the nature of the relationship will go beyond the donor-recipient relationship of the past and reflect a *political partnership of equals*’ (COM 2007a: 2).

In sum, these quotes document well the elements of the partnership discourse identified already for the international level: the focus on management, the notion of shared responsibility, the belief in win-win solutions and the emphasis on flexible mechanisms in order to promote mutual trust. A particularity of the EU approach is however the strong legacy of the conditionality approach in its partnership discourse. This is very salient in relations with the ENP countries that enjoy a privileged status in EU external relations. The idea of “conditional partnership” is pervasive in the ENP; a good example for this is the European Council’s Declaration on the Eastern Partnership of 2008:

The Eastern Partnership will promote mobility of citizens of partner countries through visa facilitation and readmission agreements. The EU, in line with the global Approach to Migration, should also take *gradual steps* towards full visa liberalisation as a *long term* goal for individual partner countries and on a *case by case* basis *provided that conditions for well-managed and secure mobility are in place*. (EU Presidency Conclusions 2009: Annex p. 12, own emphasis)

Two countries of the Eastern Partnership, plus Cape Verde, have been chosen for concluding the most explicit partnership instrument relating to migration, so-called Mobility

Partnerships. The Commission's Communication on Mobility Partnerships specified that such partnerships would only be agreed 'once certain conditions have been met, such as cooperation on illegal migration and effective mechanisms for readmission' (COM 2007b: 3). While cooperation on these elements constitutes a mandatory condition for the conclusion of a Mobility Partnership, provisions on legal migration or development cooperation remain vague, are subject to EU Member States voluntary offers and are not legally binding.

A look at the genesis of the concept of Mobility Partnership shows that the notion of "partnership" was introduced ex-post, while earlier documents highlight more explicitly the bargaining character of this policy initiative by using the term "mobility packages", a sort of strategic issue-linkage encompassing issues such as facilitation of temporary-entry visas, temporary migration schemes, and the fight against irregular migration (COM 2006b, see also Cassarino 2009). The term "partnership" was introduced only in the 2007 Communication as a synonym for such bargains:

The EU therefore needs to look at how such packages – which should in the Commission's view be called "mobility partnerships" – can be put together and, in association with interested Member States, negotiated by the EC with third countries that have committed themselves to cooperating actively with the EU on management of migration flows, including by fighting against illegal migration, and that are interested in securing better access to EU territory for their citizens (COM 2007b: 3).

To sum up, in the EU context, the partnership discourse strongly reflects the different orientations that have dominated in EU migration policies since their inception. On the one hand, the focus on win-win solutions and the promise to address the root causes of migration suggests a relatively great departure from earlier restrictionism as it leads towards a shared agenda that links migration and development. Here we find the main aspects of the international partnership discourse outlined above: win-win-win principle, the management approach, the emphasis on common interests and trust-building, the notion of shared responsibility, while public-private cooperation is not explicitly addressed. On the other hand, the EU's offer is a "conditional partnership", it is only if the third countries correspond to EU expectations that they can be considered as partners. The analysis has illustrated the productive power of the partnership discourse in the EU context, creating particular types of partners, as well as responsabilising these partners for migration management. The next section discusses the institutional dimensions of the partnership approach, focusing mainly on Mobility Partnerships, the flagship institutional innovation within the partnership approach in the EU context. The aim is to analyse how these discursive characteristics are reflected in the institutional structures of cooperation and policy practice.

Partnership institutions

In institutional terms, the structures established by the Mobility Partnerships intensify the model of network governance already institutionalized in EU external relations under the European Neighbourhood Policy (Lavenex 2008; Lavenex and Wichmann 2009). They establish platforms for recurrent interaction between policy experts who meet below the level of heads of state or government and engage in operational cooperation. In theory, this technocratic model of interaction may allow for process-oriented forms of experimental governance as identified, for example, in EU internal governance (Héritier 2002; Tömmel and Verdun 2009; Sabel and Zeitlin 2010). Ideally, such fora allow for voluntary cooperation based on learning, dialogue and the approximation of policy perspectives through socialization. As the following analysis of the set-up of EU Mobility partnerships shows, however, profound asymmetries of influence and lack of trust challenge the alleged

horizontal, open, egalitarian and co-owned properties of the existing Mobility Partnerships with Cape Verde, Georgia and Moldova concluded in 2007 and 2009.

To start with, Mobility Partnerships are an instrument designed by the EU; the third countries were not involved in the concept's development nor were they consulted on this idea or invited to make suggestions. This explains why, once adopted, the EU needed to propagate the concept broadly in order to attract potential "partners".⁴ Moving towards the actual implementation phase, the lead remains with the EU. This is symbolized in the Joint Declaration, the document that puts a migration partnership into force. The Joint Declaration is printed on official EU paper templates, and signed at an EU Justice and Home Affairs Council meeting, thus indicating literally and locally the administrative ownership of the "partnership". This bias is also reflected in the selection process for countries qualifying for such a privileged partnership, which is predominantly in the hands of the Commission in cooperation with the Council of Ministers and the Member States. It can be said that the choice fell on "easy targets" which would allow it to move forward swiftly with the pilot phase of these new instruments. All selected countries were already cooperating substantially with the EU in the fight against irregular migration and had signed or approved the signature of readmission agreements before concluding the Mobility Partnerships, and all countries already enjoyed privileged economic and political relations with the EU under the ENP and the Cotonou Agreement.⁶ Finally, the holding Council Presidency also left its marks – as the choice of Cape Verde during the Portuguese Presidency shows. The third countries at stake sustained this selection process by actively showing their interest and willingness to engage in such partnerships. Of course, this can be seen as part of their general pan-European ambitions. An interesting outlier is Senegal, with which exploratory talks started in July 2008. Although these undertakings from the EU side took place during the preparation time for the second EU–African ministerial conference on migration and development in Paris in 2008, where EU representatives met regularly with Senegalese representatives, in the end the Commission never received any response from its counterpart.⁵ The discussions have not progressed and no non-paper has been submitted nor has any interest been shown by other means.⁷ From this disappointment the Commission concluded that it was important to 'envisage mobility partnerships with third countries which clearly state their interest, needs and expectations at a very preliminary stage, prior to any EU decision' as well as providing the necessary information to them in a timely fashion (COM 2009: 4). In sum, Senegal's resistance calls into question some of the taken-for-granted assumptions underlying the partnership approach and illustrates the ambivalence implied in the EU's attempts to create partners.

The asymmetry of relations is also reflected in the multilevel negotiation structure established under the Mobility Partnerships. Although EU Member States are partners in such partnerships, they do not meet directly with their counterparts in the third countries in the setting up of the contents of a Mobility Partnership. Instead, it is the Commission – acting like a 'broker' or 'mediator'⁶ – which holds discussions with each of the parties to determine how far the different interests could be matched and then consults with either side (Lavenex and Stucky 2011). This automatically grants the Commission a gate-keeper function which endows it with an information advantage over the partner countries. The EU thus presents

⁴ Interview, Official from IOM Regional Mission to the EU, Brussels, 7 October 2009.

⁵ Interview, EC Official, DG Justice, Freedom and Security, Brussels, 9 October 2009.

⁶ Interviews, Official from Mission of Georgia to the EC, Brussels, 5 October 2009; Official from Mission of the Republic of Moldova to the EC; Brussels, 9 October 2009; EC Official, DG Justice, Freedom and Security, Brussels, 6 October 2009.

itself as a unitary actor, reuniting all the weight of the member states in the relations to the third country – while the Member States themselves refrain from direct demands.

As a result of the considerable degree of discretion that is left in the determination of the content of Mobility Partnerships, their precise structure and substantive provisions vary significantly, and are also expected to evolve progressively. In the case of Cape Verde only five Member States⁸ have decided to take part so far, in the case of Moldova the number is 15,⁹ and with Georgia 16 Member States.¹⁰ All three Declarations follow the structure of the Global Approach, dividing the document into three parts: regular migration and mobility; migration and development; and border management and the fight against irregular migration. The policies proposed in the Annex so-far do not break new ground or offer more than those national migration policies the “interested” EU Member States have in place already. The predominance of projects relating to migration control and the weakness of provisions promoting mobility are striking, as is the low profile of projects relating to development.

This shows that the vehicle of Mobility Partnerships is primarily used by migration policy actors, that is, in the EU, the ministries of the interior, and the Directorate on Home Affairs in the Commission, while development actors are hardly implicated. Theoretically, the institutional set-up would allow for the latter’s inclusion, and partner countries have already signalled their expectation that more projects and initiatives target the interface of migration and development. For instance, the second Moldovan Non-Paper included several proposals for circular migration schemes, however, none of these was actually retained in the EU offer (Republic of Moldova 2009). It can therefore not be excluded that over time, and upon enduring request on the part of third countries, the institution of Mobility Partnership will increasingly come to reflect the comprehensive approach of the accompanying discourse. As we have shown above, however, the voluntarism inherent to these experimental modes of governance may constitute a hurdle in the realization of a model which is still perceived as concession on the part those actors currently having the say in immigration matters.

Preliminary Conclusion

The EU variant of the partnership discourse in migration policy mixes the conditionality approach first developed in the context of EU enlargement policies with an increasingly comprehensive agenda aimed at addressing concerns of the destination and source countries of migration alike. This “conditional partnership” approach can be seen as a strategy to widen the bargaining agenda in order to secure source countries’ cooperation via issue-linkages and package deals. The institutionalization of this approach however falls behind the discursive move. The set-up of Mobility Partnerships amounts less to a horizontal negotiation setting among equal partners than to a unilaterally crafted consultation process on the part of the EU. The leverage clearly lies on the side of the Member States which, firstly, are free to decide whether they join such an EU Partnership or not, and, secondly, are able to define the pool of offers included. While the bargaining situation is inherently asymmetrical, the institution of Mobility Partnerships nevertheless opens the possibility for iterated dialogue and for third countries’ insistence on their priorities. However, the countries chosen so-far by the EU have been remarkably humble. In any case, voluntary forms of networked coordination may not be the most relevant, pertinent or realizable patterns of interaction in such asymmetric settings. Namely even once the contents of the partnership have been fixed in the Annex, uncertainty remains as to whether these commitments will be respected. Given the “soft law”, non-legally-binding nature of the arrangement, implementation is relegated to the discretion of the Member States. In interviews, it was said that third countries find themselves in a waiting

position since only the Commission can try to push the Member States to keep their engagement.⁷ These asymmetries are intensified by the fact that approximately 75 per cent of the available funding for the implementation of the projects comes from the Member States.¹¹ The promise of recurrent networked interaction in Mobility Partnerships thus depends on the willingness, in particular of the EU Member States, to move forward with innovative projects, including their commitment to follow up on projects once agreed. However, the exploitation of this potential also relies on the partner countries' active use of these platforms in making their own priorities known. This implies the development of a genuine will for co-ownership, including the necessary resources in terms of personnel, political priority attributed and finances. There are however structural limits to the degree to which countries like Moldova, Cape Verde and Georgia are capable of making these investments. But on the side of the EU too, the realization of this network model is demanding and presupposes corresponding institutional capacities which, in the light of an already overcrowded agenda and of enduring national prerogatives in this area, will be difficult to mobilize. The Commission itself asserts that with the addition of further Mobility Partnerships it will be essential to adapt its own institutional setting in the sense that this would ideally require a single directorate dealing only with this area.⁸ Without referring to the specific problems that third countries encounter regarding institution building, staff capacities and coordination quality, these apparent practical deficiencies on the EU side at least show how important it is to provide a solid base for the effective functioning of such a complex arrangement and highlights potential organizational limits.¹²

⁷ Interviews, Official from Mission of Georgia to the EC, Brussels, 5 October 2009; Official from Mission of the Republic of Moldova to the EC; Brussels, 9 October 2009

⁸ Interview, EC Official, DG Justice, Freedom and Security, Brussels, 9 October 2009.

References

- Abrahamsen, R. 2004. 'The power of partnerships in global governance', *Third World Quarterly*, 25: 1453–67.
- Aleinikoff, A. 2003. 'International legal norms and migration: a report', in T. Aleinikoff and V. Chetail (eds) *Migration and International Legal Norms*, Cambridge: Cambridge University Press, 1–31.
- Betts, A. 2011a. *Global Migration Governance*, Oxford: OUP.
- . 2011b. 'Introduction: Global Migration Governance', in *ibid* (ed) *Global Migration Governance*, Oxford: OUP.
- . 2011c. 'The global governance of migration and the role of trans-regionalism', in Kunz, R., Lavenex, S. and Panizzon, M. (eds.), *Multilayered Migration Governance: The Promise of Partnership*, London: Routledge.
- Bhagwati, J. 2003. 'Borders Beyond Control,' *Foreign Affairs* 82 (no. 1): Jan/Feb.
- Cassarino, J.P. 2009. 'EU Mobility Partnerships: Expression of a New Compromise'. Available online: <http://www.migrationinformation.org/Feature/display.cfm?ID=741>
- Commission on Aid and Development. 1969. *Partners in Development*. New York: Praeger.
- EU Presidency Conclusions. 2009. Brussels European Summit, 19-20 March.
- . 2005. Hampton Court European Summit, Hampton Court 15-16 December.
- . 1999. Tampere European Summit, Tampere, 15–16 October.
- European Commission. 2011. *A new response to a changing Neighbourhood*, COM (2011) 303 (25 May).
- . 2009. *Staff Working Document on Mobility Partnerships as a tool of the Global Approach to Migration*, SEC (2009) 1240 final (18 September).
- . 2007a. *From Cairo to Lisbon – The EU-Africa Strategic Partnership*, COM (2007) 357, 27 June.
- . 2007b. *On circular migration and mobility partnerships between the European Union and third countries*, COM (2007) 248, 16 May.
- . 2006a. *Contribution to the EU Position for the United Nations' High Level Dialogue on Migration and Development*, COM (2006) 409, 14 July.
- . 2006b. *The Global Approach to Migration one year on: Towards a comprehensive European migration policy*, COM (2006) 735, 30 November.
- . 2004. *Study on the links between legal and illegal migration*, COM (2004b) 412, 4 June.

- . 2002. *On a community return policy on illegal residents*, COM (2002) 564, 14 October.
- . 1994. *Communication On Immigration and Asylum Policies*, COM (1994) 23, 23 February.
- Federal Office for Migration, Switzerland. 2004. *The Berne Initiative, International Agenda for Migration Management, Common Understandings and Effective Practices for a Planned, Balanced and Comprehensive Approach to the Management of Migration*, Berne: Bundesamt für Migration.
- Fowler, A. 2002. 'Past, present and future: A critical review of partnership for development', Paper presented at the Partners in Development Seminar, held on 7–9 March 2002.
- Freyburg, T. 2011. 'Impairing Democratic Governance at Home – Improving it abroad? The Janus Face of EU Migration Governance', forthcoming.
- Freyburg, T., Lavenex, S., Schimmelfennig, F., Skripka, T. and Wetzels, A. 2011. 'Democracy Promotion through Functional Cooperation? The Case of the European Neighbourhood Policy', *Democratization* 18(4): 1026-54.
- General Affairs Council of the European Union (GAERC). 2008. Conclusions on migration and partnership with countries of origin and transit, 8 December.
- Ghosh, B. (ed.) 2000. *Managing Migration: Time for a New International Regime?*, Oxford University Press, Oxford.
- Global Commission on International Migration GCIM. 2005. *Migration in an Interconnected World: New Directions for Action, Final Report*, Geneva.
- Harrison, E. 2002. "'The problem with the locals': Partnership and participation in Ethiopia", *Development and Change*, 33: 587–610.
- Héritier, A. and Rhodes, M. 2010. *New Modes of Governance in Europe. Governing in the Shadow of Hierarchy*, London: Palgrave.
- Héritier, A. 2002. 'New modes of governance in Europe: policy-making without legislating?', in A. Héritier (ed.). *Common Goods: Reinventing European and International Governance*, Lanham: Rowman & Littlefield, pp. 185-206.
- Hollifield, J.F. 1998. 'Migration, Trade and the Nation-State: The Myth of Globalization', *UCLA Journal of International Law and Foreign Affairs*, 3, 2: 595-636.
- International Agenda for Migration Management IAMM 2004. 'Chairman's Summary', presented at Berne II Conference, Berne, Switzerland, December 2004.
- International Organization for Migration IOM. 2003. *World Migration Report*, Geneva.
- Köhler, J. 2011. 'What government networks do in their field of migration: an analysis of selected Regional Consultative Processes', in R. Kunz, S. Lavenex and M. Panizzon (eds.), *Multilayered Migration Governance. The Promise of Partnership*, London: Routledge, 67-93.

- Kunz, R. 2011. 'Depoliticization through partnership in the field of migration: the Mexico–US case', in Kunz, R., Lavenex, S. and Panizzon, M. (eds.) (2011), *Multilayered Migration Governance: The Promise of Partnership*, London: Routledge, 283–310.
- Kunz, R., Lavenex, S. and Panizzon, M. 2011. 'Governance Through Partnerships in International Migration', in Kunz, R., Lavenex, S. and Panizzon, M. (eds.), *Multilayered Migration Governance: The Promise of Partnership*, London: Routledge.
- Laakso, L. 2007. 'Politics and partnership in the Cotonou Agreement', in J. Gould and L. Siitonen (eds) *Anomalies of Aid: A Festschrift for Juhani Koponen*, Institute of Development Studies: University of Helsinki, 116–141.
- Lahav, G. and Lavenex, S. 2012. 'International Migration', in Carlsnaes, W., Risse, T., Simmons, B. *Handbook of International Relations*, London: Sage.
- Lavenex, S. 2006. 'Shifting Up and Out: the Foreign Policy of European Immigration Control', *West European Politics*, 29 (2), 329–350.
- Lavenex, S. and Stucky, R. 2011. 'Partnering' for migration in EU external relations, in Kunz, R., Lavenex, S. and Panizzon, M. (eds.) *Multilayered Migration Governance: The Promise of Partnership*, London: Routledge.
- Lavenex, S. and Wichmann, N. 2009. 'The external governance of EU internal security', *Journal of European Integration*, 31: 83–102.
- Lavenex, S. 2008. 'A governance perspective on the European Neighbourhood Policy: integration beyond conditionality?', *Journal of European Public Policy* 15(6): 938–55.
- . 2002. 'EU trade policy and immigration control', in S. Lavenex and E.M. Uçarer (eds) *Migration and the Externalities of European Integration*, pp. 161–78.
- Raustiala, K. 2002. 'The architecture of international cooperation: transgovernmental networks and the future of international law', *Virginia Journal of International Law* 43(1): 1–92.
- Republic of Moldova. 2009. Moldovan proposal updating the EU-Moldova mobility partnership, Non-Paper, undated.
- Sabel, R. and Zeitlin, J. (eds.). 2010. *Experimentalist Governance in the European Union*. Oxford: Oxford University Press.
- Slaughter, A.-M. 2004. *A New World Order*, Princeton: Princeton University Press.
- Sterkx, S. 2009. 'The External Dimension of EU Asylum and Migration Policy: Expanding Fortress Europe?' in J. Orbie (ed.), *Europe's Global Role: External Policies of the European Union*, Burlington: Ashgate, 117–39.
- Thouez, C. and Channac, F. 2006. 'Shaping international migration policy: The role of regional consultative Processes,' *West European Politics*: 370–87.

- Tömmel, I. and Verdun, A. (eds). 2009. *Innovative Governance: The Politics of Multilevel Policymaking*, Boulder: Lynne Rienner.
- Trachtman, J. P. 2009. *The International Law of Economic Migration: Toward the Fourth Freedom*, W.E. Upjohn Institute for Employment Research, Kalamazoo, MI.
- United Nations. 2004. *World Economic and Social Survey Part II: International Migration*, New York: United Nations.
- Walters, W. 2010. 'Anti-political economy: cartographies of "illegal immigration" and the displacement of the economy', in J. Best and M. Paterson (eds) *Cultural Political Economy*, London: Routledge, 113–38.
- Wunderlich, D. 2010. 'Differentiation and Policy Convergence against Long Odds: Lessons from Implementing EU Migration Policy in Morocco' *Mediterranean Politics* 15(2), 249 – 272.