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# The EU Mobility Partnerships with the South

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## Introduction

For two decades, the European Union (EU) has been seeking to conclude readmission agreements with the southern Mediterranean neighborhood, hoping to have the same achieved success with its eastern neighbors. The year 2011, marked by unprecedented political upheavals in the southern Mediterranean region, saw the birth of a “new” offer from the EU to its neighbors, notably Morocco, Tunisia, Egypt, Lebanon and Jordan. This new proposal, made in several communications, is<sup>1</sup> called the “Mobility Partnership”<sup>2</sup> (hereinafter PPM).

The PPM represents a political commitment to achieving certain jointly defined objectives, a kind of roadmap for mobility among its signatories. However, the PPM must lead to the opening of negotiations and possibly the conclusion of two agreements: a readmission agreement and a visa facilitation agreement (AFFV). According to the recommendations of the EU Council, both agreements are to enter into force on the same date.

Currently, only Morocco (June 2013), Tunisia (March 2014) and Jordan (October 2014) have agreed to sign a joint declaration establishing a PPM. While the PPM with Eastern Europe's neighbors have resulted in a visa-free regime for some countries, the negotiations with Morocco, Tunisia and Jordan seem to be stalled.

Most of the studies carried out with a view to understand the stalled negotiations focus on the EU's position and how it views its cooperation with its southern partners. However, the purpose of this study is to understand and explain the position of the three partners, namely their fears and expectations and how they influence their negotiating strategy.

From a comparative perspective, this study aims first of all to identify the fears that EU partners may have (I). Secondly, it is useful to understand their negotiating strategy to identify the expectations they seek to meet (II). Finally, the analysis will focus on the shortcomings of the institutional framework organizing the management of the migration issue in these countries and the extent to which this makes it difficult to conduct serene negotiations between the EU and its southern Mediterranean partners (III).

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<sup>1</sup> The joint communications of the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 8 March 2011 on “A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean” COM (2011) 200 final, of 25 May 2011 on “A New Neighborhood Strategy ” COM (2011) 303, the Communication from the European Commission of 24 May 2011 on “A dialogue for migration, mobility and security with the countries of the Southern Mediterranean”, (COM (2011) 292 final) and the Communication from the Commission of 18 November 2011 entitled “Global approach to migration and mobility” (COM (2011) 292 final) (2011) 743 final).

<sup>2</sup> Or also Mobility Partnership.

## I - Fears

### *A - The readmission of third-country nationals*

With the signing of the PPM, the EU has had a relative success in getting these three partners to accept the principle of opening negotiations on readmission.<sup>3</sup> But when negotiations began, blockages were found.

In the case of Jordan, a country which is supposed to pose no particular problems, particularly in view of the low migration flows with EU Member countries, it is surprising that negotiations on visa facilitation and readmission were suspended. Indeed, the EU Commission report on relations between the EU and Jordan states that “negotiations within the framework of the PPM on visa facilitation and the readmission of third-country nationals have not resumed.”<sup>4</sup> The position of the United Kingdom confirms this finding. As soon as the Commission asked the Council to give it a mandate to negotiate a readmission agreement, the United Kingdom preferred not to commit itself because it considers that the number of returnees to Jordan is insignificant, on the one hand. On the other hand, the United Kingdom believes that the readmission arrangements with Jordan are so flexible that there is no need to join the negotiations.<sup>5</sup>

Less complicated to understand are the positions of Morocco and Tunisia. Both countries refuse the readmission of non-nationals. Both countries have always excluded it in their readmission agreements with EU Member countries. Their fear is twofold: firstly, how to prove that a migrant has actually transited through Tunisian or Moroccan territory? Indeed, for Morocco, many migrants first transit through the Algerian border to the north and cross a short distance into Moroccan territory before attempting to reach the Spanish enclaves of Ceuta and Melilla. For Morocco, Algeria is equally responsible for these irregular crossings. Moreover, during the negotiations on readmission agreements in 2000 between the EU and Morocco, Morocco reportedly demanded that the EU open negotiations with Algeria on readmission<sup>6</sup>. For example, migrants who have transited the Algerian border could be readmitted to Algeria and not Morocco. The same phenomenon can be seen in the south of Tunisia as boats leave from the Libyan coast to the Tunisian coast before crossing to the island of Lampedusa.

Secondly, the management of readmitted non-nationals poses legal and logistical problems. In fact, what would be their legal status and for how long would they spend in Tunisia or Morocco and how would they be repatriated to their country of origin? Moreover, the day-to-day management of its workforce is demanding, which is likely to increase the fears and resistance of the partners. Morocco also fears the negative repercussions of a readmission agreement including non-nationals, almost all nationals of sub-Saharan African countries. This could threaten its economic and political investment in the African continent (the reintegration of the African Union and support for the Western Sahara issue).

### *B - Involvement in the management of asylum*

Asylum management presupposes a legal framework in accordance with international standards. None of the three partners fulfils this requirement. Moreover, they do not seem in a hurry to have them, despite the pressure exerted by the EU. Morocco and Tunisia continue to make the general argument that they are not prepared to play the EU's role in the management of asylum applications, let alone turn into hot spots to welcome refugees and possibly non-nationals readmitted or turned back. Moroccan Foreign Minister Nasser Bourita reminded a journalist: “Beware, what we are doing here is for the security of Moroccans! We will not be the policeman of Europe. We will not accept hotspots here (Migrant Control Centers, N.D.L.R.). Morocco has said so from the outset. It is an inhuman and counterproductive solution. We are a partner of the

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<sup>3</sup> The EU Commission has mandates to negotiate readmission agreements with the following countries: Algeria (2002) - Belarus (2011) - China (2002) - Jordan (2015) - Morocco (2000) - Nigeria (2016) - Tunisia (2014). Online: <https://bit.ly/2XPubyz>

<sup>4</sup> « 5. Cross-cutting priorities: implementing the Mobility Partnership Negotiations under the EU-Jordan Mobility Partnership (started in 2016) on visa facilitation and the readmission of third-country nationals have not yet resumed. », in Report on EU - Jordan relations in the framework of the revised European Neighborhood Policy (2018-2019), at <https://bit.ly/2P1bA2I>

<sup>5</sup> EU Readmission Agreement: Jordan, UK Parliament, 20 April 2016 Volume 608. Online : <https://bit.ly/30IKOOu>

<sup>6</sup> Wolff, S. (2014). The politics of negotiating EU readmission agreements: Insights from Morocco and Turkey. *European Journal of Migration and Law*, 16(1). Online: <https://doi.org/10.1163/15718166-00002049>

European Union but a responsible partner, who is concerned about it. And who asks to the EU “Do you want to solve this problem, where do you let transit countries cope with it?”<sup>7</sup>.

For his part, Tahar Chérif, the Tunisian ambassador in Brussels revealed about the installation of hot spots on Tunisian soil that “The proposal was submitted to the head of government a few months ago during a visit to Germany, it was also requested by Italy and the answer is clear: no!”<sup>8</sup>, noting that “We have neither the capacity nor the means to organize these detention centres.”<sup>9</sup>. It is clear that the question of means is crucial when it comes to managing refugees and asylum-seekers.

However, these three countries are de facto involved in the reception of refugees. This has been true of Tunisia since the crisis of spring 2011, although it currently manages a significantly lower number of people than Morocco and Jordan (5,032 refugees as at 31 July 2020)<sup>10</sup>. Morocco, for its part, had 11,149 refugees and asylum-seekers in June 2020<sup>11</sup>. As for Jordan, as at 31 August 2020, the Office of the High Commissioner for Refugees (UNHCR) had 749,660 refugees, of whom 88% were Syrians<sup>12</sup>.

The question is why these countries continue to manage this issue outside any legal and institutional framework and without the establishment of a genuine migration policy. It appears that the establishment of an institutional framework may have, at least, two adverse consequences. The first is that the existence of such a framework would lead the EU or some of its Member countries to classify them as safe countries of origin. Such a classification would facilitate the readmission of irregular migrants to these countries. The second consequence is the loss of leverage that these countries used to access EU financial support. Indeed, this situation without an institutional framework is leading the EU to exert pressure accompanied by incentives in the form of financial aid. It seems that partner countries also embed their migration diplomacy in an interest driven approach.

## II - Expectations

### A - Balance of concessions

Mr Fassi Fihri (former Minister of Foreign Affairs and Councillor to the King of Morocco from 2012) stated that “the Community readmission agreement must be as balanced as possible, adding that such an agreement “has merit and interest only if it satisfies both parties”<sup>13</sup>. It is believed by some NGOs that there is an imbalance between the concession of the partners on readmission (national and non-national) and that of the EU on the Visa Facilitation Agreement (AFFV). The terms of the partnership are not intended to encourage mobility if, on the one hand, the EU requires readmission and on the other hand, it only grants the easing of certain formalities relating to visa application, i.e. shortening the time required for examination of the file, and longer visa periods for businessmen or academics.

There is no prospect of visa waiver in the PPM, as was the case with Eastern countries. And this, without mentioning the prospect of accession for some of them. This perspective was a major lever, among others, which greatly facilitated the conclusion of readmission agreements with the countries of the East. For

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<sup>7</sup> Migrations. Marrakech Pact. “Morocco will not be Europe’s policeman!”, Ouest-France, 11/12/2018. Online: <https://bit.ly/3kwmszl>

<sup>8</sup> Jennifer RANKIN, Patrick WINTOUR, “EU Admits No African Country Has Agreed to Host Migration Centre.” The Guardian, 17 June 2018, Online : <https://bit.ly/3bxoZ7w>

<sup>9</sup> *ibid.*

<sup>10</sup> UNHCR, Refugees and asylum-seekers in Tunisia. Online: <https://bit.ly/3ht10bG>

<sup>11</sup> UNHCR, Morocco, fact sheet. Online: <https://bit.ly/3c21ODf>

<sup>12</sup> UNHCR, Jordan: Statistics for Registered Persons of Concern (as of 31 August 2020), 02/09/2020. Online: <https://bit.ly/2RqPC5y>

<sup>13</sup> Resumption of the Euro-Moroccan negotiations on the readmission agreement: Towards a new failure, House of Law and Migration, <https://bit.ly/3alOcC8>

example, the conclusion of an AFFV with the Balkan countries is considered to be a step prior to the visa waiver regime<sup>14</sup>.

On this point, Tunisia has apparently raised the question of the two agreements variable geometry: for readmission, the EU negotiates on behalf of all its member countries, while for AFFV only the member countries signatory to the PPM commit themselves. The mobility partnership with Morocco is signed by nine member countries<sup>15</sup>, the partnership with Tunisia by ten<sup>16</sup> and the partnership with Jordan by twelve<sup>17</sup>. On the other hand, in the AFFV draft with Tunisia, there are only two signatory parties, namely Tunisia and the EU.

More importantly, partner countries already benefit from certain visa facilities granted by certain member countries. In these circumstances, the AFFV has virtually no added value for them. However, the amendment to the Schengen Code in 2019 making visa facilitation dependent on partner cooperation in readmission<sup>18</sup> may make negotiations more difficult.

Beyond these procedural arrangements, however, what interests the three EU partner countries most, is to facilitate economic emigration and thus facilitate the obtaining of a long-stay visa. This would reduce much of youth unemployment and increase remittances, which would contribute to the reduction of social tensions. On this subject, however, the EU has its hands tied because long stay visas and admissions to the territory remain a competence reserved for the member countries. If the principle of Community preference<sup>19</sup> in employment is added, the partners would find more arguments to resist the EU or, if necessary, to resort to delaying negotiations.

#### *B - Delaying tactics during negotiations*

There are many delaying tactics used by the parties who believe that the agreement being negotiated does not serve their interests. For Morocco, the ruling of the 8th Chamber of the Court of Justice of the EU of 10 December 2015 annulling the agreement on agricultural and fisheries products on the grounds that it also applies to Western Saharawas an opportunity for Morocco to freeze all negotiations. On 25 February 2016, the Moroccan Government Council decided to suspend all contacts with the European institutions, except for exchanges on the appeal relating to the agricultural agreement signed between Morocco and the EU<sup>20</sup>.

When the EU Council sends a sign of appeasement to Morocco, appealing against the ruling of the 8th Chamber, the sharifian Kingdom declared that "While noting the rapid and unanimous reaction of the EU Council against the ruling, the Government expresses its deep disappointment with the opaque management that some EU services have made of this issue",... then denouncing the "unfair attitude" of Europeans, making "little mention of the necessary respect between partners"<sup>21</sup>. Relations will not officially resume until January 2019, but negotiations resumed quietly in 2018<sup>22</sup>.

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<sup>14</sup> "The conclusion of visa facilitation agreements is to be seen as a concrete step forward along the path set out by the Thessaloniki agenda towards a visa free travel regime also for the citizens of Western Balkan countries", <https://bit.ly/3acVWpX>

<sup>15</sup> Belgium - Germany - Spain - France - Portugal - Sweden - United Kingdom - Italy - Netherlands

<sup>16</sup> Belgium — Denmark — Germany — Spain — France — Italy — Poland — Portugal — Sweden — United Kingdom

<sup>17</sup> Denmark — Germany — Greece — Spain — France — Italy — Cyprus — Hungary — Poland — Portugal — Romania — Sweden.

<sup>18</sup> The Schengen Borders Code was amended by Regulation (EU) 2019/1155 of the European Parliament and of the Council of 20 June 2019 amending Regulation (EC) No 810/2009 establishing a Community Code on Visas (Visa Code). This change came into effect throughout the space on February 2, 2020. It should be recalled that since this is a regulation, States parties have an obligation to apply it.

<sup>19</sup> COM (2007) 248 final, p.5.

<sup>20</sup> Morocco suspends all contact with Brussels, MOCI, 26 February 2016, <https://bit.ly/3gP6iib>

<sup>21</sup> *ibid.*

<sup>22</sup> Mohamed. LIMAM and Raffaella A. Del SARTO, "Contesting Europe's Policies of Migration Control: The Case of Morocco and Tunisia," in "Resisting Europe: Practices of Contestation in the Mediterranean Middle East", Michigan University Press, 2020. (forthcoming)

During the negotiation of the first draft of the AFFV with Tunisia, the Tunisian authorities refrained from proposing categories of beneficiaries for procedural facilitations relating to short-stay visas. The argument is that it is up to the EU to make proposals first. Thus, the debate is diverting from the subject of negotiation to focus on a peripheral issue that makes the continuation of negotiations blocked. Another route used by the Tunisian authorities is to negotiate the establishment of a visa-free regime under the services liberalization chapter of the Deep and Comprehensive Free Trade Agreement (DCFTA), which is also being negotiated with Tunisia (also with Morocco). The EU suggested that mobility under the Services Chapter be negotiated within the framework of the AFFV. Tunisian negotiators have rejected this proposal, always arguing that it is not logical for European service providers to enter Tunisian territory without a visa when this is not possible for Tunisians<sup>23</sup>. Finally, a joint committee was set up to seek a compromise.

As for Jordan, it was not possible to obtain information on its negotiating strategy because of its confidential nature. The only indication we have at this time is that negotiations are suspended. Nevertheless, the information report, tabled by the European Affairs Committee within the French National Assembly on the European Neighborhood Policy, provides an indication of how the Jordanian administration manages its files. For example, with a view to approving projects, the Jordanian administration sets up “a commission whose composition and decision-making criteria are unknown. The time limit may exceed six months for them to be approved”<sup>24</sup>. On the other hand, the studies on cooperation between the EU and Jordan (DE BEL-AIR, 2003; TSOURAPAS 2019) stress the question of the aid that Jordan wishes to receive from it in return for its commitment<sup>25</sup>.

### III – Rewards

#### *A - Gratifications*

The migration diplomacy of the three countries is marked by the EU's negotiating strategy, which, taking on the old practice of its Member countries, consists of granting bonuses and incentives to the partner who is cooperative or inviting them to become co-operative. For their part, partners who are interested in these gratuities see negotiations as an opportunity to obtain preferential credit, donations, logistical assistance or technical assistance. Thus, it has created itself as a kind of “trading custom” whereby in order to obtain advances in any negotiation, it is necessary to give rewards. For example, the Spanish and Italian financial awards that were awarded respectively to Morocco (2003) and Tunisia (2004) when they adopted legislation on migration<sup>26</sup>. The signing of the PPM was also an opportunity to commit money from the EU.

This is also the case of Jordan with the signing of a pact in July 2016 aimed at improving the living conditions of both Syrian refugees in Jordan and vulnerable host communities. In return, Jordan benefited from the simplification of the rules of origin for its exports to the EU. The EU-Jordan pact also provides for an EU commitment of at least €747 million for 2016-2017, including €108 million for humanitarian aid and €200 million for macro-financial assistance<sup>27</sup>.

It should be noted that in 2016, the EU announced a new, pragmatic, approach that it would apply according to the context and degree of cooperation of the partner. It also called on Member countries to become more involved in putting pressure on “recalcitrant” partners on readmission, in particular. From 2016 to mid-2020,

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<sup>23</sup> DCFTA: Tunisia calls for free and visa-free mobility for professionals, Aleca.tn. Online: <http://www.aleca.tn/en/aleca-la-tunisie-plaide-pour-une-mobilite-libre-et-sans-visa-pour-les-professionnels/?print=print>

<sup>24</sup> National Assembly, Information Report tabled by the Committee on European Affairs on European Neighborhood Policy, No. 3237, p. 42. Online: <https://bit.ly/32f7o1G>

<sup>25</sup> Françoise DE BEL-AIR, International migration and politics in Jordan, *European Journal of International Migration*, vol. 19 - n°3 | 2003, 9-41.; Gerasimos TSOURAPAS, The Syrian Refugee Crisis and Foreign Policy Decision-making in Jordan, Lebanon, and Turkey, *Journal of Global Security Studies*, 4 (4), 2019, 464—481.

<sup>26</sup> Cassarino J-P., Migration and Border Management in the Euro-Mediterranean Area: Heading towards New Forms of Interconnectedness, *Culture and Society | Migrations*, 2005, pp. 228-229

<sup>27</sup> The EU and Jordan adopted partnership priorities and a pact, Council of the EU, Press release, 20 December 2016. Online: <https://www.consilium.europa.eu/fr/press/press-releases/2016/12/20/eu-jordan-partnership-priorities-and-compact/>

the EU still has no positive outcome of this new approach. This migratory diplomacy based on the logic of reward has eventually created a situation of rent for the benefit of the partners.

#### *B - Dependence on international aid?*

Southern partners will systematically seek a counterpart for their involvement in managing the flows of irregular migrants, asylum-seekers and refugees. Among the managers of migratory flows, there are two ideal-typical models describing current trends in the region. The first, represented by Turkey, and called “blackmailing model”. It is a threatening blackmail to open its borders and letting flows pass to the EU’s borders. This threat of migrant invasion is sufficient for the EU to take action and mobilize resources to ensure that there is no failure on the part of its partner.

The second model, represented by Jordan, is referred to as a “back-scratching”. Rather, this model proceeds by what can be called a blackmail on a reverse front. This means that the partner is cooperative and willing to negotiate the terms of its cooperation. Thus, it insists on showing the importance of its role and the efforts it has made in controlling and managing flows. If they do not agree with their partner on the counterparty, then the failure is appropriate.

Migration is an important source of financial flows for Jordan. Indeed, this money comes, to compensate for the decline in remittances of emigrants that began in the 1990s, as well as to respond to the critical state of the national economy.

Jordan has benefited from international aid following the waves of Palestinian, then Iraqi and finally Syrian refugees since 2011. According to Gerasimos Tsourapas, the importance of international aid explains the battle over the number of refugees in Jordan. The author notes that the EU maintains the figure of 650,000 persons registered with UNHCR, while the Jordanian authorities speak of more than 1,300,000 refugees<sup>28</sup>. It is clear that the higher the number, the greater the international assistance proposed will become. Moreover, the information report of the Committee on European Affairs in the French National Assembly reveals that the Jordanian authorities wanted all funds to be channelled through its services and not disbursed in the form of projects by the EU<sup>29</sup>.

Concerning Morocco and Tunisia, it is difficult to classify them in one of the two ideal-typical models. They do not have Turkey’s means to pressure (open borders to a considerable number of irregular migrants) to blackmail the EU. On the other hand, as in Jordan, Morocco and Tunisia are interested in international aid, but the complexity of the issues involved means that such aid is not always their main motivation. For example, signing the PPM with the EU meant not only receiving money, but also obtaining political support from the EU in the highly volatile context of the early post-2011 years<sup>30</sup>. Similarly, the question of readmission cannot be reduced to the pecuniary gratification that would follow. It raises political and social problems concerning the readmission of nationals. The opening up of public space, which allows civil society organizations to pressure public authorities to denounce such an agreement, makes the issue particularly sensitive, notably in Tunisia. In his letter to the European Parliament, the Director-General for Migration and Home Affairs of the EU Commission (DG Home) explains the difficulties of negotiations on readmission due to hostile public opinion in EU partners<sup>31</sup>. Similarly, the readmission of non-nationals poses problems of integration (particularly in Tunisia: an increase in racist acts<sup>32</sup>) and geopolitical problems, particularly for Morocco with regard to its African policy and its quest for support in the Western Sahara issue.

However, it remains true that Morocco is much closer to Jordan’s attitude towards the management of sub-Saharan migrants. Morocco has twice regularized irregular migrants who have their eyes turned towards

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<sup>28</sup> Gerasimos TSOURAPAS, *op.cit.*, p.469

<sup>29</sup> National Assembly, Information Report tabled by the Committee on European Affairs on the European Neighborhood Policy, N° 3237, 22/07/2020, p. 42. Online: <https://bit.ly/32f7o1G>

<sup>30</sup> See., LIMAM and DEL SARTO, *op.cit.*

<sup>31</sup> Directorate-general Migration and Home Affairs, EU readmission developments – State of play, October 2017, p.1. Online: <https://bit.ly/3h85e8p>

<sup>32</sup> See, Vincent GEISSER. “Tunisia, sub-Saharan migrants still excluded from the democratic dream”, Migration Society, vol. 177, no. 3, 2019, pp. 3-18.

Europe. In fact, with these regularizations, Morocco is doing two things with one stone: it is gaining credibility with the EU but also with its African partners. With the support of the EU, programmes are financed to integrate regularized people socially and economically. "It is in this context," says Ben Jelloun, "that the European Union has allocated €10 million to promote the integration of migrants in Morocco. This money, which takes the form of budget support, will make it possible to finance specific projects (education, medical coverage, social and psychological care, capacity building, etc.) over the period 2015-2019<sup>33</sup>".

Tunisia, on the other hand, does not have to manage a large number of refugees. (5032 refugees as at 31 July 2020<sup>34</sup>) and the country is not expected, a priori, to have a significant leverage effect. Yet it has a strategic resource to access EU aid. Indeed, Tunisia's nascent democracy allows the EU to classify it as a safe country. The most recent statement by the Italian Foreign Minister confirms this hypothesis: "Tunisia, is considered a safe country by Italy. It was therefore necessary to repatriate illegal migrants. "There are no reasons to grant them refugee status in Italy," reports an electronic newspaper from the square.<sup>35</sup>

## IV - Institutional deficiencies

### A - Institutional instability

Institutional instability is another source of complication. In Tunisia, the political change of 2011 and the succession of several governments had the effect of destabilizing the balance between the structures responsible for the migration file. Moreover, it was only in September 2020 that a State Secretariat attached to the Minister for Foreign Affairs, Migration and Tunisians abroad resurfaced.

The situation in Morocco is not very different. In 1990, Morocco established a Ministry responsible for the affairs of the Moroccan community residing abroad. As of February 1995, it was now only an Under-Secretary of State in the Ministry of Foreign Affairs. It was not until 10 October 2013 that the Ministry responsible for Moroccans residing abroad (MCMRE) was entrusted with a new department dedicated to migration affairs. In Jordan, under the aegis of the Ministry of Foreign Affairs and Expatriates, "since 1976, Jordanian embassies abroad have specialized staff in employment matters" and since 1981, the Jordanian Ministry of Labour has opened a "section for emigrants<sup>36</sup>." In addition, the Ministry of Planning and International Cooperation intervenes in the "negotiations" relating to international assistance to refugees.

Of these three countries, Tunisia is the most unstable in terms of the main structures involved in the migration file. The unprecedented political context accentuates this instability and the lack of visibility of political leaders. The fact that Jordan is not under the same migratory pressure as Morocco and Tunisia and that it manages the refugee file with the help of international institutions partly explains its institutional stability.

Morocco remains institutionally more stable than Tunisia, particularly since 2013. This is mainly due to the fact that the king is a key player in strategic directions, which minimizes the effect of the "volatility" of subordinate structures.

### B - Limitation of "national Migration Strategie":

Unlike Tunisia, Morocco has adopted a National Immigration and Asylum Strategy (SNIA). But according to a report by a Moroccan NGO, the implementation of SNIA "has been practically limited to both regularization operations and integration programmes for targeted people only. Furthermore, SNIA's operational programmes have been carried out by civil society organizations, undermining the expected coordination between ministries and institutional ownership. Finance laws from 2013 to the present reflect the lack of genuine interest and show a weakness in practical measures to implement the strategy<sup>37</sup>".

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<sup>33</sup> Sara BENJELLOUN, Implementation and diplomatic challenges of the new migration policy, in: *The new Moroccan migration policy*, Konrad-Adenauer-Stiftung e.V., Morocco Office, 2017, p. 110.

<sup>34</sup> UNHCR, op.cit.

<sup>35</sup> Italian Foreign Minister uncompromising with illegal Tunisian migrants, *Réalités*, July 29, 2020.

<sup>36</sup> DE BEL-AIR, *ibid*.

<sup>37</sup> GADDEM Report on Moroccan law enforcement operations in northern Morocco between July and September 2018 — Evidence and Analysis, p. 53. Online: <https://bit.ly/2PJWVEF>

As for the National Migration Strategy (SNM) in Tunisia, Cassarino reveals that “as early as 2012, discussions were initiated in order to move towards the first draft of a National Migration Strategy (SNM). Since then, through inter-ministerial debates and reforms, the SNM has been the subject of several revisions to align it with the new 2014 Constitution and the priorities of the new five-year plan (2016-2020)”<sup>38</sup>. Since July 2017, the date of the latest release, the SNM has not yet been created.

For Jordan, as De Bel-Air notes, “(l) the formation of a workforce adapted to the needs of oil-exporting countries remains, as evidenced by the Development Plans from 1970 to 1990, the only publicly discussed and asserted element of a migration management policy; efforts are particularly concentrated on the development of technical education”. Another notable element of a migration strategy is the adoption of a “National Strategy and Action Plan to Combat Trafficking in Human Beings” in the Hashemite Kingdom. The strategy was developed within the framework of the EU-Hashemite Kingdom of Jordan Mobility Partnership (JEMPAS) programme, funded by the EU and implemented by the International Centre for Migration Policy Development (ICMPD).

### *C - Lack of legal and institutional framework*

Another characteristic of the three countries is the lack of a legal and institutional framework for asylum and refugee reception. For Morocco and Tunisia, the only reference framework remains international instruments, in particular the 1951 Geneva Convention relating to the Status of Refugees. In Morocco, the drafting of three laws on trafficking, asylum and immigration had been announced. To date, only one text has been adopted, which is Law No. 27-14 of 25 August 2016 on combating trafficking of human beings. Bill 66-17 on asylum and the conditions for granting it has been ready since 2017. The Ministry of Migration Affairs submitted the draft to the General Secretariat of the Government, which presented it to the Government Council in September 2018. It has not yet seen the light of day like the one on immigration.

In Tunisia, article 26 of the 2014 Constitution guarantees the right to political asylum only. The text on asylum, finalized in 2018, remains confined to the drawers of the Council of Ministers. As in Morocco, the only law that has emerged in Tunisia is Organic Law No. 2016-61 of 3 August 2016 on the prevention and fight against trafficking of persons.

Although the geopolitical context is different from that of Morocco and Tunisia, the situation is not very different for Jordan when one refers to the lack of legal and institutional framework for the issue of asylum. There is no legal framework for asylum issues because — as in Lebanon — Jordan considers that the reception of its persons is a duty of hospitality and not a legal obligation; they are guests and not refugees<sup>39</sup>. This interpretation allows Jordan, as in Lebanon, to evade the obligations of the 1951 Convention and its 1967 Protocol, which they have not ratified.

In the absence of a clear and coherent framework, Jordan is guided by international donors, including the EU. Thus, the pact adopted in 2016 and the partnership priorities represent the institutional framework of the “migration policy” in Jordan, organizing the stay, access to employment, education and health of Syrian refugees.

Finally, the absence of an adequate legal and institutional framework relating to migration issues, but above all asylum, allows these countries to continue to provide them with a treatment dominated by security considerations, as evidenced by the pre-eminence of the Ministry of the Interior in the management of these cases. This legal and institutional vacuum risks paving the way for practices that are both contrary to good governance and violate the human rights of migrants and refugees.

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<sup>38</sup> Jean-Pierre CASSARINO, *Between Past and Present: Tunisian Migration Policy*, in, Mohamed Limam (ed.), *Managing the Migration Issue in Tunisia: Issues and Challenges*, EPIRB, June 2020, p.9

<sup>39</sup> Maha YAHYA, Jean KASSIR, Khalil EL-HARIRI, *Unheard Voices: What Syrian Refugees Need to Return Home*, *Carnegie Middle East Center*, April 16, 2018. <https://bit.ly/2Fd4f4T>



## V - Conclusion

The study shows that the partners conduct a very close migration diplomacy despite the differences in the levers they have vis-à-vis the EU. An important conclusion emerges immediately: the more the EU outsources the management of the migration issue, the more dependent it becomes on the goodwill of its partners. Aware of this aspect, the three partners are implementing very close negotiating strategies: They express fears (readmission of non-nationals and subcontracting of asylum), have expectations (balance of concessions and bonuses) and, finally, try to delay negotiations, either by delaying tactics or by shortcomings relating to the absence of a migration strategy or/and legal and institutional framework.

This study shows that reflection is needed around the following hypotheses and questions:

- The partners are opposed to the readmission of third-country nationals who have passed through their territory, especially since they do not have a significant leverage effect to negotiate the return of their nationals to their country of origin. The proposal is for the EU to negotiate readmission agreements with these countries. For Morocco, for example, this would prevent it from undermining its African policy. Therefore, it is necessary to consider whether excluding the non-nationals clause with various incentives would facilitate the conclusion of a readmission agreement?
- Not all efforts over the past decades have been able to address the problem of irregular migration. Moreover, until the 1980's, there was no problem of irregular migration because there was no visa regime. The proposal is to experiment again with this system, like the visa regime in the United Arab Emirates, for example, where the visa can be obtained from the Emirates travel agency. The traveller, and possible job seeker, would not risk venturing and staying beyond the duration of their visa. The ease of obtaining a visa makes the prospect of irregular migration inappropriate. Visa exemption also solves a number of related problems, i.e., the profitable market for smugglers. In the absence of this orientation, another option is to include the visa-free regime as an objective in the same way as in the Eastern Neighbourhood.
- The positions of the three countries seem to indicate that they are not in favour of establishing a formal institutional framework on asylum when cooperation on the ground is a reality. Can the Agreement on Immigration between Turkey and the European Union be an option that the EU would propose to Tunisia or Morocco?

## Bibliography

- DCFTA: Tunisia calls for free and visa-free mobility for professionals, Aleca.tn. Online : <http://www.aleca.tn/en/aleca-la-tunisie-plaide-pour-une-mobilite-libre-et-sans-visa-pour-les-professionnels/?print=print>
- National Assembly, Information Report tabled by the Committee on European Affairs on European Neighborhood Policy, No. 3237, p. 42. Online: <https://bit.ly/32f7o1G>
- Joint Communication from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 8 March 2011, "A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean", COM (2011) 200 final.
- Joint Communication from the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 25 May 2011, "A new strategy for a changing neighborhood", COM (2011) 303.
- Communication from the European Commission of 24 May 2011, "A dialogue for migration, mobility and security with the countries of the Southern Mediterranean", (COM (2011) 292 final)
- Communication from the Commission of 18 November 2011, "Global approach to migration and mobility" (COM (2011) 743 final).
- Council of the European Union, Brussels, 25 November 2002, 14101/02 RESTRIENT UE – MIGR 115, AL 9. Online: <https://bit.ly/3iqsM9J>
- Directorate-general Migration and Home Affairs, EU readmission developments – State of play, October 2017, p.1. Online : <https://bit.ly/3h85e8p>
- EU Readmission Agreements: Brief Overview of State of Play (February 2011), Brussels, 23.2.2011, SEC (2011) 209.
- Françoise DE BEL-AIR, International migration and politics in Jordan, *European Journal of International Migration*, vol. 19 - n°3 | 2003, 9-41.
- Gerasimos TSOURAPAS, The Syrian Refugee Crisis and Foreign Policy Decision-Making in Jordan, Lebanon, and Turkey, *Journal of Global Security Studies*, 4(4), 2019, 464–481.
- Jean-Noël FERRIE, Mehdi ALIOUA, Migration policies and serenity of public action, in: *The new Moroccan migration policy*, Konrad-Adenauer-Stiftung e.V., Morocco Office, 2017.
- Jean-Pierre CASSARINO, Between Past and Present: Tunisian Migration Policy, in, Mohamed Limam (ed.), *Managing the Migration Issue in Tunisia: Issues and Challenges*, EPIRB, June 2020.
- Mohamed LIMAM and Raffaella A. Del SARTO, "Contesting Europe's Policies of Migration Control: The Case of Morocco and Tunisia, in *Resisting Europe: Practices of Contestation in the Mediterranean Middle East*, Michigan University Press, 2020. (forthcoming)
- Macarena NUNO and Farida SOUIAH , "Policies implemented by Morocco towards its nationals", *Men & Migration* , 1303 | 2013, p. 148. 147-150.
- Maha YAHYA, Jean KASSIR, Khalil EL-HARIRI, Unheard Voices: What Syrian Refugees Need to Return Home, *Carnegie Middle East Center*, April 16, 2018. Online: <https://bit.ly/2Fduf4T>:
- House of Law and Migration, Resumption of Euro-Moroccan negotiations on the Readmission Agreement: Towards a new failure, House of Law and Migration, <https://bit.ly/3alOcC8>
- Readmission Agreement: Jordan, UK Parliament, 20 April 2016 Volume 608. Online: <https://bit.ly/30IKOOu>
- Report on EU - Jordan relations in the framework of the revised European Neighborhood Policy (2018-2019), at <https://bit.ly/2PJbA2I>
- Sara BENJELLOUN, Implementation and diplomatic challenges of the new migration policy, in: *The new Moroccan migration policy*, Konrad-Adenauer-Stiftung e.V., Morocco Office, 2017.
- Sarah Wolff, The politics of negotiating EU readmission agreements: Insights from Morocco and Turkey. *European Journal of Migration and Law*, 16(1), 2014. Online: <https://doi.org/10.1163/15718166-00002049>
- Vincent GEISSER, Tunisia, sub-Saharan migrants still excluded from the democratic dream", *Migration Society*, vol. 177, no. 3, 2019, pp. 3-18.
- Yousra ABOURABI, Jean-Noël FERRIE, Morocco's migration policy as an instrument of its African diplomacy, *Afriques (s) en mouvement*, n° 1, January 2019, 1-103.

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