

JUST MEDIATING BETWEEN NEEDS AND FEARS? Ambiguities and Potential of the EU's Migration Policy

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Presentation for the Conference of the Socialist Group in the European Parliament on:
“A management policy for migration flows compatible with Fundamental Rights”
(In memory of Rinaldo Bontempi, 1944-2007)

*European Parliament
Wednesday 5 and Thursday 6 March 2008, Brussels*

I. 1990s : Setting the Agenda

Rinaldo Bontempi spent ten years at the European Parliament, from 1989 till 1999. This was a crucial decade for the development of a European Union's migration policy as we know it today. I would even argue that the political and intellectual agenda was set in those ten years, and no radical innovation took place since then. There have been progresses, certainly, but no radical change in the European migratory agenda. And in certain areas there was even a cultural, if not a political regression.

But what was precisely so innovative in the 1990s, in the area of European migration policy-making? I think that the main changes essentially boil down to three conceptual and political shifts in the understanding of migration policy at European level:

- A) a shift **from a sectoral to a comprehensive approach;**
- B) another shift **from intergovernmental to communitarian decision-making and mentality;**
- C) and finally, a shift **from a unilateral towards a bilateral and multilateral conception of migration policy-making.**

None of these crucial transformations was fully accomplished over the decade. But if you compare the situation in 1989, when Rinaldo first arrived in Brussels, and 1999 when he left, the overall cultural and political understanding of migration policy, in this building and in the surrounding ones, was completely changed. And certainly Socialist governments (who had become a large majority in the EU by the end of the 1990s), together with the Socialist Group of the Parliament, did play a major role in that phase of innovation.

I think that the stimulus to innovate came, at that time, partly from a sort of historical and political embarrassment, in the Socialist field, confronted with the securitarian trend which had gradually been prevailing in European migration policies since the mid-1970s, during the 1980s and in the early 1990s. That sort of evolution was certainly difficult to harmonise with the foundations of socialist and social-democrat identity.

But another, perhaps more substantial and important push for change came from the political and technical awareness, on the part of people like Rinaldo Bontempi, that a unilateral, intergovernmental and purely sectoral response to migration was not only wrong but also ineffective and unsustainable.

II. 2000s : What went wrong with Tampere ?

The next decade, from 1999 till now, has been an era of disenchantment. From a bureaucratic point of view, the Tampere and then The Hague Programmes have been largely, although certainly not completely, respected. The successive scoreboards showed constant, albeit hard-earned progress. But, from a political standpoint, the promises made in Amsterdam in 1997 and in Tampere in 1999 have generally been disappointed.

On the control side of the migration policy spectrum, there was a very substantial progress. A progress that I would trace back to two main trends: I) migration controls became **much more integrated, harmonised, i.e. *European***, and II) they also became **much more complex, stratified and oriented towards prevention of irregular immigration.**

I) What do I mean by a “more European” control system? Basically, in the original Schengen framework, interdependence and mutual responsibility for external borders were not matched by any burden-sharing (or any solidarity, as we have learnt to say more diplomatically). But during the early 2000s, the theme of burden-sharing in the field of migration controls - and not just in the area of asylum, where the concept had first emerged - took the centre of the stage. Under the political pressure of border countries which were by then becoming also the largest net receivers of foreign workers in the EU, Italy and Spain, operational and financial tools for burden-sharing were created, such as the External Borders Fund and Frontex.

II) In the meantime, migration controls have become more complex, stratified and proactive. The so-called external dimension of migration policy has gradually gained importance and political centrality. In a first phase, it was the main receiving countries who took the lead in externalising migration control activities. Then, we witnessed a growing role of the European institutions in this area as well, with the negotiation of readmission agreements, the systematic inclusion of readmission clauses in association agreements, the gradual imposition of a migratory conditionality in all the external relations of the Community.

It will be the key topic tomorrow, how this trend has negatively affected the state of migrants’ and refugees’ rights in the ever expanding migratory basin around Europe, so I will not dwell upon it now, but for saying that the human impact of so-called externalisation is perhaps the single most clear, serious and tangible example of incoherence between the EU’s principles and its everyday interaction with the outside.

So, this as far as migration controls are concerned. But what besides migration law enforcement? The two other main strands of a comprehensive European migration policy, namely legal migration and integration, remained largely on the paper. What are the reasons for this? The main reason, apart from some strategic and technical clumsiness on the part of the Commission at certain stages, the main reason was obviously the fierce resistance opposed by national governments to any meaningful convergence, not to speak of harmonisation.

But such resistance did *not*, have at its roots, *or not only*, some intrinsic backwardness, or some natural conservativeness of Member States’ executives and bureaucracies, as some seem to believe. There may be some cultural dead wood in national ministries, of course. But the main, most fundamental reason why the integration and legal migration agendas did not take off is

the lack a clear, powerful, convincing case for European action -and against subsidiarity- in these two areas.

The fundamental conditions and the structural needs of Member States in the field of admission and integration are so different that the European level of policy-making remained purely residual and mostly symbolical.

And one should not wonder too much about this (and maybe not even regret too much). Because, in the end, integration and admission policies are, and ought to be, part of social and labour policies respectively. And one should wonder why should these sub-fields experience a strong EU-isation when the broader policy field they belong to, remain largely national, and when even a revised and downscaled Lisbon Process finds extreme difficulties in progressing and shaping domestic landscapes.

III. Today's agenda: Hot core and dead ends

This brings me to some remarks on the outlook of the current EU migration agenda. It is a policy agenda which is still very much articulated on two levels:

- a *hot core*, where the policy-making process proceeds with great intensity and rapidity, so that there are even problems of *digestion* of all the novelties which are produced by the implementing agencies; and there are problems of capacity to spend all the resources which are made available.
- On the other hand, we have an *outer circle*, a sort of periphery of the policy agenda, where progress is much less intense and swift, and where Communications, programmes, green papers, studies and so on, largely outnumber actual decisions.

Let's have first a quick look at the hot core of the EU's migration policy field. The hot core is still and again migration controls. All indicators tend to confirm this, both indicators focusing on normative productivity and financial indicators as well. You know better than me that of around 4 billions euros allocated to migration policy funds over the current financial perspectives, more than 60% are taken by control-oriented financial instruments, namely the Borders and Returns funds.

Main financial chapters in EU migration policy (2007-2013; euros)

External Borders Fund	1,820
European Return Fund	676
European Refugee Fund	699,3
European Integration Fund	825

But even more important than this quantitative asymmetry is the *qualitative* evolution of the EU migration control system. After many years of incremental changes, my impression is that we are now entering a new phase, where the old Schengen "four-tier control model" (internal controls, including repatriations/border controls/consulates/cooperation with neighbouring countries) becomes insufficient and somehow outmoded, and a new model is taking shape.

The so-called "Border package" presented a couple of weeks ago by the Commission is revealing two very important strategic directions. As a matter of fact, besides reinforcing Frontex, and taking a further step towards a proper European Border Guard, the Commission is proposing:

- i) first, to develop a European Border Surveillance System (EUROSUR) which would allow the EU to reach "full situational awareness" of the situation along its external borders, and thereby increasing its "reaction capability";

- ii) second, the Commission is proposing to start planning an “entry/exit system” at the external borders of the Union, backed by an Electronic Travel Authorisation System and matched by facilitations for bona fide travellers.

What is behind these two innovative proposals? In my view a deep change in the overall conception of the management of the interaction between the EU and the rest of the world. Such deep change can be summarized in two announced trends:

- I) In the first place, a shift is proposed from a *partial and selective surveillance* of EU borders to a *generalised, systematic* surveillance of all the space surrounding the EU’s territory;
- II) In the second place, another shift is proposed from a *targeted and selective system of migration controls*, to a *generalised and pervasive system* of control on whatever form of human mobility to and from the EU. A shift which has deep analogies with the structural change introduced by US-VISIT in the United States system of border controls.

If you match this with already established trends towards a) interoperability of migration and security databases, b) intensification of international circulation of personal data (PNR, but not just that) and c) externalisation of migration controls, then you get a very new and – I argue – worrying picture. A sort of intangible Fortress, where the controls are more and more remote and less visible, but ever more pervasive and powerful.

The advocates of the proposed measures assure that extending the control net is a condition for allowing good migrants, bona fide travellers and all honest world citizens to move more swiftly, along fast lanes, benefiting of speedy tracks etc. But the political credibility (besides the technical feasibility, obviously) of such Manichean global control regime needs to be questioned very seriously.

What of the other side of the agenda? What of the peripheral, colder and slower regions of the migration policy field? I will only say a few words on *legal migration*. The current Commission’s legal migration agenda is a very moderate and pragmatic one. And nevertheless, even the cautious proposals put forward, for instance on high-skilled migration, seem to have very little chances to succeed due to the strong opposition by some key Member States.

As for the magic word that some have naively thought it could help shaping a consensus on legal migration – I mean “circularity” – in spite of some interesting suggestions coming from the Commission in its 2007 Communication, everybody seems to mean still quite different things by that word.

- Some intend *circularity as an opportunity* offered to legal immigrants, who should be allowed to move more freely back and forth from the EU and sending countries, in the interest of all parties concerned. According to this interpretation, more circularity should entail visa facilitation, reinforcement of transnational pension rights, easing of Schengen rules on temporary returns, etc..
- Others, on the contrary, still think – more or less explicitly - of *circularity in coercive terms*, as a guarantee that, at the end of the working day or working life, arms and brains will not turn into persons, elderly, children, families, claiming social rights and cultural recognition.
- And finally, many sending countries’ governments think of circularity just as a magic recipe *for ensuring steady and abundant remittances flows, without losing talents*.

I hope that a synthesis between these different approaches may be found, and that it will be compatible with the very clear lessons of history (i.e. *Gastarbeiter* programmes backfire) but it will not be an easy job.

IV. Next decade : Unsustainable ways and alternative paths

Which are the lessons of this long story for the next decade ? I think that the signals of the unsustainability of the current European approach are piling up. On the one hand, even the Member States who had shown greater hostility against an active labour immigration policy start to review their positions. The last in time is Sarkozy's France, which had to insert in the latest immigration bill a provision allowing for targeted, case-by-case regularisation of undocumented workers.

Obviously there are oscillations in national admission policies, which are tightly connected with broader economic trends and electoral cycles. Think of Spain, where the deflating of the housing bubble may leave hundred of thousands foreigners unemployed and is already causing a tightening of admission mechanisms. At least until the next election. But if you look farther than the average politician's horizon, if you look at the horizon of demography, it is clear that immigration needs of most European societies will be increasing and converging. And this will gradually make the case for a common admission policy more cogent.

Add to this the fact that there will be a supply problem, not just for skilled labour, but also for less qualified workers. Beyond contingent, although sometimes very nasty tensions (like in Italy, against Romanian Roma), the 2004 and 2007 enlargements have proved a great boon for the labour markets of southern Europe and the British Isles. But this is over: one in two Romanian with whom I have a chance to talk in Rome is planning to return to catch the historical opportunity of spending emigration gains in a country which is catching up fast. Enlargements with large migratory potential are over, until the Turkish one. And finding waitresses for English cafés or caregivers for Madrid old ladies will not be as easy as before.

Signs of unsustainability are emerging also on the control side. The death toll in the Mediterranean and the Atlantic – and further south in the Sahara - is high, but this does not seem to represent a decisive issue for European leaders and public opinions. However, migrant casualties are more difficult to ignore when the deaths originate directly from a migration law enforcement activity, I mean when the migrants are technically *killed* to keep EU borders safe, as it happened in Ceuta and Melilla in September-October 2005. This and a few other analogous episodes have whipped policy-makers into action and a somewhat confuse and still quite empty wave of Euro-African initiatives on migration and development has started.

I can not dwell upon the complexities of the entangled Rabat and Tripoli processes here. Just two remarks before concluding. First, it is quite clear that there is a problem of higher and higher expectations, there, which contrasts sharply both with the vagueness of the output so far, and with the poverty of adequate knowledge and specialised human resources, especially (but not only) on the side of African governments.

The second remark is that the external dimension of European migration policies towards Africa – and particularly the Migration & Development strand of such external dimension is not a secondary item when trying to sketch a rights-based migration management strategy, as this conference is doing. On the contrary, I am convinced that rights and efficiency can not be harmonised, but if Africa is kept an absolute priority and a privileged partner of our future common migration policy.