The new politics of EU migration policy: analysing the decision-making process of the Mobility Partnerships

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Abstract: This paper examines the decision-making process underlying the European Union's Mobility Partnerships. Based on 17 interviews carried out by the author, the paper asks why the Mobility Partnerships were agreed. It argues that the Mobility Partnerships represent a move away from the traditional method of policy-making in the EU, and that they reflect the trend whereby migration policy in the EU is increasingly being associated with other policy areas. Finally, the paper offers some thoughts about the implications for the future of this new policy instrument.

Introduction[1]

Migration has become an increasingly salient issue, both nationally and internationally: between 1965 and 2000 the estimated number of migrants worldwide doubled from 75 million to 150 million (Castles and Miller, 2003, p.3). The migratory phenomenon affects both developing and developed countries. For developing countries, the remittances sent by migrants to their families or communities back home may have a positive impact on levels of development (see, for example, de Haas, 2005). In 2006, remittances worth $208 billion were sent to developing countries, up from $30 billion in the late 1980s (Martin and Zürcher, 2008, p.18). On the other hand, developing countries may lose their most innovative and active

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[1] This paper forms part of my PhD research on Mobility Partnerships within the IS-Academy cooperation on Migration and Development. I am grateful to the officials interviewed for their time. For a list of interviews, please see Appendix I.

citizens in a process known as the 'brain drain' (Skeldon, 1997, p.3). Indeed, developed countries have tended to increase the barriers to immigration for semi-skilled and low-skilled migrants, whilst high-skilled migrants are in demand (Hugo, 2003). In developed countries, migration (particularly of low-skilled workers) is often seen as undesirable because it is feared that immigration is a threat to the sovereignty and cultural integrity of a country (Skeldon, 1997, p.22). However, developed countries are increasingly facing a 'demographic crisis': "The European population is aging and shrinking… In order to finance the retirement of such a large cohort of retirees, EU countries will have to reduce pension benefits or encourage more people to work longer. Other alternatives are to increase the number of workers, either by increasing fertility or immigration" (Martin and Zürcher, 2008, p.12).

It is in this context that new approaches to migration policy have emerged. Policy-makers accept that it is impossible to halt migration completely and focus instead on 'migration management' (Lucas, 2005, p.3). Debates on migration policy have therefore arisen, for instance on how migration policies and development policies can be combined so that the effects of migration are positive for both developed and developing countries (see for example IOM, 2004). One new approach is the increasing use of *migration partnerships.* Such partnerships "include agreements between governments to better regulate migration, improved cooperation on migration issues between departments of national governments, and the integration of the private sector and civil society groups into migration policy" (Migration DRC, 2008). Groff (2005, p.6) adds that "the idea of migration partnership is to strive for a fair and balanced weighing of interests in dealing with the problems which emigration, immigration and the return of migrants cause in the states concerned".

In 2007, the European Union (EU) introduced the Mobility Partnerships. These partnerships will, according to the European Commission, "identify novel approaches to improve the management of legal movements of people between the EU and third countries ready to make significant efforts to fight illegal migration" (Commission, 2007a, p.2). To date, the EU has concluded Mobility Partnerships with Moldova and Cape Verde (May 2008) and with Georgia (November 2009). The Commission has indicated that Mobility Partnerships will be used more widely in the future – for example, they will be the main tool in so-called 'Mobility and Security Pacts' to be offered to the countries bordering the EU to the east (Commission, 2008a, p.6). In its 2009 evaluation of the Mobility Partnerships, the Commission recommended further developing this tool by extending it to two or three more countries during 2010 (Commission, 2009, p.8), and the Council of the EU supported this proposal in its draft conclusions on the Mobility Partnerships (agreed in November 2009), in which it invited the Commission to initiate talks with interested third countries with a view to launching further Mobility Partnerships (Council, 2009a, p.5).

Despite the fact that this policy tool will play an increasingly important role in the EU's migration policy, little has so far been written about the Mobility Partnerships. This paper will therefore contribute to an understanding of the politics of the decision-making process behind the partnerships so far agreed (those with Moldova, Cape Verde and Georgia). It seeks to place the partnerships in their appropriate context, namely the politics of EU migration policy and the trends seen in migration policy at the EU level. The paper begins by briefly outlining the concept of the Mobility Partnerships. It then discusses the politics of EU migration policy more generally and identifies recent policy trends (in particular, migration policy is

increasingly being linked to both foreign policy and development policy). The main analytical section aims to answer the question: why were the Mobility Partnerships signed between Cape Verde, Moldova and Georgia on the one hand, and a selected number of EU member states on the other? The analysis will be actor-centric, focussing on the negotiations between the European Commission, the member states and the partner countries. What were the motivations and interests of these actors in the decision-making process leading to the Mobility Partnerships? Based on 17 interviews carried out by the author with officials from the Commission and the governments of five member states in the period September to November 2009, the paper argues that the Mobility Partnerships reflect the general politics of EU migration policy – member states are reluctant to hand over control particularly of legal migration, and therefore attempt to maintain control over this European policy. The Mobility Partnerships also continue the trend of migration policy at the EU level being linked to other policy areas. There are two main reasons for these linkages: first, the Commission has recognised that there is a need to offer third countries an incentive to cooperate with the EU on illegal migration; second, broader political considerations (unrelated to migration) are being brought into migration policy. This is clear in terms of the partner countries selected for Mobility Partnerships and member states' motivations for joining the agreements. The conclusion will argue that this has implications for the future of the instrument.

The Mobility Partnerships

The notion of Mobility Partnerships was first mentioned in the Commission's evaluation of the Global Approach to Migration. The Global Approach (agreed by the Council in 2005) highlights areas of action on migration to be undertaken with Africa

and the Mediterranean countries. In it, the European Council "agrees on the urgent need in the short-term for broad-ranging *concrete actions*, which form part of ongoing work to ensure that migration works to the benefit of all countries concerned" (Council, 2005, p.9; emphasis added). The Commission's 2006 evaluation lists recommendations for the further development of the approach (particularly the inclusion of legal migration, and the extension of the Global Approach to cover the eastern and south-eastern regions neighbouring the EU) (Commission, 2006). It also suggests agreeing

> Mobility Packages with a number of interested third countries which would enable their citizens to have better access to the EU. There is a clear need to better organise the various forms of legal movement between the EU and third countries. Mobility Packages would provide the overall framework for managing such movements and would bring together the opportunities offered by the Member States and the European Community, while fully respecting the division of competences as provided by the Treaty (Commission, 2006, p.7).

In May 2007, the Commission issued the communication on Mobility Partnerships. The partnerships will "identify novel approaches to improve the management of legal movements of people between the EU and third countries ready to make significant efforts to fight illegal migration" (Commission, 2007a, p.2). In addition, they will aim at "exploiting potential positive impacts of migration on development and responding to the needs of countries of origin in terms of skill transfers and of mitigating the impact of brain drain" (ibid.). In June 2007 the Council suggested that this concept should be tested through a limited number of pilot partnerships (Council, 2007b) and in December it and suggested opening negotiations on Mobility Partnerships with Moldova and Cape Verde (Council, 2007c).

In May 2008, joint declarations on Mobility Partnerships were agreed with Moldova and Cape Verde (Council, 2008a; Council 2008b), and in November 2009 a

Mobility Partnership was concluded with Georgia (Council, 2009b).[2] The Mobility Partnerships are best understood as a framework for projects being undertaken. The partnerships are signed as political declarations and are implemented through the proposed projects (attached to the declarations as an annex). Projects can be proposed by EU member states, the Commission, or the partner country concerned. The Mobility Partnership with Moldova proposed 64 projects, that with Cape Verde 31, and that with Georgia 17 (though the list is updated as new projects are proposed). The Mobility Partnerships are tailored to the situation of each partner country in that different projects are proposed.

The political declarations all cover mobility, legal migration and integration; migration and development; and border management, identity and travel documents, fight against illegal migration and trafficking in human beings. Commitments which might be expected from partner countries include initiatives to discourage illegal migration through targeted information campaigns; efforts to improve border control including through operational cooperation with EU member states and/or Frontex (the EU's border agency); efforts to improve the security of travel documents against fraud or forgery; and commitments to promote employment and decent work (Commission, 2007a, p.4). In return, Mobility Partnerships will offer projects which broadly fall under the areas of: improved opportunities for legal migration for partner country nationals; assistance to help partner countries develop their capacity to manage legal migration flows; measures to address the risk of brain drain and to promote circular migration or return migration; and improvement and/or easing of the procedures for issuing short-stay visas to their nationals (ibid., pp.5-8). Examples of specific projects

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[2] In June 2008, the Council invited the Commission to open negotiations with Senegal on a Mobility Partnership (Council, 2008c), however the negotiations with Senegal have stalled and it is not currently considered likely that an agreement will emerge. This paper will focus only on those Mobility Partnerships which have been successfully concluded, and will therefore not include the failed negotiations with Senegal.

being implemented in the Mobility Partnerships include: drawing up a migration profile for the partner country; providing information on legal migration routes to the EU; study visits for officials of the partner country; support for returning migrants; bilateral agreements on social security rights; and training border guards.

The politics of EU migration policy

Traditionally, policy-making within the EU has followed the so-called 'Community method', whereby the Commission has the sole right to initiate legislation. Legislation is adopted by the Council (either unanimously or by a qualified majority, depending on the policy at hand) and the European Parliament (although the role of the Parliament varies widely – ranging from the right merely to express an opinion on proposed legislation to the right to co-legislate with the Council), and is binding on all member states. Legislation adopted in this way is subject to the jurisdiction of the European Court of Justice (Westlake and Galloway, 2004, p.14). However, this has applied only to the policy areas in which the European Union has exclusive competence – in other words, those areas where only the EU may legislate and adopt legally binding acts, and member states are restricted, being permitted to legislate only if empowered to do so by the EU (Art. 2 TFEU).[3]

In the academic study of European integration, there has long been a divide in theoretical approaches between neofunctionalism and intergovernmentalism (Bache and George, 2006, p.5). Neofunctionalists hold that initial integration between the member states in low-key economic areas will 'spill over' to more high-key, political areas (because integration in one sector causes member states' economies to become connected, and this drives demand for integration of related policy areas). This

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[3] The Treaty on the Functioning of the European Union, as amended by the Treaty of Lisbon (which entered into force on 1st December 2009).

process gains momentum, aided by the Commission which acts as a "sponsor of further integration" (Rosamond, 2000, pp.51-52). Neofunctionalism would therefore predict that, from its beginnings as the European Coal and Steel Community in the 1950s, the EU will gradually gain exclusive competence over an increasing number of policy areas, including migration. Caviedes (2004, p.291; cf. Stetter, 2000, p.81) makes such an argument, highlighting that member states' migration policies are connected, arguing that "national rules threaten to spill over into other countries".

This view of EU integration is countered by intergovernmentalists, who hold that the member states remain the most important actors in the EU. Rather than surrendering control of important policy areas to the Commission, "in areas of key importance to the national interest, nations prefer the certainty, or the self-controlled uncertainty, of national self-reliance" (Hoffmann, 1966, p.882). Member states do choose to cooperate on the European level, but only in instances where they perceive this to be in their interests (Moravcsik, 1993, p.495). Messina (2007, p.138) argues that "immigration-related issues have transcended their historical status as 'low' questions of domestic public policy to become 'high' issues of national and, increasingly, supranational policy and politics". According to the intergovernmentalist argument, migration policy would therefore be unlikely to be subjected to the Community method of legislation. Instead, member states will seek to maintain control over migration policy and limit the role of the Commission.

The EU has been gradually developing a migration policy since the 1980s. Already in 1991 the Commission linked migration policy to the economic project of creating an internal market with no borders (Commission, 1991), and the heads of state and government of EU member states meeting in Edinburgh in 1992 adopted a declaration on migration policy, stating inter alia that they would reinforce their

common endeavours to combat illegal migration (Council, 1992, p.48). An important step towards the creation of an EU migration policy came with the Amsterdam treaty in 1997, which listed the measures to be adopted by the EU in the area of migration policy within five years, including conditions of entry and residence, standards to be followed at external borders of the EU, and rules on visas. Significantly, article 67 of the treaty states that after a transitional period of five years, the Commission will have the sole right to propose legislation in the area of migration and asylum. In 1999, the heads of state and government of the member states agreed the five-year Tampere programme to establish an area of freedom, security and justice in the European Union, based on a genuine European area of justice, a union-wide fight against crime, stronger external action, and a common EU asylum and migration policy (Council, 1999). Bendel (2007, p.33) therefore argues that "asylum and immigration policies have long since become unthinkable without the EU".

Despite the increasing cooperation on migration matters outlined above, there is ample evidence that member states seek to maintain control over migration policy. Indeed, as Guiraudon (2000, p.256) points out, many developments in EU migration and asylum policy take place outside the legal framework of the EU. The Schengen agreement (on the abolition of border checks), although now incorporated into the EU treaties, began as a treaty between only the Benelux countries, France and Germany. Even the EU treaties have demonstrated a hesitant approach towards migration policy – the Amsterdam treaty, despite making migration and asylum an EU policy area and granting the Commission the right to initiate legislation, provided for a transitional period of five years during which the Commission would still share the right of initiative with member states. Member states particularly guard their control over legal migration policy (Bendel, 2007, p.34) – article 79 (5) of the TFEU (on the

development of an EU immigration policy) specifically states that "this article shall not affect the right of member states to determine volumes of admission of third-country nationals coming from third countries to their territories in order to seek work".

This reluctance by member states to surrender control over migration policy (and particularly legal migration) can make progress on the development of an EU migration policy very difficult. When decision-making among member states must be unanimous, any member state can block a proposal with which it disagrees, and policy-making risks grinding to a halt. In 2007, for example, the Commission proposed that legislation should be adopted on the admission of highly-skilled migrants, seasonal migrants and remunerated trainees to the EU, however to date only the Blue Card for highly-skilled migrants has been adopted after a difficult negotiation process (Wiesbrock, 2009, p.218). Héritier (2001) argues that European integration has reached the stage where policies which are central to national sovereignty are directly affected, and the Community method of legislation is therefore no longer appropriate. Member states are unwilling to grant the EU exclusive competence in these policy areas, and if deadlock is to be avoided in the policy-making process, new forms of cooperation (based on voluntarism) are needed. Member states are also suspicious of the Commission and concerned about losing influence over migration policy to the Commission (Caviedes, 2004, p.292). However, Héritier (2001, p.3) points out that the Commission sees even voluntary cooperation by member states on migration policy as "a possibility to expand European policies in the face of national governments' resistance". This paper will assess the extent to which the decision-making process on the Mobility Partnerships reflects the politics of EU migration policy more broadly.

Trends in EU migration policy

Certain trends in EU migration policy can be observed in the policy documents issued by the Council and the Commission over the past few years. The first is the emphasis on the importance of migration as a topic for the European Union. The ageing European population, and the negative effects this will have on the EU's aim (articulated in the Lisbon strategy) to be the most competitive and dynamic knowledge-based economy in the world, is frequently mentioned as the rationale for action on migration at the EU level (see, for example, Commission, 2007b, p.13; Commission, 2008b, p.6). Secondly, the importance of reducing illegal immigration is highlighted – in a communication issued in 2000, for example, the Commission emphasised the "fight against illegal immigration" as part of a coherent immigration policy (Commission, 2000), and it has issued communications specifically dealing with illegal migration in 2001, 2002, 2003 and 2006. In this context the Council has several times stressed the need for measures against illegal employment, which is seen as a factor that encourages migrants to enter the EU illegally (see for example Council, 2007a, p.4).

Migration policy is also increasingly linked to both foreign policy and development policy. Cooperation with third countries is seen as an important element of migration policy and already in 1991 the Commission called for migration policy to be incorporated into EU external policy (Commission, 1991, p.20). This is frequently linked to the desire to limit illegal migration:

> bearing in mind that any action to counter irregular migratory flows should take place as close as possible to the irregular migrants concerned, the EU should promote actions in, and support actions of, countries of origin and transit… To that end, *migration issues should be integrated in the existing partnerships, which are the general*

framework of our relations with third countries (Commission, 2001, pp.3-8; emphasis added).

Indeed, partnership with third countries was an important element of both the Tampere and Hague[4] programmes – the Hague programme notes that "asylum and migration are by their very nature international issues" (Council, 2004, p.20).

The link between migration policy and development policy was developed in a 2002 communication in which the Commission argued that "to maximise the potential positive effects of migration on development, and to reduce the negative ones, migration issues ought to be part and parcel of Community development policy" (Commission, 2002a, p.13). The Council confirmed this in 2003: "an effective and coherent development policy is an essential part of an effective migration policy" (Council, 2003, p.4). The assumption in some policy documents is that increasing the development levels of countries of origin will remove the economic motivation for migration and therefore reduce immigration to the EU: "efforts on migration management cannot have their full impact, if measures are not implemented at the beginning of the migration chain i.e. the promotion of peace, political stability, human rights, democratic principles and sustainable economic, social and environmental development of the countries of origin" (Commission, 2001, p.8). However, it is also acknowledged that migration can contribute to the development of the county of origin of migrants, for instance in the Commission communication on migration and development, which highlights remittances, links with diasporas, and circular migration as policy areas which can improve the impact of migration on development (Commission, 2005).

One tool which has been an important element of EU cooperation with third countries is readmission agreements. The Commission has acknowledged that "as

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[4] The Hague programme was the successor to the Tampere programme. The Tampere programme covered the years 1999-2004, the Hague programme the years 2004-2009.

readmission agreements work mainly in the interest of the Community, third-countries are naturally very reluctant to accept such agreements. Their successful conclusion, therefore, depends very much on the positive incentives ('leverage') at the Commission's disposal" (Commission, 2002b, p.24). The problem is that "in the field of JHA [justice and home affairs], there is little that can be offered in return", and some countries are not interested in signing readmission agreements in return for financial and technical assistance (ibid.).

Uncovering the decision-making process on Mobility Partnerships: a *European* policy?

How do the Mobility Partnerships relate to the politics of EU migration policy as identified above? At first sight, the Commission seems to play a significant role in the Mobility Partnerships. The concept of the Mobility Partnerships originated in its Directorate-General (DG) for Freedom, Security and Justice (JLS), and the Commission negotiates Mobility Partnerships with partner countries on the EU's behalf. Two main factors define the context for the development of the Mobility Partnerships by the Commission. The first is the crisis in Ceuta and Melilla in 2005 – during August and September, several migrants attempting to scale the border fences surrounding the Spanish enclaves were trampled to death or shot (though it was unclear whether Spanish or Moroccan border guards fired the shots) (Nash, 2005). This brought migration from Africa to the EU to the attention of policy-makers (Interview 1). In addition, in the context of the Global Approach to Migration, the Commission wanted a policy tool reflecting a balanced approach to migration issues (including legal migration, illegal migration, and migration and development) (Interview 2). The Commission accepts that people will move, and it is therefore

necessary to develop new instruments to manage such movements (Interview 3). Controlling illegal immigration remains an important concern (Interview 5), however as outlined above the Commission has also acknowledged that third countries are unwilling to sign readmission agreements with the EU, and there is a need to offer some concessions in return to secure such agreements (Interview 2; 4).

Some member states have, in the past, adopted such an approach – for instance, the Italian government opened a legal migration quota for Albanian citizens in order to be able to successfully conclude a bilateral readmission agreement with Albania (Roig and Huddleston, 2007, pp.377-378). This type of approach has led to fierce criticism by academics of the EU's migration policy – Chou (2006, p.2) has described the EU's method as 'coercive' as it "uses development aid or related incentives in exchange for third countries' cooperation in achieving EU migration objectives, such as the tackling of irregular migration". This is reflected in the aims of the Mobility Partnerships, which will be offered to countries "ready to make significant efforts to fight illegal migration" (Commission, 2007a, p.2). Indeed, one of the commitments which might be expected from partner countries in a Mobility Partnership is to readmit third country nationals and stateless persons who arrived in the EU through their territory (p.4).

Therefore, an argument could be made that the member states sign up to the Mobility Partnerships because this policy tool replicates the approach followed in national policy. Indeed, the Netherlands linked its decision to join the Mobility Partnership with Cape Verde to its 2008 policy memorandum on 'International Migration and Development'.[5] However, while accepting the rationale for the Mobility Partnerships as put forward by the Commission, the member states have

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[5] Internal communication, Ministry of Foreign Affairs of the Netherlands, 14 November 2008.

demonstrated their determination to remain in control of migration policy. Already when selecting partner countries for the first Mobility Partnerships, the Council requested the Commission "*in close liaison with Member States and/or the Presidency, in order to ensure a close involvement of the Council*, to open dialogue with Moldova and Cape Verde, with a view to launching pilot mobility partnerships" (Council, 2007d; emphasis added).

This determination to remain in control has manifested itself in several ways, most importantly through the legal framework designed for the Mobility Partnerships. The Mobility Partnerships are not legally binding international treaties, and they do not cover all member states – member states instead take part in the partnerships on a voluntary, opt-in basis. Only four member states signed the agreement with Cape Verde (the Netherlands joined later in 2008), 15 signed the agreement with Moldova and 16 the agreement with Georgia (see table 1 below). At the beginning of the process of developing this policy tool, the member states made clear their opposition to a legally binding agreement (Interview 2), and therefore the format chosen for the Mobility Partnerships was a political declaration with an annex of proposed projects. The Commission acknowledges that such a format has advantages – for instance, due to the flexible nature of the agreements, signatories can begin working immediately (Interview 4). In addition, legally binding agreements are not necessarily a panacea, as there may be problems with ratification or implementation (Interview 1). However, the voluntary basis of the partnerships is also problematic in that it becomes difficult to have a unified EU approach towards migration issues with that country (Interview 2; 6). In addition, the issues of most interest to partner countries (legal and labour migration) are controlled by member states – this complicated the discussions between the Commission and the partner countries on the Mobility Partnerships, as

the Commission could not guarantee what the member states would be willing to offer (Interview 13). The European Parliament and the European Court of Justice do not play any role at all in the Mobility Partnerships – the Mobility Partnerships are agreed between the Commission, the member states and the partner country, with no official possibility for the European Parliament to influence the negotiations, and as the agreements are not legally binding they are not subject to the jurisdiction of the European Court of Justice. Stetter (2000, p.88) has argued that previous cooperation outside the Community structure was "lacking any legal and institutional contractual foundation" and therefore "inefficient with regard to outcomes". The Commission's 2009 evaluation indicated the possibility of such problems by stating that the Mobility Partnerships risk becoming simply a collation of proposed projects (Commission, 2009).

Table 1: Member states participating in the Mobility Partnerships

With Cape Verde	With Moldova	With Georgia
France	Bulgaria	Belgium
Luxembourg	Cyprus	Bulgaria
Netherlands	Czech Republic	Czech Republic
Portugal	France	Denmark
Spain	Greece	Germany
	Germany	Estonia
	Hungary	Greece
	Italy	France
	Lithuania	Italy
	Poland	Lithuania
	Portugal	Latvia
	Romania	Netherlands
	Slovenia	Poland
	Slovakia	Romania
	Sweden	Sweden
		United Kingdom

The member states' determination to remain in control of the Mobility Partnerships is clear in their continuing prioritisation of their own bilateral relations with the partner countries over an EU approach. The Commission sees coordination

of member states' projects as an important added value of the Mobility Partnerships (Interview 6) and would ideally like member states to propose projects jointly. Instead it continues to receive proposals for projects by only one member state acting individually (Interview 2). Member states clearly emphasise their bilateral relations – one member state was hesitant about the need for Mobility Partnerships with certain countries because "we have a bilateral relationship which is enough" (Interview 8). Naturally, this has an impact on the coherence of the Mobility Partnerships – by prioritising their own bilateral projects, member states are not coordinating with each other, leading to a duplication of the projects being proposed (Interview 7).

There has been some tension between the member states and the Commission regarding the issue of legal migration. Member states are reluctant to surrender control over legal migration, which they emphasise is still a matter for national policy (Interview 8; see also above). The Commission, in turn, highlights that legal migration is one of the three components of the Global Approach and therefore needs to be included if the EU is to pursue a balanced approach to migration (Interview 6). The Treaty of Amsterdam (which transferred competence over migration and asylum policy to the EU), did state that the EU shall adopt measures on immigration, including on conditions of entry and residence (Art. 63 (3)), however, as Caviedes (2004, p.289) points out, "nation-states view immigration control policy as critical to maintaining sovereignty and are slow to relinquish their policy monopoly". Indeed, the Amsterdam treaty went on to state that measures adopted relating to immigration "shall not prevent any Member State from maintaining or introducing… national provisions which are compatible with this Treaty". The member states' reluctance to hand over control of legal migration is thus codified in EU law.

Some member states therefore state very clearly that they will not be offering legal migration opportunities as part of the Mobility Partnerships (Interview 5), while others instead emphasise the other components of the Global Approach (illegal migration and migration and development) (Interview 9). This approach is also clear when examining the projects proposed in the framework of the Mobility Partnerships. The Commission communication does foresee that Mobility Partnerships will provide opportunities for migration from the partner countries to the EU, either for work or studies/training, in the form of quotas, matching of job offers in the EU with job-seekers from partner countries and favourable treatment of nationals of partner countries (Commission, 2007a, p.5), though it does also state that such possibilities will depend on the labour market needs of member states and respect the principle of Community preference for EU citizens (ibid.). However, most of the projects dealing with legal migration do not focus on creating new opportunities for citizens of the partner countries to migrate to the EU. Rather, the emphasis is on raising awareness and informing about the opportunities for legal migration to the EU. For instance, of the 64 projects proposed under the agreement with Moldova, only 7 relate to labour migration schemes, and of these only two projects propose new possibilities for labour migration (the others dealing instead with bilateral agreements on local border traffic or the dissemination of information in Moldova on EU labour market regulations) (Reslow, 2010).

Some member states emphasise the importance of evaluation in the process of developing the Mobility Partnerships, to prevent them from gathering momentum and moving beyond member states' control (Interview 10; 11). However, here there is a difference between member states – on the one hand, some favour an in-depth evaluation and do not want to move ahead with further pilots before such an

evaluation is carried out (Interview 12), whereas on the other hand some wish to move ahead with further partnerships regardless of the evaluation procedure (Interview 8). The Commission's 2009 evaluation recommended extending the Mobility Partnerships to two or three more countries, implying that it is on a collision course with certain member states.

Overall it is clear that the Mobility Partnerships represent a shift away from the traditional policy-making method in the EU. The member states are determined to remain in control of this new policy tool and avoid handing over power to the EU level. The role of the Commission has therefore been limited, and the European Parliament and Court of Justice play no role at all. The partnerships are voluntary and not legally binding. This is in line with the argument by Héritier (2001) that, if EU policy-making is to proceed in areas which member states consider sensitive or key to their sovereignty then an element of voluntarism will be needed.

The Mobility Partnerships: an instance of *migration* policy?

The Mobility Partnerships are coherent with the trend at EU level for migration to be linked to other policies, particularly foreign and development policy. One of the innovations of the Mobility Partnerships is the idea to offer legal migration opportunities in return for third countries' support for controlling illegal immigration, thereby linking two dimensions of migration policy. This is due to the problem identified by the Commission in convincing third countries to cooperate on issues such as readmission without an appropriate incentive (see above). In order to incentivise cooperate, the Mobility Partnerships offer "novel approaches to improve the management of legal movements of people between the EU and third countries ready to make significant efforts to fight illegal migration" (Commission, 2007a, p.2),

(though, as argued above, most of the projects proposed under the Mobility Partnerships do not offer new opportunities for legal migration). The Commission also clearly envisages a link between the Mobility Partnerships and development policy when it states that the partnerships will aim at "exploiting potential positive impacts of migration on development and responding to the needs of countries of origin in terms of skill transfers and of mitigating the impact of brain drain" (ibid.).

However, broader considerations (seemingly unrelated to migration) have also come into play in the negotiation of the Mobility Partnerships, both in terms of selecting partner countries and in terms of member states' decisions to join particular Mobility Partnerships. The Commission's 2009 evaluation (based on the experience of negotiating and implementing Mobility Partnerships so far) explained that the selection criteria applied in choosing partner countries were

> the geographical balance between Eastern Europe and Africa, the importance of migration flows from or through the country to the EU, the readiness to cooperate on readmission and fight against illegal migration, the interest of EU Member States to cooperate with the country in question and its interest to enter such a partnership (Commission, 2009, p.3).

However, it goes on to state that there should be more strategic reflection surrounding the selection of partner countries (ibid.). Indeed, migration does not seem to have been the single central concern when selecting partner countries for the Mobility Partnerships. As one government official pointed out, Cape Verde is not a transition country for migrants coming to Europe (weather and sea conditions make it extremely difficult to reach the Canary Islands from Cape Verde) (Interview 14). To the east, there are significantly more migrants coming to the EU from Ukraine than from Moldova or Georgia[6] (Interview 6). Why, then, were these partner countries selected?

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[6] However, Ukraine stated that it was not interested in concluding a Mobility Partnership.

Officials of both the Commission and member states emphasised that Moldova and Cape Verde were selected in order to test the notion of Mobility Partnerships (Interview 3). For this reason, it was considered important to select countries which would be 'quick wins' (Interview 15) – in other words, countries with which it would not be too difficult to reach agreement in a short period of time (Interview 13). The Commission's evaluation of the Mobility Partnerships indicates that both Moldova and Cape Verde quickly confirmed their interest in participating (Commission, 2009, p.3).

Interviewees pointed out that the Mobility Partnership with Cape Verde in particular should be understood in terms of the broader relationship between the EU and Cape Verde (Interview 16) – Cape Verde is active in seeking new dimensions of cooperation (Commission, 2007c, p.2), and due to its high level of governance the Commission hopes that Cape Verde can be a model for other ACP countries to follow. In addition, Cape Verde has demonstrated its willingness to offer cooperation on security-related issues such as drugs and terrorism (ibid.). Migration relations were therefore not the only or primary reason for the EU to conclude a Mobility Partnership with Cape Verde. With regard to the selection of Georgia, the choice was clearly symbolic, having less to do with migration and more with broader political considerations (Interview 13). The war between Georgia and Russia and the need to show political support for Georgia was certainly an important factor motivating member states to propose a Mobility Partnership with Georgia (Interview 6; 8). At an extraordinary meeting on 1 September 2008 concerning the situation in Georgia, the European Council noted that it was "gravely concerned" by the conflict and as a result had decided to "step up its relations with Georgia" including in the areas of visas and trade (Council, 2008d).

In addition to broader political considerations, Commission officials point out that an important element in selecting partner countries for Mobility Partnerships is the level of interest by member states (Interview 2; 13). This, however, can be problematic due to member states having very different interests. A government official of one member state points out that a tour de table of the member states would lead to very different partner countries being proposed (Interview 15). In particular, there is frequently a split between 'southern' member states (who favour partnerships with Mediterranean and African countries) and 'eastern' member states (who favour partnerships with eastern and south-eastern European countries) – these divisions between member states can lead to heated discussions (Interview 6). Ultimately, then, selecting countries for Mobility Partnerships is bound to be related more to the 'balance' between east and south in the EU than necessarily about migration (Interview 15). Indeed, the Global Approach to Migration originally focussed on Africa and the Mediterranean countries, but was extended in 2007 to cover also the eastern and south-eastern regions neighbouring the EU. This east-south divide is therefore institutionalised in EU policy.

Why did member states decide to take part in the Mobility Partnerships? Due to the voluntary nature of the Mobility Partnerships, whereby member states decide on a case-by-case basis whether to opt in to the partnerships, this question is by definition multi-faceted – there is no single reason why member states would join a Mobility Partnership as each case varies. The analysis of the decision-making process in the case of the Mobility partnerships leads to insights about political dynamics at three levels: the international level (relations with the partner countries); the EU level (relations with other EU member states and EU institutions); and the national level (the importance of domestic political considerations).

At the international level, the selection of partner countries is relevant – in terms of geopolitical reasoning, the opportunity, through a Mobility Partnership, to demonstrate solidarity with Georgia was clearly an important factor for member states when deciding to take part (Interview 6; 8). Cultural or historical relations between certain EU member states and the selected partner countries are also significant (though the direction of the effect is likely to be that certain partner countries are selected for a Mobility Partnership *because* they are supported by certain member states).

Political reasoning at the EU level has also played a role – one government official pointed out that the desire to be an active and leading member state was an important reason for that member state's decision to join the Mobility Partnerships (Interview 17). Other government officials also highlighted the importance of leadership and feeling a sense of responsibility for certain EU initiatives (Interview 8; 9). For instance, the Global Approach to Migration was developed under the UK presidency of the Council (July-December 2005); negotiations with Moldova and Cape Verde were opened under the Portuguese presidency of the Council (July-December 2007); and the French presidency in 2008 presided over the European Pact on Immigration and Asylum, which inter alia commits to creating comprehensive partnerships with third countries.

Finally, the decision by member states to join the Mobility Partnerships can be understood in terms of domestic political considerations. The Netherlands, for instance, is phasing out its development cooperation with Cape Verde (which has moved from low-income to lower-middle income status), and the decision to join this Mobility Partnership should therefore be understood in the context of seeking to develop a broader relationship with Cape Verde.

Overall then, the Mobility Partnerships reflect the trend in EU migration policy of linking migration policy to other policy areas (particularly development policy). However, the decision-making process leading to the signing of the Mobility Partnerships also involved much political reasoning seemingly unrelated to migration policy (such as the importance of the geopolitical context and historical/cultural relations between member states and the partner countries).

Conclusion

This paper has argued that the Mobility Partnerships depart from the traditional Community method of policy-making in the EU, as the member states are determined to keep control of a policy area (migration policy more generally, and legal migration in particular) that is seen as central to their sovereignty (cf. Caviedes, 2004, p.289). Despite the role of the Commission in proposing and negotiating the Mobility Partnerships, member states have made sure that they remain at the heart of the decision-making process by insisting that the partnerships are not legally binding and that participation and the proposal of projects takes place on a voluntary basis. There is no role for the European Parliament or the European Court of Justice. The Mobility Partnerships also respond to the general development within EU migration policy, which has increasingly become linked with foreign policy and development policy – cooperation with third countries is seen as essential to achieving the EU's migration goals (in particular in order to limit illegal immigration to the EU), however given that this is not in the direct interest of the third countries concerned there is a need to offer an incentive in return. Mobility Partnerships are based on the innovative premise that third countries which assist the EU with managing migration should be offered increased legal migration opportunities to the EU, but the analysis showed that the

projects proposed by member states have largely been unrelated to increasing legal migration opportunities. Indeed, broader political considerations than only migration policy (such as the state of relations with the third countries, the member states' attitude towards EU migration policy, and domestic political concerns) have come into play in the decision-making process on the Mobility Partnerships.

The future of the Mobility Partnerships is therefore unclear. The EU's Stockholm Programme (which lays down priorities in justice and home affairs for the period 2009-2014) foresees "continued and expanded use of the Mobility partnership instrument as the main strategic, comprehensive and long-term cooperation framework for migration management with third countries" (Council, 2009c, p.62). However, the potential for conflict between the Commission and the member states was outlined above – for instance, some member states do not want to see further Mobility Partnerships in the immediate future, despite the Commission's stated intention to negotiate two or three more partnerships in 2010. In addition, the central role of broader political considerations in member states' decisions to join a Mobility Partnership with a particular country may dilute the notion of the partnerships – the risk is that the Mobility Partnerships will no longer be an instance of migration policy. Indeed, already 'mobility' (in the sense of increased legal migration opportunities for the partner countries' citizens to migrate to the EU) seems to be falling by the wayside in the negotiation of the Mobility Partnerships.

References

Bache, I. and George, S. (2006). *Politics in the European Union.* Oxford: Oxford University Press.

Bendel, P. (2007). Everything under Control? The European Union's Policies and Politics of Immigration. In T. Faist and A. Ette (Eds.), *The Europeanization of National Policies and Politics of Immigration. Between Autonomy and the European Union* (pp.32-48).

Castles, S. and Miller, M. J. (2003). *The Age of Migration. International Population Movements in the Modern World.* Basingstoke: Palgrave Macmillan.

Caviedes, A. (2004). The open method of co-ordination in immigration policy: a tool for prying open Fortress Europe? *Journal of European Public Policy, 11 (2),* pp.289-310.

Chou, M.-H. (2006). *EU and the Migration-Development Nexus: What Prospects for EU-Wide Policies?* Working Paper No. 37. Oxford: Centre on Migration, Policy and Society.

Commission (2009). *Mobility Partnerships as a tool of the Global Approach to Migration.* SEC (2009) 1240. Brussels: Commission of the European Communities.

Commission (2008a). *Eastern Partnership.* COM (2008) 823. Brussels: Commission of the European Communities.

Commission (2008b). *A common immigration policy for Europe: principles, actions and tools.* COM (2008) 359. Brussels: Commission of the European Communities.

Commission (2007a). *On circular migration and mobility partnerships between the European Union and third countries.* COM (2007) 248. Brussels: Commission of the European Communities.

Commission (2007b). *Proposal for a Council directive on the conditions of entry and residence of third-country nationals for the purposes of highly-qualified employment.* COM (2007) 637. Brussels: Commission of the European Communities.

Commission (2007c). *The future of relations between the European Union and the Republic of Cape Verde.* COM (2007) 641. Brussels: Commission of the European Communities.

Commission (2006). *The Global Approach to Migration one year on: towards a comprehensive European migration policy.* COM (2006) 735. Brussels: Commission of the European Communities.

Commission (2005). *Migration and development: some concrete orientations.* COM (2005) 390. Brussels: Commission of the European Communities.

Commission (2002a). *Integrating migration issues in the European Union's relations with third countries.* COM (2002) 703. Brussels: Commission of the European Communities.

Commission (2002b). *A community return policy on illegal residents.* COM (2002) 564. Brussels: Commission of the European Communities.

Commission (2001). *A common policy on illegal immigration.* COM (2001) 672. Brussels: Commission of the European Communities.

Commission (2000). *A Community immigration policy.* COM (2000) 757. Brussels : Commission of the European Communities.

Commission (1991). *Commission communication on immigration.* SEC (91) 1855. Brussels: Commission of the European Communities.

Council (2009a). *Draft Council Conclusions on Mobility Partnerships as a tool of the Global Approach to Migration.* 15811/09. Brussels: Council of the European Union.

Council (2009b). *Joint Declaration on a Mobility Partnership between the European Union and Georgia.* 16396/09 ADD 1. Brussels: Council of the European Union.

Council (2009c). *The Stockholm Programme – An open and secure Europe serving and protecting the citizens.* 16484/1/09. Brussels: Council of the European Union.

Council (2008a). *Joint Declaration on a Mobility Partnership between the European Union and the Republic of Moldova.* 9460/08 ADD 1. Brussels: Council of the European Union.

Council (2008b). *Joint Declaration on a Mobility Partnership between the European Union and the Republic of Cape Verde.* 9460/08 ADD 2. Brussels: Council of the European Union.

Council (2008c). *Enhancing the Global Approach to Migration.* Brussels: Council of the European Union.

Council (2008d). *Extraordinary European Council, Brussels 1 September 2008 – Presidency Conclusions.* Brussels: Council of the European Union.

Council (2007a). *Brussels European Council 21-22 June 2007 – Presidency Conclusions.* Brussels: Council of the European Union.

Council (2007b). *Extending and enhancing the Global Approach to Migration.* 10746/07. Brussels: Council of the European Union.

Council (2007c). *Mobility partnerships and circular migration in the framework of the global approach to migration.* Brussels: Council of the European Union.

Council (2007d). *2839th Council Meeting. General Affairs and External Relations. Brussels, 10 December 2007.* 16326/07. Brussels: Council of the European Union.

Council (2005). *Brussels European Council 15-16 December 2005 – Presidency Conclusions.* Brussels: Council of the European Union.

Council (2004). *Brussels European Council 4-5 November 2004 – Presidency Conclusions.* Brussels: Council of the European Union.

Council (2003). *Integrating migration issues in the European Union's relations with third countries: migration and development.* 8927/03. Brussels: Council of the European Union.

Council (1999). *Tampere European Council 15-16 October 1999 – Presidency Conclusions.* Brussels: Council of the European Union.

Council (1992). *Edinburgh European Council 11-12 December 1992 – Presidency Conclusions.* SN 456/92. Brussels: Council of the European Union.

Groff, A. (2005). *Migration partnerships: new tools in the international migration debate.* Global Migration Perspectives No. 21. Geneva: Global Commission on International Migration.

Guiraudon, V. (2000). European Integration and Migration Policy: Vertical Policy Making as Venue Shopping. *Journal of Common Market Studies, 38 (2),* pp.251-271.

de Haas, H. (2005). International Migration, Remittances and Development: myths and facts. *Third World Quarterly, 26 (8),* pp.1269-1284.

Héritier, A. (2001). *New Modes of Governance in Europe: Policy-Making without Legislating?* Max Planck Project Group on Common Goods: Law, Politics and Economics, No. 2001/14. Bonn: Max Planck Institute.

Hoffmann, S. (1966). Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe. *Daedalus, 95,* pp.862-915.

Hugo, G. (2003). Circular Migration: Keeping Development Rolling? *Migration Information Source, June 2003.* Retrieved 10th November 2009, from http://www.migrationinformation.org/Feature/display.cfm?ID=129

IOM (2004). Migration and Development: Current Policy Challenges. *Migration and Devlopment: Myths and Facts* (pp.4-19). EPC Issue Paper 11. Brussels: European Policy Centre.

Lucas, R. E. B. (2005). *International Migration and Economic Development: Lessons from low-income countries.* Cheltenham: Edward Elgar.

Martin, P. and Zürcher, G. (2008). Managing Migration: The Global Challenge. *Population Bulletin, 63 (1).* Washington: Population Reference Bureau

Migration DRC (2008). Overview of Session Six: Migration Partnerships. Retrieved 10th November 2009 from http://www.migrationdrc.org/news/reports/bmds/ session6/Migration_Partnerships.pdf

Moravcsik, A. (1993). Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach. *Journal of Common Market Studies, 31 (4),* pp.473-524.

Nash, E. (2005, September 30). Five killed as migrants storm Spain's foothold on African soil. *The Independent.*

Reslow, N. (2010). Migration and development? An assessment of recent EU policy initiatives. *Journal of Contemporary European Research* (forthcoming).

Roig, A. and Huddleston, T. (2007). EC Readmission Agreements: A Re-evaluation of the Political Impasse. *European Journal of Migration and Law, 9,* pp.363-387.

Rosamond, B. (2000). *Theories of European Integration.* Basingstoke: Palgrave Macmillan.

Skeldon, R. (1997). *Migration and Development: A Global Perspective.* Harlow: Longman.

Stetter, S. (2000). Regulating migration: authority delegation in justice and home affairs. *Journal of European Public Policy, 7 (1),* pp.80-103.

Westlake, M. and Galloway, D. (2004). *The Council of the European Union.* London: John Harper.

Wiesbrock, A. (2009). *Legal Migration to the European Union: Ten Years After Tampere.* PhD thesis, Maastricht University. Nijmegen: Wolf Legal.

Interview 1:   Commission official, 29 October 2009
Interview 2:   Commission official, 13 October 2009
Interview 3:   Commission official, 21 October 2009
Interview 4:   Commission official, 6 February 2009
Interview 5:   Government official of member state, 15 September 2009
Interview 6:   Commission official, 6 November 2009
Interview 7:   Former Commission official, 17 November 2009
Interview 8:   Government official of member state, 20 October 2009
Interview 9:   Government official of member state, 22 October 2009
Interview 10: Government official of member state, 29 September 2009
Interview 11: Government official of member state, 14 September 2009
Interview 12: Government official of member state, 16 October 2009
Interview 13: Commission official, 6 February 2009
Interview 14: Government official of member state, 27 October 2009
Interview 15: Government official of member state, 8 October 2009
Interview 16: Commission official, 12 October 2009
Interview 17: Government official of member state, 15 September 2009