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# SUMMARY

This dissertation investigates the reasons behind the failure of the EU-wide Readmission Agreement (EURA) negotiations between the EU and Morocco. EURAs are concluded to facilitate the removal or expulsion of "persons who do not or no longer fulfil the conditions of entry to, presence in or residence" in a destination country. The original contribution of our empirical account is to not only assess readmission agreements as a stand-alone issue, but to study them in the framework of Mobility Partnerships from the perspective of the non-EU country. In turn, questioning to what extent Mobility Partnerships succeeded in eliciting Morocco's compliance on the EU regime on readmissions offers valuable political insights on the effectiveness of EU conditionality and sheds light on the objectives of the EU external migration policy. Surprisingly, having screened the surrounding literature, we found that our topic has received far less attention than it deserved. From our side, the circumstance is puzzling for several reasons.

First, establishing EURAs with third countries lies at the heart of the EU strategy to ensure internal security in the Schengen Area. Second, in keeping with the EU strategy, cooperation on readmissions with Morocco is vital, given its geographical position as a gateway to Europe. Third, despite a consolidated history of cooperation in migration matters and unwavering pressures by the EU, Morocco adamantly refuses to sign a EURA. In essence, the interaction between the policy at hand, the key role played by Morocco in migration-related matters and the positive track record of cooperation make the policy failure in the EURA case a compelling research subject. Moreover, EURAs are asymmetrical negotiations comprising a party endowed with higher bargaining power (EU) and another with fewer bargaining resources to employ (Morocco). At the same time, the negotiations are structurally unbalanced, provided that their successful conclusion requires strong adoption costs from the Moroccan side. Acknowledged how Moroccan feedbacks to the instrumentation of EURAs were idiosyncratic at best overtime, we consider the study of how EURA negotiation unfolded a proof of the pudding to weaken the claims on the EU conditionality effectiveness. EU conditionality was praised on several occasions as one of the most successful modes of the EU external governance. Yet, as we apprehend in our investigation of an ENP country, given that it failed to secure a EURA, in the Moroccan case conditionality did not alter the cost-benefit calculation of the target country. This notwithstanding the unwavering pressure put on Morocco and an alleged fine-tuning of incentives over time.

Following the introduction, our dissertation is structured into a section on the state of the art (chapter *two*), a theoretical part (chapter *three*), a methodological part (chapter *four*), a part on "tools for the

empirical analysis” (chapter *five*) and an empirical part (chapters *six* to *ten*). Thereafter, we recollect empirical findings (chapter *eleven*) and draw our conclusions.

In the section on the state of art (chapter *two*) we anchor our research puzzle to the surrounding literature on EU external migration governance in the ENP, externalization of borders, EU conditionality and Mobility Partnerships and eventually point to the gap in existing research. Admittedly, many researches investigating EU external governance approaches recognize the cardinal role played by incentives in predicting the modes of governance and ensuing nature of agreements between the EU and third countries. Nevertheless, akin contributions solely rely on institutionalist explanations of EU’s success in policy transfer. On account of similar elucidations, policy preferences of third countries are often neglected, reducing these latter to mere recipients of the EU policy transfer. From our part, we attempt to dissect these preferences, highlighting their connection to the policy failure in the EURA case. We also contend that investigations where policy-preferences of third countries received empirical attention solely regarded rule-implementation, while patterns of rule-adoption were critically overshadowed. Concurrently, our analysis propels the attention on this aspect. In addition, whereas a large portion of empirical accounts on Mobility Partnerships has set comparatively negotiation patterns with different third countries, we eviscerate how those unfolded in the case of Morocco, laying the groundwork for a detailed single-case study.

The *third* chapter outlines the theoretical framework of the master thesis: the external incentives revisited model (EIRM), a rationalist bargaining model, developed by Schimmelfennig and Sedelmeier. According to the EIRM, the effectiveness of conditionality depends on the size of the EU reward and the size of the target country’s adoption costs. Furthermore, it postulates that incentives can alter target countries’ cost-benefit calculations. Therefore, the model fares well with our research question as it allows for evaluating both the costs and the benefits that an EURA would entail for Morocco in the framework of Mobility Partnerships. Based upon this model, we formulate our core hypothesis intended to explain why EU-Morocco EURA negotiations failed. Virtually, before conducting empirical research, we anticipated the adoption costs to be very high for Morocco, while our expectations on the size of the incentives offered by the EU were not as clear-cut. Given the asymmetric predictions and consistently with the EIRM we argue that “*if the costs of a EURA exceed the benefits offered in return Morocco will not accept the EU proposal*”. With a view to confirm or either rule out our prediction, we broke down our core hypothesis into four sub-hypothesis: two on incentives (mobility and trade) promised by the EU in return for compliance on the EURA regime and two on adaptation costs (foreign and domestic costs) Morocco would need to internalize in case a EURA was in place. In greater detail, we argued that:

$h_1$ : Incentives offered on the side of mobility are structurally flawed.

h<sub>2</sub>: The trade incentive of the DCFTA is structurally flawed.

h<sub>3</sub>: EURAs bring about unbearable foreign policy costs for Morocco.

h<sub>4</sub>: EURAs bring about unbearable domestic policy costs for Morocco.

The *fourth* chapter describes the methodological procedure, the corpus of data employed to seek empirical validation for our hypothesis and the general limitations of the study. We selected costs and incentives of EURA negotiations as the two variables to be analysed over the 2013-2020 period. The empirical analysis was conducted by using qualitative methods to assess the relationship between variables. We opted for MAXQDA for collecting, organizing, and analysing qualitative data. Each piece of information was coded according to its general content, complemented by a memo and sub-coded in a specific folder, to prepare qualitative content analysis. Content qualitative analysis of official documents, official government statements, press releases, newspapers, relevant literature and studies released by public authorities by both sides enabled us to have in-depth insights on how EU-proposed incentives and compliance requirements were framed in turn by Moroccan authorities. We eventually had access to non-publicly disclosed data and documents made available by the EU Delegation in Rabat, the GADEM network and the European Training Foundation. To evaluate our causal claims, we made use of process-tracing. We also managed to provide descriptive secondary data in support of our qualitative hypothesis testing. In this direction, statistical data were extracted from EU open data portals, Frontex, UNCHR, World Bank and IMF among others. Ready-to use data were directly plotted in tables to buttress our theoretical claims on EURA negotiations. Aside from available datasets, we also collected piece of information in disaggregated form. In that case, we standardised data coming from different sources and operationalized them to assess costs and incentives emerged in EURA negotiations. Secondary data qualitative analysis was enriched by comparing findings from a semi-structured élite interview. In order to meet the empirical research goals, we initially opted for a non-probabilistic purposive sampling, motivated by the sectoral competence of the interviewees. Measured with the non-accessibility of some respondents, in turn, we fell back on convenience sampling. Unfortunately, despite uncountable efforts to reach the selected interviewees, our research work was constrained by considerable limitations. Eleven out of the twelve people contacted clarified that given the exceptional circumstances (ongoing health emergency across the EU), they were not available to granting any interview. We were also confirmed that, being EU-Morocco EURA negotiations formally in place, the piece of information interviewees could release was very limited. The same attitude was mirrored by the single interviewee we could reach -a Commission DG Home Official- given that out of five semi-structured questions, many of which were left unanswered, we could hardly drag out meaningful insights for our research question.

With this in mind, the pursuit of our research goals posed other methodological challenges. First, data-access was occasionally prohibitive, alternatively affecting data accuracy or forcing us to undergo purely indicative self-elaboration processes. For instance, a strong limitation we encountered was the unavailability of reliable data on the immigrant population in Morocco. In all honesty, such data exist but several researchers have questioned their validity on a larger scale, so we did as well. Other data types we used to buttress our theoretical claims on EURA negotiations, such as those on remittances, are inherently flawed, given that by admission of researchers collecting them, they aggregate legal and illegal remittance flows. Given that EURAs typically affect illegal remittances alone, we probably overestimated their importance for Moroccan citizens.

Throughout the *fifth* chapter, “tools for the empirical analysis”, by conceptualizing both EURAs and Mobility Partnerships, we provide the readers with clarifications instrumental to understanding how they are devised in both theory and practice. As for the first, we respectively define the notion of EURAs, illustrate the distribution of competences on readmissions at the EU normative level, and show critical aspects leading to their rejection by third countries. Building on existing literature, we learn that they adamantly refuse the TCN clause, lament the inequitable responsibility division EURAs entail, rather prefer regulating readmissions through informal and non-binding regimes and point at the inadequacy of incentives offered by the EU in return for compliance.

Once having clarified the EU demand side, namely EURAs, we proceed by introducing Mobility Partnerships: the EU-designated policy instrument meant to facilitate the provision of appealing incentives to third countries. Indeed, Mobility Partnerships are a non-binding political tool that provides a platform to jointly negotiate readmission agreements and visa-facilitations. In this regard, they foresee patterns of bargaining linking commitments (costs) expected from the third countries to desirable incentives (incentives) offered in return from the EU Commission and participating MS. The granting of “carrots”, notably including enhanced opportunities for legal migration (usually in the form of visa facilitation agreements) is conditional upon active cooperation with the EU in the management of migration flows, including fighting against illegal migration and the political commitment to sign EURAs. First, we contextualize the introduction of Mobility Partnerships within the overarching framework of the EU external migration policy, namely the Global Approach on Migration and Mobility. Second, we apply the notion of “intended consequences and unintended consequences” as for Mobility Partnerships adoption and implementation patterns. Such an operation is instrumental to highlighting the unsuccess of Mobility Partnerships in fostering the signature of readmission agreements. Due to inherent flaws, we derive the expectation that incentives delivered to Morocco under this framework did not compensate for the costs of adoption required by a EURA.

Highlighting the dysfunctionality of Mobility Partnerships, we further show how the unattractiveness of incentives stemmed from the asymmetry between their intended policy objectives and their instrumentation in practice. In this regard, we underscore that despite Mobility Partnerships constituted an attempt to dampen the consequences of EU's lack of legal competences, the most appetible bargaining chips to be offered in return for compliance on readmissions are in the hands of MS. Furthermore, we find that on several occasions, although promised, new pathways for legal migration did not materialise for third countries, thus remaining abstract commitments by MS. In view of the shortcomings highlighted above, we grew expectations that the instrument hardly facilitated the successful conclusion of a EURA negotiation with Morocco.

The results of our empirical analysis are presented in chapters *six* to *nine* with each chapter devoted to a sub-hypothesis.

In chapter *six*, we contend that mobility opportunities granted to Moroccan citizens betrayed the premises for a mutually beneficial partnership. According to our theoretical model, EU conditionality succeeds in inducing rule compliance -EURA signature in our specific case- when the incentives promised for rule compliance balance the ensuing adaptation costs. Therefore, attempting to offer an exhaustive overview of mobility opportunities afforded to Moroccans, besides registering the stalemate in visa-facilitations negotiations, we also assessed the framework of Mobility Partnerships and the potential impact of new visa rules on visa-facilitations talks. We argue that incentives promised to Morocco on the mobility side were not sufficiently attractive to elicit compliance on readmission. In this spirit, we structured our argument around three main points. We maintain that the crucial components to explain Moroccan dissatisfaction with the EU mobility proposal lie within the interplay of visa-facilitations with the existing visa regime and the limited possibility the EU has to propose alternative legal pathways of mobility. Finally, we also highlight how the recent reform of the EU Visa Code can further complicate the upcoming rounds of negotiations. First, we find that conceived as such, the concrete visa facilitation agreement proposed by the EU did not measure up to Morocco's requests. Indeed, lacking any communitarized competence on long-term visas, the EU seemed bound to solely make concessions on short-term visas, taking Moroccan's optimal negotiation outcome off the table. Moreover, limited to short-stay visas, the EU's bid appeared narrower in scope if compared to existing visa-facilitations regimes.

We also highlighted how Moroccan delegation does not consider EU incentives in isolation, but rather set them comparatively with the treatment given to other countries. From this angle, the notion of a partnership of equals is increasingly challenged by how the EU deals with Morocco. Indeed, this latter sees its self-dignity as affected by negotiations on visa-facilitations and demands a de-coupling of

readmission and visa facilitation talks. Taken together, these aspects converge to explain why Morocco found the EU proposal on visa facilitation unappealing.

Second, notwithstanding Mobility Partnerships were devised to extend the mobility opportunity afforded to Moroccans, our empirical observations on the unfolding of negotiations run contrary to that. Indeed, upon looking at the projects listed in the Annex of the EU-Morocco Mobility Partnership Political Declaration we found that EU Member States seemed hardly inclined to granting legal migration avenues for Moroccan Citizens. The occurrence seems frankly at odds with what the EU prospected to Morocco when the Mobility Partnership was signed in 2013 and offers a credible explanation of why Morocco deemed the EU proposals concerning mobility as insufficient. Third, far from coming to terms with its partner, the EU appears intent on hardening its conditionality regime with the new visa rules, which prescribe reduced mobility opportunities to least cooperating countries in matters of readmissions. As a further aspect, empirical evidence suggests that the increased visa-fee is not a one-off adjustment, but rather part of a consolidated trend, alighting frustrations from the other side.

Considering all their limitations, mobility opportunities granted to Moroccan citizens appear blunt tools for inducing cooperation on readmission. In this perspective, the EIRM model prescribes that for the EU conditionality to succeed, incentives shall offset the costs for compliance. This chapter highlights that, as for mobility opportunities, empirical evidence goes in the opposite direction, substantiating our claim on the dysfunctional working of EU conditionality during EURA negotiations.

In chapter *seven* we intend on capturing the broader picture of why Morocco considers the EU-proposed DFTCA a non-appealing incentive, and argue by contrast that it would constitute a further cost to be added to those stemming from cooperating on readmissions.

First, we find that Morocco's dependency to the EU as a trading partner generates an alarming trade unbalance, -further exacerbated by the lower attractiveness of the Moroccan national business environment- a worrying downward trend in competitiveness and structural economic deficiencies. In essence, these factors account for Moroccan's diffidence towards accelerating trade liberalization with the EU.

Second, eviscerating studies on the impact of DFTCAs we uncover that agreements of that sort harbour considerable pitfalls for third countries. One amid those, namely the critical worsening of trade deficits EU partners are usually subjected to, is an outcome that Morocco would rather avoid at any cost, given that its trade unbalance with the EU is already sizeable.

Third, we show that further liberalization entails great upfront adaptation costs, with those often internalized at the expense of national economic actors. Broadening the scope, local Moroccan economic actors themselves frame DCFTAs negatively, considering the agreement a direct threat to domestic economic stability. Moreover, we find empirical evidence for the mounting resistance of civil society to DCFTA prospects. Bottom-up resistance cannot be overlooked, given that social outcry played a key role in the suspension of negotiations of 2014.

In conclusion, while any decision on further liberalization advises caution, the intersection of the Western Sahara judicial dispute with its potential impact on DCFTA suggest that trade incentive may further lose appeal in the eyes of Moroccan authorities.

Considering the structural flaws highlighted above, while the incentive was endowed with great potential, the EU failed to leverage on the DCFTA to induce EURA acceptance. Adapting our findings to the EIRM, the occurrence implies that not only mobility incentives but also trade incentives offered during EURA negotiations were structurally flawed. This solidly underpins our claim that conditionality's reach is negatively affected by unappealing rewards promised in return for compliance.

In chapter *eight*, we bring to light how accepting readmissions could push further afield Moroccan foreign policy objectives. In this respect, we broke down Moroccan foreign policy agenda and identified three political aims that would be thwarted by the acceptance of an EURA.

First, we analyse how Morocco's "return to Africa" and its aspiration to play a pivotal role within the African Union is at odds with the signing of an EURA. Second, we illustrate how high-level profile migration initiatives launched by Morocco hardly come to terms with EURAs.

Briefly resuming our empirical findings, EURAs seems hardly compatible with the Global Compact for Migration (GCM), given that they do not address the delicate post-readmission phase and prescribe no direct channels to facilitate the relocation of TCNs to their countries of origin, therefore placing an excessive burden on the transit countries.

Given that Morocco publicly stated its aspiration to comply with the international commitments on migration made under the political framework set by the GCM, we can conclude that signing a EURA would run counter its foreign policy interest.

In such a perspective, Morocco would pay lip service to its international commitment, advocating a comprehensive approach to migration management at the international level from one side while signing a security-oriented pact from the other.

Allegedly, Morocco would prejudice its high-profile standing as "champion of migrations" and forfeit its legitimacy in the face of international promoters of comprehensive paradigms of migration management.



It bears noting that depleting the credit accrued at the international level would by no means be the sole toll paid by Moroccan government. Veritably, the two foreign policy trajectories of growing international legitimacy and gaining clout in the African continent, culminated with Morocco's return to the African Union (AU), cross when it comes to migration policy. Indeed, since re-joining the AU, the country has taken leadership in the continent as for migration-related issues, being designated from AU countries to promote an African Agenda to Migration. In the same respect, our claim that EURAs would bear unbearable foreign policy costs for Morocco finds further validation from the moment that adhering to the EU approach on readmission, Morocco would contradict the Common African Position (CAP) position issued in view of the Intergovernmental Marrakech Conference. According to our findings, the AU position on migratory matters is consistent with that of GCM. As we demonstrate throughout the analysis, just like the GCM approach, also the CAP is at odds with EURAs. Therefore, no agreement of that sort could be signed by Morocco without renegeing on its continental leadership on migration matters. Pulling the sums, alongside unbearable international costs resulting from a loss of legitimacy at the international level, by signing a EURA Morocco would deliberately renege on its continental commitments on migration, probably lose its role as an agenda-setter on migration-related issues and contradict the AU's stance on the matter. Following a similar policy path would qualify at best as an incoherent policy choice and with all the likelihood worsen diplomatic relationship with its African neighbours, frustrating all the attempts made to acquire political and economic influence throughout the continent. In essence, the foreign policy costs resulting from signing a EURA are too high to be borne by Morocco, and therefore our hypothesis is validated.

In chapter *nine*, we first emphasise the quintessential contentious point of EURA negotiations, namely the inclusion of TCN nationals. Second, as also applies to foreign policy considerations, we show how compliance with EURA regime by Morocco would be at odds with the current policy course, shaped by the comprehensive New Immigration Policy. Third, by emphasizing the crucial role played by remittances within Moroccan economy, we bring to light why EURAs are unpopular with the local population.

As for the first point, we find that throughout EURA talks, Moroccan negotiators referred to the TCN clause as an inadmissible impingement on Moroccan sovereignty. For that reason, Morocco throughout EURA talks, repeatedly called to treat readmission of its own nationals and of TCNs as separate matters. In addition, Morocco lifted another barrier as for determination of the proofs of transit - notably a precondition of removal operations- contending how unfeasible it was to trace back the migratory routes travelled by undocumented migrants. We also bring into play the Spain-Morocco

readmission agreement with a view to understand Morocco's position on the TCN clause. According to our empirical findings, when operational activities were jointly launched, Morocco adamantly resisted to put it into practice. Provided that the refusal to cooperate with Spanish authorities happened simultaneously to EURA rounds, we are inclined to think that the TCN clause is an unbearable condition for Morocco, irrespective of its negotiating partner. As we demonstrate throughout the section, another crux related to TCNs is that Morocco already struggles with the reintegration of its own nationals in the economic system. From our side, there is no reason to believe the outcome would be better for foreigners, rather the contrary, given that linguistic, cultural and racial dividing lines may add up to economic distress. Indeed, we find widespread evidence of the grim reality of exploitation to which many Sub-Saharan are subjected and of the simmering anti-migrant sentiment in Morocco. All the above clarify why Morocco dragged its feet, and eventually resisted the inclusion of a TCN clause in EURA negotiations.

Farther in the thesis, we also show how compliance with EURA regime by Morocco would be at odds with the current policy course, shaped by the comprehensive New Immigration Policy. Generally speaking, notwithstanding persisting cases of discrimination, an underdeveloped legal framework and limited budget capacities, we find that Morocco is setting the stages for becoming a country of destination of migratory flows. The pledge to reinforce its capacity-building and adapting its legal, social and infrastructural resources is indicative of how Morocco strives for self-ownership of its migration policy. Admittedly, the country presents itself as an ending point of migration journeys rather than a gateway to Europe and accepts, akin to European partners, to shoulder responsibilities for first receipt of incomers. Pursuantly to the principle of responsibility sharing, we find that Morocco is already assuming his own. In similar terms, by signing a EURA, Morocco would abandon a policy path that resulted in higher domestic legitimacy with CSOs and increasing reputation as a pioneer at the continental level.

We also underscore that, if mobilisation of civil society groups pushed Morocco to rethink its approach to migration policy, a EURA would represent an inexplicable step backwards, considering that civil society groups from Morocco warn against human rights violations resulting from readmissions operations. On top of these implications, operational and budgetary limitations voiced by the UNCHR suggest that Morocco is already struggling to ensure economic and social integration of its own migrant population. Admittedly, readmission tasks resulting from EURA signature, would overburden the already fragile Moroccan asylum system, which already falls short of resettlement places. Arguably, a surge of the population entitled to protection without a parallel development of adequate infrastructures for reception would virtually worsen already dire migrants living conditions and be a leeway for further marginalization. As a result of the above, we illustrate

how the new policy course initiated with the New Migration Policy is largely at odds with the signature of a EURA.

To conclude, by emphasizing the crucial role played by remittances within Moroccan economy throughout the chapter, we give a further argument for the unpopularity of EURAs with the local population. We highlight how sizeable is the Moroccan Diaspora, presuming that correspondingly remittance flows to Morocco are a significant source of income for local families. Evidence eventually goes in this direction and we thus illustrate the key role played by remittances in boosting domestic consumption, investment and schooling opportunities. We eventually compare remittances and EU aid intended to support access to basic services as for their weight on Moroccan's GDP. Our empirical process incidentally shows that given how much they cover of the yearly Moroccan GDP, the developmental role remittances can play for Moroccan economy is unparalleled. Considered their diffusion, their share on annual GDP and their globally positive effects on Moroccan society, it is indeed difficult to imagine that Morocco could renounce to a part of its remittances to comply with EU rules on readmissions.

In chapter *ten* we summarise our empirical findings clarifying that the whole set of sub-hypotheses was verified, hence confirming the general thesis that signing an EURA in the framework of Mobility Partnerships is unattractive for Morocco as the costs outweigh the benefits.

As a complement to our empirical analysis, we briefly assess which amid the two costs had the greatest effect on the failure of EURA negotiations.

We argue that domestic policy costs made the twin-track strategy of joint EURA-visa facilitation talks derail. Indeed, in consistency with the timeline of negotiations, even prior to the enactment of the New Migration Policy, Morocco motivated its resistance with the inclusion of a TCN clause. Moreover, while geopolitical considerations are liable to change, as Morocco's unexpected rapprochement to the African continent highlights, domestic policy concerns have always alimented distrust on the EURA regime.

By the way, we also sense that the prominence of domestic factors may be challenged in the future. In this perspective, we argue that Morocco is experiencing the setbacks of adapting its institutional infrastructure to the requirements of a destination country. The internalization of costs is still underway but, in our view, the transition between an origin and a destination country is set to reach an end. In this context, if Morocco will bridge the legal gap in migrant protection and conterminously bolster its reception capacity, the EURA regime will be perceived as less detrimental at the domestic level. By that time, foreign policy considerations may play an overriding role in the dialogue on migration with the EU.

In Chapter XI we draw our conclusions, reinstating the policy relevance of our dissertation and briefly recalling our core arguments. We stress that our master thesis provides crucial political insights into the future of EU-Morocco relations. According to our empirical findings, the failure of negotiations reflects the weak understanding amid the parties. Notably, this relevantly show how cooperative neighbourly relations are not a reliable indicator of the success of the EU conditionality. We also offer our personal thoughts in the form of policy suggestions. From our side, the EU needs to accept the mutated geopolitical context of migration. From the outset, EURAs were conceived as a backstop to clamp down massive unauthorized entries to the Schengen Area. In these terms, they called for bilateral responsibility sharing in migration matters. Now that Morocco is assuming its own, the EURA approach appears to us outdated and paternalistic. Moreover, the EU's pledge to gauge interest in cooperating on readmissions should take stock of the fact that Morocco, in view of its continental and international commitments, will further reject any unequitable burden-sharing prospect in migration-related matters.

# ABSTRACT

Our dissertation investigates the reasons behind the failure of the EU-wide Readmission Agreement (EURA) negotiations between the EU and Morocco. EURAs are EU-promoted bilateral policy instruments intended to give operational substance to return decisions. Failure to elicit compliance from Morocco is puzzling. First, establishing EURAs with third countries lies at the heart of the EU strategy to ensure internal security in the Schengen Area. Second, in keeping with the EU strategy, cooperation on readmissions with Morocco is crucial, given its geographical position as a gateway to Europe. Third, despite a consolidated history of cooperation in migration matters and unwavering pressures by the EU, Morocco adamantly refuses to sign a EURA. Seeking to elicit compliance in this regard, the EU has devised a set of incentives within the framework of the EU-Morocco Mobility Partnership. From our side, the failure of EURA negotiations is a proof of the pudding to weaken the claims on the effectiveness of EU conditionality. Building on the external incentives revisited model theorized by Schemmelfennig and Sedelmeier in 2019, we contend that EU conditionality failed to induce Morocco to comply with the EURA policy regime since the adoption costs exceeded the benefits promised in return. With a view to keep track of Morocco's policy preferences during EURA negotiations, we employ qualitative content analysis, relying on documentary evidence and a single semi-structured elite interview. Our empirical overview shows that considerable domestic and foreign policy costs a EURA would impose on Morocco are hardly mitigated by the half-baked mobility and trade incentives the EU promises in return for compliance. Lacking desirable incentives to leverage on, EU conditionality fails to induce Morocco to sign a EURA.

**Keywords:** EU Conditionality, EU Migration policy, Morocco, Mobility Partnerships, European Neighbourhood Policy, EU Visa Facilitation and Readmission Agreements

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## LIST OF ABBREVIATIONS

<b>EIRM</b>	External incentive revisited model
<b>AA</b>	Association Agreement
<b>MENA</b>	Middle East and North African Region
<b>EURA</b>	EU-wide Readmission Agreements
<b>TCNs</b>	Third country nationals.
<b>MS</b>	Member States
<b>TFEU</b>	Treaty on the Functioning of the European Union
<b>JRC</b>	Joint Readmission Committee
<b>ICMPD</b>	International Centre for Migration Policy Development
<b>AU</b>	African Union
<b>SADR</b>	Sahrawi Republic
<b>GFMD</b>	Global Forum on Migration and Development
<b>GCM</b>	Global Compact for Safe, Orderly and Regular Migration
<b>CAP</b>	Common African Position
<b>STC</b>	AU Specialised Technical Committee
<b>SIA</b>	Sustainability Impact Assessment
<b>CSOs</b>	Civil society organizations
<b>ALCS</b>	Association to Fight AIDS
<b>AMDH</b>	Moroccan Association for Human Rights
<b>ITCP-MENA</b>	International Treatment Preparedness Coalition for MENA Countries
<b>ASMEX</b>	Moroccan Association of Exporters
<b>CGEM</b>	General Confederation of Moroccan Enterprises
<b>ECJ</b>	European Court of Justice
<b>HCP</b>	Haut Commissariat au Plan (Moroccan National Statistical Agency)

<b>AVRR</b>	Voluntary Return and Reintegration Program
<b>ITC</b>	International Training Center
<b>ILO</b>	International Labour Organization
<b>FIERI</b>	International and European Forum on Migration Research
<b>MCMREAM</b>	Ministry in Charge of Moroccans Living Abroad
<b>IPPR</b>	Institute for Public Policy Research
<b>MSF</b>	Doctors Without Borders

# I. INTRODUCTION

Morocco has long been at the core of the European Union's strategic priorities in North Africa. Admittedly, building upon sedimented cultural and human shared ties, the EU and Morocco succeeded in forging a wide-ranging partnership over time. Since the inception of the European Neighbourhood Policy (ENP) in 2004, Morocco rose through the ranks, gradually intensifying partnerships with the EU in plenty of areas of shared interest, including political, economic, technical and trade cooperation. (European Commission DG NEAR, 2020).

The progress did not come unexpected, given that within the EU discursive practice, Morocco has been constantly recognized as a model student. Rhetorically backed in the context of several EU-Morocco shared political frameworks, the privileged nature of the relationship is testified by the pioneering involvement of Morocco in EU-promoted initiatives with its neighbours. As a sign of that, Morocco was the first country to sign an Association Agreement (AA) with the EU in 2000.

Reflecting the ambitions for a strengthened EU-Morocco strategic tie, the country was granted an ENP "advanced status" in 2008, a recognition of privileged cooperation status that just falls short of EU accession. Especially from when the Arab Spring upset the geopolitical context in the Middle East and North African Region (MENA), being a gateway to Europe to be sealed, Morocco received funding, high-surveillance equipment up to become the cornerstone of the EU system of border security in the Western Mediterranean Route. Following the successes of the multifaceted EU-Morocco cooperation, placing the "student model" at the door of Fortress Europe was a winning choice, insofar as Morocco actively engaged in disrupting human smuggling networks and contributed to Frontex-led missions in the Mediterranean Sea jointly with Spain.

EU success in integrating Morocco in his system of border patrolling, turning the country in its *personal gendarme* -a stigmatizing formula employed by some African States- was not coupled with success in inducing Morocco to cooperate on readmissions. Anticipating what will follow, readmission agreements are bilateral policy instrument whose main purpose is to return irregular migrants. Here, beginning to posit the dilemma of why the EU failed to elicit compliance to its readmission policy, we found stimulus to carry out empirical research. On top of an established positive track record of cooperation, we study the reasons behind the failure of the EU-wide

Readmission Agreements (EURA) negotiations between the EU and Morocco. Surprisingly, having screened the surrounding literature, we found that the topic has received far less attention than it deserved. The circumstance is puzzling for several reasons.

Arguably, following our case, EURA are asymmetrical negotiations comprising a party endowed with higher bargaining power (EU) and another with fewer bargaining resources to employ (Morocco). At the same time, the negotiations are structurally unbalanced, provided that their successful conclusion requires strong adoption costs from the Moroccan side.

Acknowledged how Moroccan feedbacks to the instrumentation of EURAs were idiosyncratic at best overtime, we consider the study of how EURA negotiation unfolded a proof of the pudding to weaken the claims on the EU conditionality effectiveness. EU conditionality was praised on several occasions as one of the most successful modes of the EU external governance. Yet, as we apprehend in our investigation of an ENP country, given that it failed to secure a EURA, in the Moroccan case conditionality did not alter the cost-benefit calculation of the target country. This notwithstanding the unwavering pressure put on Morocco and an alleged fine-tuning of incentives over time.

From our side, this means that either the costs for compliance were too high or that the rewards offered in return were half-baked. Building on this assumption, we drew up our research hypothesis that the EU conditionality failed to elicit compliance by Morocco in the EURA case on grounds that the adoption costs exceeded the benefits promised in return. We pursue this objective by unpacking on one hand the domestic and foreign policy constraint Morocco was subjected to and on the other its policy preferences in the form of incentives promised in return for compliance. To streamline our qualitative analysis, we relied on the external incentives model developed by Schimmelfennig and Sedelmeier in 2019.

Leaving out our research, this model has never been applied to the study of the EU-Morocco EURA negotiations. To properly put the study of EU conditionality in perspective, we considered EURA negotiations in the framework of Mobility Partnership, a non-binding political tool that provides a platform to jointly negotiate readmission agreements and visa-facilitations. This setting fares well with our research design that, unlike other dissertation focusing on readmissions as a standalone issue, sets the compliance costs (EURAs) against the expected benefits (visa facilitations).

## II. LITERATURE REVIEW

There appears to be ample evidence from the studies reviewed of EU willingness to ensure internal border security within the ENP. (Lavenex & Uçarer, *Migration and the Externalities of European Integration*, 2002); (Geddes, 2005), (Geddes, 2018); (Trauner, 2007), (Wichmann, 2007); (Wichmann, 2008). Coherent with models developed in literature, the Communication on the Global Approach on Migration issued by the Commission in 2011, albeit aiming to strike a “more comprehensive and balanced agenda” on migration, contributed to frame “readmission agreements with third countries” as a vital component of EU border security. (European Commission, 2011)

As widely documented in literature, similar security concerns stem from the protection of Schengen freedoms and an overlapping policy-framing of external migration in terms of emergency/perpetual threat (Geddes, 2008); (Geddes, 2018); (Hein, 2010); (Toshkov, 2013); (Castelli Gattinara, 2017).

Accordingly, EU member states commenced to incorporate ‘informalization and securitization’ strategies within the ENP. Termed in turn as extraterritorial migration control and extra-territorial arrangements (Guiraudon, 2002); (Lavenex, 2006); (Vandvik, 2009) and more recently border externalization (Frelick, Kysel, & Podkul, 2016); (Ruhrmann & FitzGerald, 2016); (Palm, 2020) the mentioned strategies focus on a broader framework of cooperation with Third Countries based on administrative arrangements, bilateral deals and exchanges of letters and memoranda of understanding, including operational cooperation. (Bossong & Carrapico, 2016), (Cassarino, 2007) (Carrera, 2007); (Freyburg, Lavenex, Schimmelfennig, Skripka, & Wetzel, 2009); (Frelick, Kysel, & Podkul, 2016); (Koeing, 2017).

Alongside literature on forms of extraterritorial migration control, a plethora of authors attempted to explain modes and effectiveness of the EU external governance on migration within the ENP.

Among others, some have stressed that the ENP contains a conditionality legacy that “emulates elements of enlargement politics” (Cremona & Hillion, 2007); (Lavenex, 2011); (Kelley, 2006). The latter has been embraced as the most salient and successful (European Commission, 2013) case of external action premised on an outward projection of the EU *acquis*.

Indeed, several authors have emphasized its magnetic power in fostering compliance and favouring external governance approaches to negotiations anchored to conditionality strategies. (Grabbe, 2005); (Schimmelfennig & Sedelmeier, 2004); (Trauner & Kruse, 2008). Nonetheless, a wide range of empirical accounts have maintained that within the ENP, policy-diffusion models relying on

conditionality are less effective, due to lacking membership perspectives (Kelley, 2006); (Lavenex, 2011a); (Schimmelfennig & Scholtz, 2008); (Smith, 2005).

Upon the incompleteness of vertical policy transfer models drawing on enlargement-like conditionality, rhetorically pledged but hesitant in practice (Börzel T. , 2011); (European Commission, 2013); (Sasse, 2008), the analysis of ultimate agreements amid EU and Third countries within the ENP framework should be hinged on less hierarchical patterns of policy-conditionality (Trauner & Kruse, 2008), and external governance approaches considering trans-governmental cooperation (Lavenex & Schimmelfennig, 2009).

Within external governance approaches, institutionalist accounts assume that the internal EU modes of governance and rule determine the modes and effects of external governance (Lavenex, 2006); (Lavenex, 2011); (Lavenex, 2011a); (Lavenex & Kunz, 2008); (Lavenex & Wichmann, 2008) (Lavenex & Uçarar, 2004). Admittedly, those analysis recognize the cardinal role played by incentives in predicting the modes of governance and ensuing nature of agreements.

Nevertheless, akin contributions solely rely on institutionalist explanations of EU's success in policy transfer towards third countries. On account of similar elucidations, as promptly remarked by Wunderlich, third countries and MS policy preferences are completely neglected. (Wunderlich, 2012). Even when MS policy preferences are taken in due consideration, some accounts reveal a Eurocentric view of policy-transfer. Within this template, rule selection, adoption and implementation stages are inadvertently considered as one (Wunderlich, 2012). Thereby, third countries are patently reduced to recipients of EU MS policy-preferences (Lavenex & Schimmelfennig, 2009).

An alike well-founded criticism can be levelled at the foreign policy tradition behind the debate on actorness of the EU (Gehring, Oberthür, & Mühleck, 2013); (Groenleer & Van Schaik , 2007). At the core of such debate lies the multifaceted influence played by EU institutional structure on its foreign policy (Noutcheva, 2014). Akin to institutionalist accounts, similar explanations of the effectiveness of EU external governance completely rule out MS policy preferences. Consequently, borrowing from Börzel, (2014); (2014a) the substantial variation in the EU's recognition, authority, autonomy and capability in the various foreign policy domains is overlooked.

Such a variation, not only from our part, is clearly visible in the external governance of EU on migration within the ENP, given that plenty of empirical contributions have demonstrated that the external governance follows a sectoral, policy-specific logic. (Freyburg, Lavenex, Schimmelfennig, Skripka, & Wetzel, 2009); (Wunderlich, 2012) This finding, coupled with the consideration of third countries' strategic interests, opens promising pathways for the analysis of EU Mobility Partnerships, whereby the bargaining strategy of the Commission combines the concession of Visa Facilitations to

third country nationals (TCNs) and the signature of EURAs into a single package deal (Carrera, Parkin, & den Hertog, 2013).

Hitherto, policy-preferences have only been taken in due consideration via rule implementation analysis of Mobility Partnerships. (Mouthaan, 2019); (Reslow, 2012); (Reslow & Vink, 2014); (Reslow, 2017); (Wunderlich, 2012); (Wunderlich, 2013); (Wunderlich, 2012) but have never been applied in the field of rule adoption thus far.

Moving to case-selection, contemporary investigations on the EU Mobility Partnerships have either presented third countries single-case studies (Coleman, 2008); (Eisele, 2014); (Reslow, 2012); (den Hertog, 2016) or have set comparatively countries committed to this cooperation framework. (Carrera, Parkin, & den Hertog, 2013); (Reslow, 2012); (Reslow, 2011); (Maisenbacher, 2015) (Wunderlich, 2013). Contemporary researches on EU Mobility Partnerships have mainly drawn upon literature on policy-implementation (Reslow, 2012); (Reslow & Vink, 2014); (Reslow, 2017) normative power of the EU (Limam & Sarto, 2015) and political sociology of public finance (den Hertog, 2016).

Lately, we have noticed that Morocco's longstanding refusal of any EURA proposal has received insufficient academic interest. The circumstance is puzzling, especially if we posit that Morocco, being a country of origin and transit of irregular migrant, occupies an overriding role in the EU border security strategy. (Kaiser, 2019) In addition, the revised external incentives model of Sedelmeier and Schimmelfennig (2019) has never been applied to the study of EURAs so far. From our standpoint, a single case-study focused on Morocco and targeting how the EURA negotiations unfolded within the framework of Mobility Partnerships is well-equipped for breaking the *finitesse* of institutional approaches. This, on condition that we weight not only the incentives on offer, but also the policy preferences of Moroccan Government.

### III. THEORETICAL FRAMEWORK

Our research focuses on the factors attributable to the longstanding failures of EURAs amid the EU and Morocco. Enriching the existing literature on the patterns of EU sectoral policy-transfer within the ENP framework, we adopted the *external incentive revisited* model (EIRM)- a rationalist bargaining model theorized by Schimmelfennig and Sedelmeier in 2019 - to assess how the EU attempted to entice cooperation on readmission from Morocco. In other words, this means analysing if and how EU conditionality worked in inducing the signature of a EURA.

In consistency with Schimmelfennig and Sedelmeier we intend conditionality as a specific model of the EU external governance in which the EU sets predetermined conditions for rule adoption that target states have to fulfil and promises rewards for compliance (Schimmelfennig & Sedelmeier, 2004, p. 663). After being revised in 2019 adapting its theoretical lenses to alternative forms of rewards other than the EU membership, the EIRM fares well to explain EU-Morocco bargaining interplay on readmissions (Schimmelfennig & Sedelmeier, 2019, p. 815). Indeed, it now expressly allows for the analysis of bargaining patterns where lighter “carrots” than EU accession are prospected in exchange for *acquis compliance*, such as incentives of technical, political and economic nature.

This framework perfectly fits EURAs negotiations between EU and Morocco within the framework of Mobility Partnerships. In anticipation of what follows, framing bargaining patterns from the EU perspective, Mobility Partnerships are based on a conditionality rationale, according to which negotiations on the *acquis rule* Morocco has to comply with and those for the incentives promised in return happen simultaneously.

This clarification helps us framing the political and economic incentives and the rewards for compliance that will be part of our empirical section. Within our research design, the predefined rule to comply with is the acceptance of the EU regime on readmissions, and the promised rewards to Morocco - allegedly enhanced trade interdependence and facilitated avenues for legal migration - are delivered within the policy framework of Mobility Partnerships.

In addition, we opted for the EIRM model, given that it postulates that incentives can alter target countries’ cost-benefit calculations. (Schimmelfennig & Sedelmeier, 2019, p. 815). Allegedly, this concurs to explain how conditional rewards can make costly *acquis rule* compliance more acceptable. Moreover, this feature adheres to the analysis of EURA negotiations amid EU and Morocco, where high adaptation costs associated to readmission are sweetened with trade and mobility incentives.



Acknowledged how well it fares with our research design, the EIRM assumes under which conditions the policy conditionality prompts the EU role adoption. According to the EIRM, the effectiveness of conditionality depends on the size of the EU reward and the size of the target country's adoption costs. (Schimmelfennig & Sedelmeier, 2019, p. 815). Consequently, by framing the EU-Morocco EURA negotiations in the context of the Mobility Partnership Framework, we assessed the size of adoption costs Morocco would experience with a EURA in place and the size of the incentives offered by the EU to compensate for these costs.

In this context, we do not circumscribe our analysis to evidence coming from the process of negotiation between EU and Morocco, but also shed light on its present and its outlook. Among the host of rewards, we just selected those inextricably tied to EURA negotiations. In turn, this resulted in ironing out financial and technical aid offered by the EU in the migration domain, so long as it was not purposefully framed as a reward in return for signing a EURA.

Concurrently, we considered the prospect for a Deep and Comprehensive Free Trade Area (DCFTA) as part of the incentive package, provided that it was tied, albeit indirectly, to EURAs negotiations. Concerning the costs, we overstretched the EIRM model as to include not only domestic but also foreign policy costs experienced by Morocco. Their inclusion cannot be overlooked, on the ground that EURAs have a transnational impact on human mobility and may potentially jeopardise overriding geopolitical objectives.

Pulling the sums, by adopting the EIRM model we study the factors contributing to the longstanding failures of EU readmission agreements. Virtually, before conducting empirical research, we were expecting the adoption costs to be very high for Morocco, while our expectations on the size of the incentives offered by the EU were not as clear-cut. Given the asymmetric predictions, we sought empirical validity for the following hypothesis:

*H1: If the costs of a EURA exceed the benefits offered in return Morocco will not accept the EU proposal.*

With a view to confirm or either rule out our prediction, we subsumed our main hypothesis under four sub-hypotheses:

h<sub>1</sub>: Incentives offered on the side of mobility are structurally flawed.

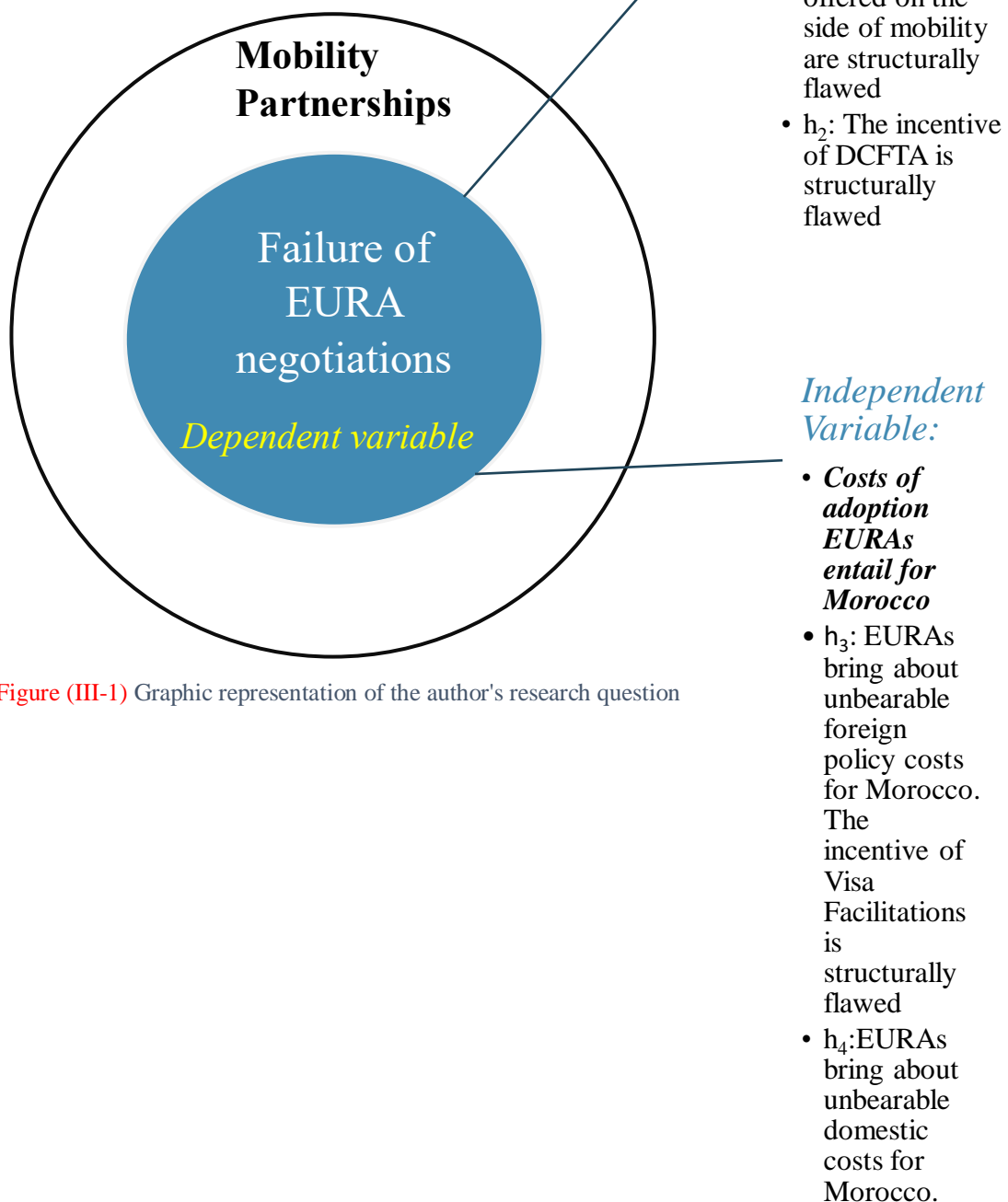
h<sub>2</sub>: The incentive of the DCFTA is structurally flawed.

h<sub>3</sub>: EURAs bring about unbearable foreign policy costs for Morocco.

h<sub>4</sub>: EURAs bring about unbearable domestic policy costs for Morocco.

It follows that our independent variables are the costs and the incentives highlighted by EURA negotiations and our dependent variable is the failure to date of EURA negotiations. **Figure (III-1)** graphically represents our research question.

*H1: If the costs of a EURA exceed the benefits offered in return, Morocco will not accept the EU proposal.*



**Figure (III-1)** Graphic representation of the author's research question

# IV. METHODS

## 1. Case Selection

### 1.1. Substantive relevance.

From the EU Mobility Partnerships official launch in 2007, European Neighbours have displayed radically different attitudes towards negotiations. While in the case of “Eastern Partnerships” Mobility Partnerships played a role in speeding up the signature of EURAs with the EU and delivered a comprehensive package offer, the negotiation learning-process between EU and its Southern Partners proceeded at a rather slow pace. Morocco, in this regard, is an extremely interesting case. Entered into an Association Agreement with the EU in 2000, it was recognized an Advanced Status since 2008. Besides, Morocco remains the key actor in several EU-sponsored regional process and can claim an unmatched cooperation intensity with the EU, especially if compared to the rest of Northern-African Countries.

Nonetheless, not even the mutually praised history of fruitful cooperation has played in favour of EU, with its African Neighbour fiercely resisting any pressure intended to elicit the signature of a EURA. The “*hard bargainer*” stance demonstrated by North African Countries is even more interesting in Morocco’s case , since it runs against a cooperation history usually marked by success. Simply put, assessing Morocco’s resistance can enrich our knowledge of EU capacity to ensure rule-transfer and make strategic use of conditionality.

At a closer look, the table is perfectly set. Morocco is usually an active sponsor of EU rule in North Africa but rejects at any level to cooperate on readmissions: a convincing test for the attractiveness of EU conditionality.

Another reason for selecting Morocco as a case-study is its high societal salience, standing in a unique position as a country of origin, transit and settlement of migratory flows. Being both a starting point and an end of migratory routes, studying Morocco’s standing in migration matters allows us to deconstrue the widely accepted assumption that migration is a one-way process from origin to destination countries.

Looking at the increased relevance of Western Mediterranean Route in terms of sea-crossings, one can safely posit that enhanced dialogue with Morocco will be a cornerstone of the EU strategy on migration in the years to come and that the latter implications will be felt by a broader public. The more the EU can come to terms with Moroccan strategic interests the more appropriate will be its

strategy of externalization of borders in the eyes of Moroccan authorities. This is crucial, since if the EU will not be able to adapt to the mutating geopolitics of migration, it will have to radically downgrade its aspirations of controlling who enters the Schengen Area.

The choice of a single-case study mirrors the specific cooperation strategy prioritised by the EU with its Southern Neighbours. The inadequateness of one-fits-all approaches pushed the EU to adjust its ENP, and thus consequently relations with Morocco, to the principles of differentiation and ownership. Against this backdrop, tailored relations are a driver for policy flexibility and enable the recognition of mutually different priorities.

Therewith, the prospect of setting a single-case study and expecting generalizable results is, in this regard, rather remote. This is mainly due to different objectives embedded in each single cooperative framework with Southern Neighbours. The attempt to entrench negotiations on readmission within Mobility Partnerships cannot rule out the myriad of differentiated cooperative frameworks in which EU relations with Southern Neighbours take place. Notwithstanding the complexity of EU relations with its Neighbours, our dissertation offers a solid analytical underpinning to those endeavouring to assess if and how Mobility Partnerships served the objective of eliciting cooperation on readmission.

## 1.2. Scientific relevance

A problematic aspect of carrying-out a single-case study with Morocco is back it with statistically relevant data. In the field of migration policy, from the EU side statistical indicators can be retrieved with relative ease, and the ability of researcher is challenged as far as one can rank and operationalize data consistently with its research puzzle. Morocco national government, instead, is critically short of open data portals. An issue that, by admission, was given domestic recognition to the point that under the African Union auspices, an African Observatory on Migration was newly established in Rabat in 2020.

Suffice to say, missing data can scale down expectations attached to the empirical relevance of a research. That being said, researcher's perseverance can convincingly address shortages of data, therefore minimizing the impact on the overall applicability of research findings. In our case, alternative pathways towards data completeness were explored. In this regard, EU Delegation to Rabat, Italian Embassy in Morocco, Mohammed V Rabat University, and other academics gently offered a lending hand providing XLS tables, single data at request and not publicly available studies. As an instance of that, the EU delegation in Rabat, albeit with a margin of delay, provided us with budgetary commitment under the ENI instrument allocated to Morocco along the 2014-2020 term.

The choice of selecting a case of failure of EURAs negotiations within Mobility Partnerships as a research interest, allowed for both small-n cases research designs, comparative analysis, and single-case studies. Admittedly, plenty EU Neighbours have signed Mobility Partnerships. Among those, five (Armenia, Azerbaijan, Belarus, Georgia and Moldova) were Eastern Neighbours and display similar patterns of compliance. With those countries, except for the sticky question of TCNs, Mobility Partnerships attained with ease the dual objective of coupling the signature of visa-facilitation/liberalization agreement with readmission agreements. Those cases displayed several features of most-similar cases: geographical location, openness to EU rule-transfer and negligible figures of nationals found illegally staying in the EU.

Concerning Southern Mediterranean EU Neighbours, with the notable exception of Cape Verde, Morocco and Tunisia showed heroic resilience to the signature of EURAs within the Mobility Partnership framework. While in the latter case setting a comparative analysis was a concrete possibility, we had to witness the yet existing highly explanatory literature on the matter. For instance, Abderrahim (2019) following a cross-case comparative design, compared Morocco and Tunisia on ground of their common fragility in the wake of the Arab Spring. Therewith, patterns of negotiations and the EU's unwillingness to deliver mobility incentives were framed in the context of bargaining power asymmetry.

As a matter of fact, Wunderlich (2013) followed a completely diverse strategy, using the Matland's framework of ambiguity and conflict to assess most-different cases such as Ukraine and Morocco. While single-case studies abounded for Eastern Partners, we were surprised by the scarcity of available single-case studies for Southern Partners, and especially for Morocco. Excluding Carrera et.al (2016) notable attempt which straightforwardly addressed the common issue of border cooperation, to date, literature has provided fewer insights into Morocco negotiations of EURAs.

Escaping the constraints of an in-depth but only case-valid research, we decided to apply the Schimmelfennig and Sedelmeier (2019) revised incentives model, to which is entirely dedicated the Theoretical Framework section. Such a model perfectly fits the analysis of EU-promoted negotiations. Successfully employed in Europeanization Studies of Central and Eastern Europe, its validity its yet to be tested with reference to MENA countries. We believe, anyhow, an akin theoretical framework can be adapted to the study of EU-Morocco EURA negotiations. The external incentives model, due to its flexibility, allows to evaluate both the costs and the benefits that an EURA would bring about for Morocco. This, in turn, perfectly matches the single-case design.

## 2.Data Collection and interpretation techniques

### 2.1. Data Collection

We selected costs and incentives of EURA negotiations as the two variables to be analysed over the 2013-2020 period and committed to the collection of a significant number of observations. Consequently, our hypothesis that costs exceeded incentives fared against multiple data sources

The empirical analysis was conducted by using qualitative methods to assess the relationship between variables.

We used the software MAXQDA for collecting, organizing, and analysing qualitative data. The above choice is briefly elucidated: indeed, software coding was preferred over manual coding, since the latter is time-consuming and outdated in qualitative analysis. Regarding the specific features offered by MAXQDA, the tools offered to transcribe, organize and analyse interviews were vital to streamline the researcher's work. Each piece of information was coded according to its general content, complemented by a memo and sub-coded in a specific folder, to prepare content analysis. A macro folder labelled "First Hypothesis" was created to gather all the information hinting at a causal mechanism between the independent and dependent variable. This materially translated into a collection of all costs and incentives we could attribute to EURAs negotiations with Morocco. Coding of piece of information according to its content, was complemented by secondary data storage in conformity with the type of document concerned. Relevant information included text and multimedia sources, with the latter collected via the Web Collector function. Generally, documents were classified under these labels: *reports, papers, legal documents, aggregated tables, XLS and CSV files, EU reports, EU factsheets, external reports, institutions*. The Codebook is made available at request.

Secondary data qualitative analysis was enriched by comparing findings from a semi-structured elite interview.

In order to meet the empirical research goals, we initially opted for a non-probabilistic purposive sampling, motivated by the sectoral competence of the interviewees. Measured with the non-accessibility of some respondents, in turn, we fell back on convenience sampling. Against this background, sampling techniques identified few, albeit potentially relevant respondents.

To carry out sampling, five different populations were identified. Among those, three Directorates Generals of the European Commissions (DG HOME, DG DEVCO and DG NEAR), the EU Delegation in Rabat and Moroccan officials appointed for the negotiations. Concerning the Commission DGs, our efforts consisted in mapping the sublevels of the Directorates in order to carefully sample the pertinent experts. As an example, for what concerns respondents of DG HOME,

EU officers from Department C.1 were contacted. Unfortunately, despite uncountable efforts to reach the selected interviewees, our research work was constrained by the following limitations. Eleven out of the twelve people contacted clarified that given the exceptional circumstances (ongoing health emergency across the EU), they were not available to granting any interview. We were also confirmed that, being EU-Morocco EURA negotiations formally in place, the piece of information interviewees could release was very limited.

The same attitude was mirrored by the single interviewee we could reach, given that out of 5 semi-structured questions, many of which were left unanswered, we could hardly drag out meaningful insights for our research question. This notwithstanding the promise of anonymity.

## 2.2. Data interpretation

We opted for qualitative content analysis of the different data sources accessed. Given our research puzzle and the piece of information we managed to collect, the choice was coherent with our purpose of studying EURA negotiations.

Suffice to say, negotiations are complex processes in which contracting parties are endowed with different systems of meanings, perceptions, and strategic interests. Content qualitative analysis of official documents, press releases and interviews by both sides therefore enabled us to have in-depth insights on how EU-proposed incentives and compliance requirements were framed in turn by Moroccan authorities.

To evaluate our causal claims, we made use of process-tracing. We first identified the event for which we sought explanation, namely the failure of EURA negotiations. Then we built our hypothesis, grounded on previous literature on EURA negotiations and compliance costs of EU conditionality, that EURA costs had exceeded incentives promised in return for compliance. We then documented the process leading to the “policy failure” of EURAs seeking intervening causal processes that led to the specific outcome of negotiation impasse. For example, with regard to the section on domestic policy costs, by developing a timeline of events, we documented how the evolution of the New Moroccan Policy was part of the causal mechanism accounting for the failure of EURAs.

## 2.3. Data collection: numerical data

We decided to provide descriptive secondary data in support of our qualitative hypothesis testing. First, a similar research strategy ensures the verifiability of research findings for the specific case. Indeed, increasing case-specific validity partially offsets a structural shortcoming of the research

design. By the time that external validity is not an expected attribute of this research, statistical data backing can bolster the internal validity of research findings. In addition, researcher's conjectures do not fill a vacuum, but are specifically drawn out from statistical evidence. If it is true that qualitative method is the optimal choice to evaluate the EURA negotiation with Morocco, since it is intended to understand people's beliefs, experiences, attitudes, behaviours, and interactions (Vibha, Bijayini, & Sanjay, 2013), it is also true that statistical backing is nonetheless a value added.

In this direction, statistical data were extracted from EU Open Portal, Frontex, UNCHR, EU institutions resources, World Bank and IMF open-data sources, among others. Ready-to use data were directly plotted in tables to buttress our theoretical claims on EURA negotiations.

For instance, setting comparatively the incidence of remittance flows and ENI funding, we substantiated our claim that compliance to the EURA regime requires unbearable adaptation costs. Aside from available datasets, we also collected piece of information in disaggregated form. In that case, we standardised data coming from different sources and operationalized them to assess costs and incentives emerged in EURA negotiations.

### 3.Limitations of the Study

Nonetheless, the pursuit of research goal posed several methodological challenges. First, as mentioned in the section on scientific and substantive relevance, data-access was occasionally prohibitive. For the most part, in case of absence, we successfully obtained non-publicly available data on concession of the EU delegation in Rabat. In other respects, figures are purely indicative, deriving from less accurate self-elaboration processes. A strong limitation we dealt with was the unavailability of reliable data on the immigrant population in Morocco. In all honesty, such data exist but several researchers have questioned their validity on a larger scale. Acknowledged that, we relinquished our initial plan to indicatively compare the number of asylum seekers UNHCR Morocco hosts in its reception facilities with those that would eventually reach Morocco in case a EURA was in place. By looking at data on FRONTEX illegal border crossing we had all the reasons to believe the gap was biased towards EURA returnees. An akin demonstration would have certainly buttressed our claim that EURAs could entail unbearable costs for Morocco.

Another significant challenge was constituted by the overall reliability of remittances statistics. Remittances statistics used for the analysis are World Bank staff estimates based on IMF balance of payments data, and World Bank and OECD GDP estimates. Moreover, as Castaldo puts it, internal remittances are more likely to be transferred through informal channels, making robust estimates slightly more difficult (Castaldo, Deshingkar, & McKay, 2012). Furthermore, given that remittances statistics cover "*current private transfers from migrant workers resident in the host*



*country for more than a year, irrespective of their immigration status, to recipients in their country of origin*”, decoupling irregular migrants and regular migrant remittances is an hardly feasible task. Another structural flaw of this study, albeit being an imponderable factor, is the lack of access to a larger interviewee population. Although no effort was spared in this regard, the single interview we carried out is not sufficient to collect a considerable share of information on the EU-Morocco negotiation path, given that hardly any indication on the perceptions of the parties involved was disclosed.

# V. TOOLS FOR THE EMPIRICAL ANALYSIS

## 1. Understanding the tools

The Migration crisis of 2015-2016 has brought to the fore how explosive the subject of migration policy can be. To back it with some data, EU 28 received the hefty sum of 1.3 million asylum requests. (Pew Research Center, 2015) Moreover, the staggering number of incomers has unquestionably signalled the difficulties of EU to offer a coherent and comprehensive supranational response to the migration issue. In the light of the Migration crisis, the Dublin System for asylum-seekers reception proved to be inefficient.

Far from resisting the stress test, it conversely condemned frontline Member States (from now MS) to cope with an unprecedented backlog of asylum requests, with a non-negligible share of incomers circumventing fingerprinting and filing their application in other MS, and few space for solidarity-based redistribution mechanisms (Papademetriou, 2018); (Park, 2015); (Reslow, 2019, p. 31). Simply put, this proof of inadequateness leads us to reflect on a crucial issue. The structuring of EU migration policy, in absence of more comprehensive reforms, is compelled to ensure the stipulation of EU wide agreements with MENA countries of origin and transit and therewith requires the inclusion of readmission clauses.

In order to highlight the attempts of the EU to devise a uniform and coherent external migration policy it is worthwhile to delineate the legal devices, that in turn, were employed during the negotiations of readmission agreements with Morocco. This preliminary operation has a twofold objective: first it allows us to understand the scope of EU-MS institutional struggle for addressing the migration issue and second, helps us to substantiate the claims seeking verification in our empirical analysis.

Arguably, cooperation with third countries made an early appearance in MS strategy for external migration. Institutionalist accounts have underscored how practices of “externalization of border control” serves the interest of Justice Home Affairs (from now forth, JHA) officials to strengthen their autonomy vis à vis competing internal actors. Shifting out the borders, therewith enables decision-makers to escape liberal constraints of national democracies and thus enlarge the scope of their policy options. (Boswell, 2003, p. 623); (Lavenex, 2006, p. 339).

Forms of interaction as such, in view of documented restrictive policy preferences of JHA officials, favour trans-governmental forms of cooperation that substantively prioritize forms of migration control over competing forms of policy harmonisation. One should question if, aside from domestic governmental strategies, other reasons loom behind the consistence of MS-Middle East and

North Africa countries (MS-MENA) trans-governmental cooperative patterns. Against this backdrop, longstanding failure of readmission negotiations with Jordan, Tunisia, and Morocco and reportedly EU alienation of Third Countries (Trauner & Kruse, 2008, p. 14) contributed to this effect. Indeed, ever since Amsterdam Treaty conferred the competence of signing readmission agreements to the Commission, this latter and MS convened that the credibility and integrity of the legal EU immigration system would be in danger without an efficient common return policy. (European Commission, 2003, p. 8); (Trauner & Kruse, 2008, p. 14). Moreover, policy documents dating back two decades ago already argued that the achievement of EU migration policy objectives entailed cooperation with non-EU countries (Reslow, 2017, p. 156); (European Commission, 2001, p. 9).

If the number of EURAs, namely formal readmission agreements, signed thus far (17) can discredit the idea of an “history of unsuccess”, albeit faltering implementation persist (Wunderlich, 2012, p. 418), amid signatories we recall no Middle East and North Africa countries (from now on MENA countries), except for Pakistan and Turkey (yet, a candidate country).

Concurrently, North African Countries engaged in EU wide readmission agreements, encountered less obstacles in directly cooperating on readmission with single MS. For instance, Tunisia has signed readmission agreements of nationals and third-country nationals with Italy (2000) and of nationals with France (2008). Morocco has been even more active, thus committing to the readmission of nationals with Germany (1998), France (1993, 2001), Portugal (1999), Italy (1998, 1999), and Spain (1992, 2003).

The “geographical location” of signatories and the major rate of success of MS *versus* EURAs needs preliminary context.

First, behind the Third countries proclivity to sign domestic-costly readmission agreements, literature assigned a key role to the “EU membership conditionality” the recipe for success, in view of its allegedly magnetic power for compliance (Kelley, 2006); (Lavenex & Kunz, 2008); (Schimmelfennig & Scholtz, 2008); (Smith, 2005). On the other side of the spectrum, when confronted with the lack of any accession perspectives for MENA Countries, EU was not equally successful in exerting alternative but credible forms of policy conditionality (Trauner, 2009, p. 775).

Second, rather than signing legally binding readmission agreements with the EU, North African countries have privileged less intrusive forms of bilateral cooperation on readmission. On top of that, direct cooperation on readmission with MS offers no less than three advantages to North African countries:

- Adaptability to changing circumstances offered by informalized readmission agreement with limited costs of defections, such as memoranda of understanding, letters of exchange,

administrative cooperation. (Bossong & Carrapico, 2016); (Carrera, 2007); (Cassarino, 2007); (Freyburg, Lavenex, Schimmelfennig, Skripka, & Wetzel, 2009); (Koeing, 2017).

- Domestic policy cost of EURAs may potentially tarnish the reputation of government in the face of domestic constituencies. Further, the importance of remittances for North African countries could empower the allegations of national governments framed as vassals of EU powers with material economic concerns (Kaiser, 2019, p. 7). Unlike EU-sponsored readmission agreements, the informalized nature of MS-Third countries cooperation ensures a lower level of public accountability (Cassarino, *Informalising Readmission Agreements in the EU Neighbourhood*, 2007, p. 189).
- Readmission agreements negotiated by MENA countries and the EU MS do not forcefully include a clause on third-country nationals – *i.e* citizens of nationality other than that of the signatory party which conversely pertains to the Commission Strategy (European Commission, 2011a, p. 5) even if the readmission of third-country nationals falls short of being an obligation under customary international law.

The objective of this brief account was to immediately point at the traditional blockades to the promotion of EURAs. The next section aims to assess more thoroughly the issues at stakes with them, providing empirical findings in support. In the same section, at a later stage, the cornerstone of EU strategy for fine-tuning ineffective policy conditionality for readmission will be presented.: namely the Mobility Partnerships.

## 2. EURAs

EU readmission agreements (EURAs) constitute the prime instrument of the external dimension of EU migration policy and the lynchpin of the Global Approach to Migration and Mobility. (European Parliamentary Research Service, 2015, p. 2); (Carli, 2019, p. 11).

Within this overarching framework, EU readmission agreements are intended to provide a facilitated implementation scheme for speeding up decisions on return of irregular migrants and thus constitute the crucial element for tackling irregular immigration and a prerequisite for well-managed migration. (European Commission, 2011a, p. 2); (Strik, 2010, p. 6). A quick definition followed by a preliminary legal overview is worthwhile to delineate the actors involved and the corresponding allocation of competences.

## 2.1. Definition of EURAs

According to a widely accepted definition, readmission agreements are concluded to facilitate the removal or expulsion of "persons who do not or no longer fulfil the conditions of entry to, presence in or residence" in a destination country. Persons to be readmitted (or removed) under such agreements are a country's own nationals and, under certain conditions, third-country nationals or stateless persons who have passed (or transited) through the territory of the requested country or otherwise been granted permission to stay there" (Cassarino, *Informalising Readmission Agreements in the EU Neighbourhood*, 2007, p. 179); (IGC, 2002, p. 16).

## 2.2. Allocation of competences after the Lisbon Treaty.

The following legal overview is instrumental to defined research objectives and thus it is by no means exhaustive of the well-documented tug-of-war pitting EU Commission against MS regarding *de iure* competence over EU external migration policy.

First and foremost, a sign of the prominent political importance of readmission policy resides in its recognition, through Article 79(3) of the Treaty on the Functioning of the European Union (TFEU), as the only external competence transferred to the EU in the migration field. (TFEU, 2007) Contrarily to legal uncertainty of the past (Giuffrè, 2011, p. 11) Article 79(3) of the Lisbon Treaty, indeed, explicitly gave EU the authority to stipulate agreements with third States for the readmission of third-country nationals who do not or who no longer fulfil the conditions for entry, presence, or residence in one of the Member States.

The substance of the article did not fill a vacuum, having the European Commission already brokered treaties on this subject with eleven countries worldwide at the time. (Migration Watch UK, 2008); (Giuffrè, 2011, p. 11).

By the way, Lisbon Treaty clearly confers on the Commission the explicit competence as for measures designed to addressing the readmission of irregular migrants. (Giuffrè, 2011, p. 12).

To understand how the system legally works, cross-reading of Articles 207 and 218 of the (TFEU) is crucial. The latter set out the required institutional steps for the adoption of EURAs with a third country. In a nutshell, the Council confers a mandate to the Commission to negotiate the agreement. It is relevant to note, that the negotiation mandate is issued irrespectively of Third Country's actual interest or willingness to negotiate with the Commission on the matter (European Commission, 2011a, p. 6).

Further, the Council ensures that its guidelines are followed, appointing a special committee for assisting the Commission during negotiations. Whereby a compromise is reached the Council, on a proposal by the negotiator and subject to the consent of EU Parliament (Article 218 para.10 TFEU), can adopt a decision authorising the signing of the agreement. In the last step, according to Article 47 TEU, the Commission signs the agreement in the name of the EU (TEU, 2007). The nature of the instrument does not prescribe national ratification procedures. The Parliament is to be immediately and fully informed at all stages of the procedure (Article 218 para.10 TFEU). Once entered into force, the Joint Readmission Committee (JRC) is entrusted with the monitoring of EURA. It consists of experts and representatives appointed by the EU Member States and the partner country and is co-chaired by the Commission and the Partner country.

Nonetheless, it rests to the Member States, seemingly absent during the negotiation process, to manage the overall phase of implementation, ultimately deciding whether to return an irregular migrant, to issue a readmission request or to enforce a removal order. Indeed, Article 4(para.2) of TEU specifically incorporates “Freedom, Security and Justice” and thus readmission agreements, in the field of shared competences (TFEU, 2007); (Cassarino, 2014, p. 17).

### 2.3. EURAs and concrete obstacles to signature

In practice, EURAs set out clear reciprocal obligations between the EU and a third country partners as to when and how people residing irregularly in a country should be taken back. More precisely, they serve as technical instruments to give operational substance to return decisions adopted by MS authorities in compliance with procedures and safeguards. envisioned by the Return Directive.(Directive 2008/115/EC, 2008).

Admittedly, readmission agreements signed to date with partner countries (17), share a standardised structure with slight case differentiation (Trauner & Kruse, 2008, p. 24). All EURAs include readmission obligations valid for both nationals and third-country nationals who have transited through the requested party (TCN clause); exceptions to these obligations; rules to determine the Member State responsible for applying an EURA as the requested State; detailed rules on the readmission procedure, including means of evidence and presumption of nationality and transit; deadlines for requesting, responding to and implementing readmission obligations; accelerated readmission procedures; the modalities of transportation and their costs; data protection obligations; and transit operations (Andrade, Martín, & Mananashvili, 2015, p. 38).

Moving to the core of our analysis, the EU has generally encountered serious obstacles to the conclusion of readmission agreements. As bitterly recalled by the Commission (European

Commission, 2012, p. 24). EURAs are perceived by Third Countries as instrumental to EU interest and their successful conclusion depends on the “leverage” at the Commission’s disposal. In that context it is important to note that, in the field of JHA, there is little that can be offered in return (Lavenex, 2006, p. 341).

Consequently, when we turn our eye to readmissions we must bear in duly consideration that EU-third state cooperation is prospectively grounded on asymmetric costs and benefits, for it defines a cooperative pattern amid contracting parties (i.e., EU, the destination and the country of origin or transit) that do not necessarily dispose of comparable resources and value to the same extent cooperation in the field.

Moving away from the concrete policy interaction, contracting parties in readmission respond to different set of constraints and are not faced with the same domestic, regional, and international implications (Cassarino, 2010, p. 2). Moreover, the interactions between EU and Third Countries, perfectly recalls the notion of “*relation among unequals*” coined by Robert Keohane (1986). The actors involved in readmission negotiations (from one side EU and its Member States and from the other the Third Country at case) display different structural institutional and legal capacity and highlight asymmetrical impacts in the implementation of the agreements (Cassarino, Informalising Readmission Agreements in the EU Neighbourhood, 2007, p. 182). In addition to the earlier reasons, which will be substantiated in seconds, the extensiveness of the EU’s approach to readmissions and MS existing readmission agreements with third countries have usually constituted major bottlenecks during negotiations.

We can broadly regroup the obstacles to the success of EURAs in four categories, basing our arguments on lessons learnt during past negotiations and empirical findings in literature. Carrying out a similar task is vital for our empirical analysis. Once the inherent flaws of EURAs are brought back to the surface, we can get acquainted with the costs associated to the signature of EURAs for Third Countries. In this context, we can safely expect that similar costs were experienced by Morocco.

#### 1) Inclusion of TCN clauses in the agreements.

The major contentious point in negotiations relates to the systematic Commission strategy to include in any readmission agreement TCN Clauses. This latter enables MS to issue applications for readmission of persons of different nationality from that of contracting parties (included stateless persons) and of persons who transited the territory of one of the Parties. The extensive interpretation of readmission renders the *TCN clauses the real value-added of EURAs and constitutes a part of a consolidated strategy* (Wunderlich, 2013, p. 29).

However, the Commission's rhetorical invocation of the disputed principle of "good neighbourliness" (Hailbronner, 1997, p. 31), which contrarily to readmission of nationals is not inscribed in multilateral cooperation frameworks. This has always been stubbornly objected by third countries, under the claim that no obligation regarding TCN arises from customary international law (Roig & Huddleston, 2007, p. 364). Arguably, no unified state practice on the readmission of TCNs has yet materialized and to this certainly concur the asymmetrical interest of countries of origin, transit, and residence (Panizzon, 2012, p. 16).

Disagreement in principle on TCN clauses, a formidable obstacle during negotiations with Morocco (Kaiser, 2019, p. 9) provides a preliminary explanatory framework to acknowledge why EURAs are usually received in adversarial position by Third Countries and thus onerous difficulties and delays are produced in negotiating EURAs (Andrade, Martín, & Mananashvili, 2015, p. 38). On the other hand, a EURA not endowed with TCN clause for major transit countries of irregular migration holds little value for EU MS (European Commission, 2011a, p. 9).

As punctually uncovered by researchers, a recurring issue in EU and MS return policy is ascertaining the nationality of migrants. Irregular migrants to be returned are most of the time undocumented, having lost, either by design or circumstance, any proof of citizenship from their country of origin (Roig & Huddleston, 2007, p. 365). Upholding TCN clauses would constitute the alternative strategy of the Commission for ensuring repatriation of irregular migrants, whose itinerary, but not identity, can be established. If readmission agreements are in place, nationality may no longer be the decisive factor for return, if transit through a country can be "*proved or may be validly assumed*" (Roig & Huddleston, 2007, p. 365).

In this context, even if ascertaining the itinerary is no less cumbersome than the "identity determination challenge" (Carrera, Cassarino, Lahlou, & El Qadim, 2016, p. 3) TCN clauses would clearly constitute the main component of a precise strategy.

Before moving to the next issue linked to EURAs, we need to anticipate some institutional constraints faced by the Commission during negotiations. Indeed, it is not negligible that Commission, due to inflexibility of contracting parties, has advocated the possibility to drop TCN clauses from EURAs (Reslow & Vink, 2014, p. 869), or at least to evaluate the concrete need for TNC clauses for each country engaged in negotiations (European Commission, 2011a, p. 5).

However, the unambiguous negotiation mandate received by the Council has constantly forced the Commission to "broker a deal" including TCN clauses, inasmuch as no derogation to this strategy was considered. To the same extent, postponed activation of TCN clauses were rarely conceded. (to date, just to Albania, Ukraine, and Russia. (Billet, 2010, p. 68)



## 2) MS opting for already existing bilateral readmission agreements.

Academic literature on readmission agreements has vastly contextualized the turf wars engaged by European Commission and some EU Member States regarding the application and scope of EURAs with third countries. (Carrera, 2016); (Peers & Rogers, 2006). It is not our interest to provide a legal framework of such contrast, but to briefly introduce the implications of its existence.

Commissions' Evaluating Report of Readmission Agreements uncovered some trends (European Commission, 2011a).

Even if the majority of MS still applies existing EURAS for returns, a considerable share of MS either way refers to existing undertakings with Third Countries for return operations. Among official responses provided to enquiries, MS nonapplication of EURAs lay within the absence of bilateral implementing protocols and/or that EURAs are used only if they facilitate returns. (p. 4).

Other impediments to EURA implementation, falling outside the scope of this study, concern rule of law guarantees against expulsions, including fundamental rights standards in case of family reasons and humanitarian considerations (Carrera, 2016, p. 4). Recurrent practices of MS refraining to manage returns through EURAS sheds light on the intra-institutional complexity of EU and MS interactions. In this specific case, the underlying conflict highlights either unwillingness of MS to fully adopt EURAs for return or raises the question on the latter supposedly direct operational capacity, self-standing structure and working potential regardless an implementation protocol being in place. Available data for forced returns are scarce and so far, only Greece, provided, albeit not recently (2014) a comprehensive implementation report of EURA agreements.

Faltering implementation of EURAs facilitated procedures and administrative rules for speeding up irregular migrant removals seriously undermines the credibility of the EU Readmission Policy in the face of third countries, especially those engaged in ongoing negotiations (European Commission, p. 4). Those latter legitimately expect that gruelling readmission deals will be followed by policy consistency and straightforward application of EURAs once the agreement is concluded.

## 3) Attitude of EU bodies towards negotiations and lack of incentives on offer.

Several accounts have reported EU delegations' lack of constructive approach during negotiations for EURAs. (Roig & Huddleston, 2007, p. 374).

It may serve to recall an illuminating theoretical insight to explain the EU attitude towards readmission agreements bargaining, namely, the notion of "*Eurocentric interest*" (Rodier, 2006, p. 6); (Rodier, 2006, p. 20).

However, this specific EU cognitive pattern shaping negotiations process cannot not be seen in isolation but needs to be framed as a permeating attitude when broader negotiations framework

unfolds, specifically including wider aspects of the socio-economic context of migration. Let it suffice to say for now, that EU constantly engaged negotiations with a unilateral understanding of issues at stake. Precisely for this, third country's recorded complaints addressed the incapacity of EU to engage in constructive dialogues. Sri-Lankan, Moroccan and Ukrainian delegations have contested the unilateral mindset under which readmission agreements were prepared and dictated. In the same wake, Pakistani government generally expressed several concerns with readmission agreements proposals (Roig & Huddleston, 2007, p. 374). Problems, however, persisted even in the implementation phase of EURAs (Carrera, 2016, p. 16); (Dawn, 2015); (Dawn, 2015a); (European Commission, 2015).

Before an agreement was reached, Pakistani officials declared that signing a EURA could have possibly magnified the country's problems as a hub for South Asian asylum seekers and irregular migrants (Roig & Huddleston, 2007, p. 374). More recently, Morocco's representatives, explicitly hinted to "inequitable responsibility division between the EU and Morocco", a stance that can be safely attributed to several contracting partners engaging in EURA negotiations (Abderrahim, 2019, p. 19).

The question of "inequitable responsibility division" resonates the previously mentioned notion of "relations among unequals" enabling to shift our attention to the asymmetrical interest underpinning commitments to readmission.

#### 4) Asymmetrical interest for readmissions.

While the conclusion of EURA alone clearly represents the optimal outcome for EU and its MS the same cannot be said for Third Country partner (Wolff, 2014, p. 74). Even if two neighbouring actors are expected to have a higher propensity to cooperate with one another on readmission, owing to frequent cross-border movements (Cassarino, 2014, p. 135), it is clear than EU is more interested in readmission than its counterparts.

If we approach the negotiations of EURAs through the tenets of IR rational-choice theory, readmissions provide unequal incentives and benefits for the contracting parties (Cassarino, 2014, p. 136).

First, inasmuch as EU is to tackle higher numbers of irregular migrants' pressures than its contracting partner, the implementation of readmission agreements is uneven (Billet, 2010, p. 68). In this regard, the domestic costs borne by third countries is nearly always disproportionately higher than the corresponding cost faced by EU. Once a removal is concretized, further thorny issues stems from the social and occupational reintegration of the repatriated person. Overcoming such costs totally rest with the country of origin or transit of the irregular migrant. Even if to some extent,

migration does not forcibly run along a unilateral direction, the larger share of the economic brunt is borne by Third Countries.

Furthermore, the prospective impact of readmissions is not to be assessed with short-termism, as remittances can constitute a driving factor of national economies (Sørensen, 2004). Not to mention the difficulties faced with expatriates having lived in Europe for long and forced to re-adaptation to national context.

Paradoxically, despite EURAs are disadvantageous per se, another complication rests within the Third Countries' struggle to internalize costs of domestic adaptation and implementation within more fragile legal and economic systems than their counterparts. Other contentious points with readmission arise from arguments of fairness and sovereignty (Abderrahim, 2019a, p. 11), regional geopolitics (Wolff, 2014, p. 74) and the domestic unpopularity of readmissions in third countries (Reslow & Vink, 2014, p. 863); (Weinar, 2011, p. 7).

In short for the EU signing EURA inherently represents a commitment to third countries that has unpredictable consequences and carries the risk of insufficient implementation record. Target countries face instead enormous political, social, and economic costs. In addition, outside of intensified relationships with EU, third countries obtain nothing from EURA. For years, absence of compensatory factors on offer from the part of EU has frustrated any attempt of concluding EURAs.

Therefore, in view of the intrinsic unequitable responsibility allocation of EURAs, the EU developed a series of incentives to offset the otherwise unreasonable costs borne by third countries. In this regard, the Task Force Mediterranean properly assessed that "relations with partner countries will also have to take into account the specific sensitivities and expectations of partner countries on the migration dossier, and their perception that the EU wishes to focus primarily on security-related aspects, readmission return and the fight against irregular migration (Carrera, 2016, p. 46); (European Commission, 2013a, p. 5).

Assessing EURAs within larger partnerships framework, including "reciprocal commitments and project initiatives covering mobility, migration and asylum issue" implies exploring the 'wider social and political context in which instruments are adopted and operationalized (Kassim & Le Galès, 2010, p. 11); (Wolff, 2014, p. 74). For this reason, in the next section we will direct our attention to EURA weakness hereby highlighted, once they are incorporated in the larger framework of Mobility Partnerships.

### 3. Mobility Partnerships.

The previous section was intended to shed light on the structural problems hampering the conclusion of EU-wide readmission agreements. Our evaluation indicated that the cost generally associated to EURAs are high for third countries. Indeed, exploring the general trend, preference for existent bilateral cooperation patterns and perceived asymmetrical costs and benefits, coupled with insufficient incentives to compensate, overall accounted to insurmountable obstacles for successful EURAs negotiations.

Providing for a clarification of the “demand side” of EURAs solidly underpins our empirical analysis, allowing us to unpack the costs evaluated by third countries when they are proposed the signature of EURAs. Once the demands from the part of EU is specified, we need to recall what is offered in return to third countries. The current section is intended to fulfil this need. In greater detail, by introducing the policy instrument (Mobility Partnership) designated to compensate for the costs of EURAs, we also endeavour to assess its capacity to facilitate the provision of appetible incentives to third countries.

For this purpose, the section will be structured as follows. First, we intend to contextualize the introduction of Mobility Partnerships within the overarching framework of EU external migration policy, the Global Approach on Migration and Mobility (European Commission, 2011b). Second, our analysis will apply the notion of “intended consequences and unintended consequences” as for Mobility Partnerships adoption and implementation patterns. Such an operation is instrumental to highlighting the unsuccess of Mobility Partnerships in fostering the signature of readmission agreements.

Due to inherent flaws, we derive the expectation that incentives delivered to third countries under this framework do not compensate for the costs of adoption required by EURAs. Substantive backing of general aversion towards EURAs is quintessential for growing similar expectations related to Morocco’s case. In the following lines we will show how unattractiveness of incentives stems from the asymmetry between designed policy objectives of Mobility Partnerships and their application in practice.

#### 3.1. Genesis of Mobility Partnerships.

The introduction of Mobility Partnerships, as partly addressed in the previous section, stands at the crossroad of concomitant policy trends emerging at the EU level. First, MS gradually recognized the

need for wider cooperation at EU level in the field of migration policy, in the face of increasingly migration pressures. More specifically “third countries should be involved in helping to manage the migration flows, stem illegal immigration and set up effective information campaigns on the conditions in the recipient countries of the EU including the criteria for obtaining asylum (European Parliament, 2006, p. 3).

A similar awareness is also visible in the multi-annual programmes for EU Justice and Home JHA policy adopted in Tampere (1999), the Hague (2004) and Stockholm (2009) and in several others EU official documents (Reslow & Vink, 2014, p. 863).

Second, a plethora of EU official policy documents admitted the perceived unpopularity of readmissions within third countries domestic constituencies and emphasised the need to offset these costs (European Commission, 2012, p. 9); (Reslow & Vink, 2014, p. 863). Against this background, a case-specific assortment of visa facilitation agreements, financial assistance and enhanced legal migration opportunities, was identified as the toolbox where to pick desirable incentives. (European Commission, 2002); (European Commission, 2011a); (Reslow & Vink, 2014, p. 863).

Plus, at the time of Mobility Partnership introduction, circular migration was still viewed as a promising instrument to contain irregular migration towards Europe. (Tittel-Mosser, 2018, p. 319). Finally, as recalled in literature, EU action with third countries increasingly started to be anchored to the notion of migration-development nexus. This approach, far from meeting unanimous approval in literature, (Castles, 2009) prescribes that fostering well-managed migration can be “*a positive factor for growth and success of both the Union and the countries concerned*” (European Commission, 2002, p. 4) (Reslow & Vink, 2014, p. 863).

Simply put, the overlapping of three distinct policy trends at the EU level substantiated the Commission demand for greater “level of political and diplomatic support” from Member States (Roig & Huddleston, 2007, p. 375). This, was, in turn, justified as necessary for successful conclusions of readmission agreements negotiations. We can thus affirm that the consensus on EU-wide cooperation with Third countries, the need for novel approach to readmissions and a strategy grounded on the migration-development nexus contributed to the introduction of Mobility Partnerships.

### 3.2. Objectives of Mobility Partnerships

EU Mobility Partnerships are non-binding instruments concluded between the EU, interested MS and a Third Country. (Tittel-Mosser, 2018, p. 315). They provide a bilateral framework for cooperation intended to offer a trust-building platform with third countries and to give “operational substance “

to the GAMM, the overarching framework of the EU external migration policy” (Cassarino, 2014, p. 37); (European Commission, 2014, p. 2); (European Council, 2010).

They were officially launched in 2007, and are heralded to date, among the GAMM instruments as “*the main strategic, comprehensive and long-term cooperation framework for migration management with third countries*”, in that they supposedly facilitate identification of mutual priorities and operational cooperation (Council of the European Union, 2009, p. 61); (Reslow, 2015, p. 118). Indeed, Mobility Partnerships faithfully embody the GAMM four pillars and are devised, in the same spirit, to promote a balanced and comprehensive approach to migration by addressing legal migration, migration and development, the fight against irregular migration and international protection (Broczka & Paulhart, 2015, p. 4); (European Commission, 2011b, p. 7).

Ideally, such a paradigmatic shift, exemplified the transition from a policy approach exclusively concerned to security to one that comprehensively addressed all the aspects of migration (Carrera & Hernandez I Sagrera, 2009, p. 18). The dual objective of complementing “*preventing measures*” with measures intended to address the root causes of migration is evidenced by the structure of Mobility Partnerships. In this regard, they foresee patterns of bargaining linking commitments (sticks) expected from the third countries to desirable incentives (carrots) offered in return from the EU Commission and participating MS. The granting of “carrots”, notably including enhanced opportunities for legal migration (usually in the form of visa facilitation agreements), is conditional upon active cooperation with the EU in the management of migration flows, including fighting against illegal migration and the political commitment to sign EURAs (Council of the European Union, 2005); (European Commission, 2007, p. 3).

Simply worded, in the wake of a “*policy conditionality approach*” (Trauner, 2009), Mobility Partnerships prospect a trade-off: third countries will be rewarded with greater legal migration opportunities (especially visa-facilitation agreements), including facilitated access to member states’ labour markets, in return for fulfilling EU benchmarks on asylum, border management and irregular migration (European Commission, 2011b, p. 3); (Reslow, 2017, p. 157).

Prospectively, were the Mobility Partnerships to work consistently to their stated objective, the set-out framework for cooperation could have produced a “Win-Win-Win” situation, matching the concerns of migrants, EU MS and third Countries. (Broczka & Paulhart, 2015, p. 14). The underpinning assumption was that providing cooperation frameworks tailored on specific necessities would have better managed shared problems and interests between stakeholders (Kunz & Maisenbacher, 2013).

In anticipation of what will be discussed in the next paragraph, even devoid of any enforcement mechanism to ensure compliance, Mobility Partnerships’ inherent flexibility and their

quid-pro quo-nature could have fostered the political will of the third Country to avoid defection (Tittel-Mosser, 2018, p. 317).

Against this backdrop, it should not be ruled out that usually intended effects of policy-making are to a great extent not completely fulfilled, and particularly for EU external migration, policy instruments can escape the objectives assigned to them (Wolff, 2014, p. 94). As widely recognized, political instruments employed in migration policy over time generate complex cognitive and social structure displaying different power relations between the actors concerned (Kassim & Le Galès, 2010, pp. 7-8); (Tittel-Mosser, 2018, p. 318). Power relations, and ensuing policy-constraints should be thoroughly considered when assessing the “intended consequences” of a certain policy instrument and in parallel can also offer convincing explanations for emerging “unintended consequences”.

By applying the notion of “intended and unintended consequences” as conceptualized by Olga Burlyuk, the next paragraph is explicitly targeted at illustrating the “unintended consequences” following the adoption of Mobility Partnerships.

A similar undertake serves our research puzzle much more crucially than at first glance. Employing the concept of “unintended consequences” we can easily detect the inherent flaws of Mobility Partnerships and grow further expectations that they did not work as foreseen with Morocco. Since the objective of this section remain that of assessing to what extent are EURAs facilitated by Mobility Partnerships, when we evaluate the “unintended consequences” we can consider the nexus between Mobility Partnerships and EURAs as the “intended effect” and so the “intent behind a policy action”. Setting such a “proxy for EU intent”, (Burlyuk, 2017, p. 1013); (Tittel-Mosser, 2018, p. 320) exempts us from investigating the alternative policy goals pursued by Mobility Partnerships.

### 3.3. Mobility Partnerships: intended and unintended consequences

Assessing the “unintended consequences” generated by Mobility Partnerships “in the light of the “intended effects” of facilitating EURAs provides the optimal setting for our empirical analysis. Indeed, the asymmetry between the intended effect and the unintended consequences of Mobility Partnerships is accountable for the failure of EURAs negotiations. This follows from a logic rationale: costs of EURAs put unbearable pressure on Third Countries and Mobility Partnerships are designed to compensate for these costs by facilitating the granting of incentives. If they are unable to accomplish this task, negotiations of EURAs are equally doomed to fail.

First and foremost, in order to assess the “unintended consequences” generated by Mobility Partnerships in the light of the “intended effect” of facilitating EURAs, the content and characteristics of the policy instruments must be cleared up. Even if described as instruments of a “complex legal nature” from the outset, Mobility Partnership are widely regarded in literature as soft law instruments,

since they are articulated as joint declarations falling outside the remit of international law (Langley & Alberola, 2018, p. 2); (Kunz, Lavenex, & Panizzon, 2011, p. 105). Non-binding in nature, the Joint Declaration establishing them consists of a preamble and an annex, with the notable exception of the MPs signed with Tunisia and Jordan.

Overall, all the existing MPs display a similar structure. The preamble summarises the existing relationship between the EU and the third countries, reinstates the objectives of the GAMM and illustrates the existing regional or bilateral dialogues incorporating the framework for participation (Andrade, Martín, & Mananashvili, 2015, p. 15). It also provides the lists of participants.

Due to the voluntary nature of the instrument, EU MS are just encouraged to participate, but under no legal obligation to do so. This explains why the number of EU MS involved varies according to the Third Countries concerned, following a system of variable geometries (Kunz, Lavenex, & Panizzon, 2011, p. 107); (Reslow & Vink, 2014, p. 863). In addition, the preamble words out the agreed-on policy objectives. Excepting some case-specific variations, generally the signatory parties endeavour to attain the following objectives: establishing channels for cooperation on legal migration, reinstating the joint combating of illegal migration and renovating the aim to exploit migration as a resource for development.

The Annex, instead, includes the projects agreed on and awaiting implementation. Thematic projects generally address the already mentioned objectives and their specific content is tailored on the specific interest of the parties concerned. Member States, the Commission, EU Agencies or Third Countries are the actors entitled to advance new projects (Reslow & Vink, 2014, p. 863). It is worthwhile to note that, apart the variability displayed by case-specific annexes, all the preambles follow a consistently linear structure. This trend can suggest that high similarity in content and structure cannot be assimilated to relevant discussions and negotiations with partner countries, but rather derives from the fact that “the text is already prepared by the EU side asking for adherence” (Andrade, Martín, & Mananashvili, 2015, p. 31); (De Bruycker, 2014, p. 103).

Moreover, the intensive use of EU conditionality through the framework offered by Mobility Partnerships, beyond validating the assumption under which Mobility Partnerships are an EU imposed package-deals, also questions their inner nature of partnerships (Andrade, Martín, & Mananashvili, 2015, p. 31). Concerning the implementation of projects listed in the annex, while literature has investigated the functional difference between authorising agent and the implementing agents, such a distinction does not hold completely true for the implementing actors of Mobility Partnerships, were the actors involved in decision-making process are the same endowed with implementing and monitoring tasks. (Carrera, Panizzon, Kostakopoulou, & den Hertog, 2018, p. 287).



However, aside from the EU agencies, the Commission, the MS and the partner countries, the responsibility is also assigned to other actors. Apart from MS, the Commission, EU agencies, partner countries or the interplay of these actors (Reslow & Vink, 2014, p. 863), international organisations and NGOs play a relevant role in the implementation phase. For instance, project falling under the policy objective of migration and development, were concretely implemented by the International Organisation for Migration (IOM) in the case of Moldova (Reslow, 2017, p. 157). The same happening for the visa liberalisation action plan, where both the IOM and the International Centre for Migration Policy Development (ICMPD) played a key implementing role.

The implementation of Mobility Partnerships is monitored through a two-pronged follow-up mechanism.

The first unfolds at EU level, where Mobility Partnership task forces are appointed to ensure EU internal coordination and are vested with monitoring powers (Council of the European Union, 2009a, p. 5). These bodies consist of representatives of participating MS and the Commission (Lavenex & Stucky, 2011, p. 134). The role played by the Commission in this regard is fundamental for evaluating the implementation progress. The institution summons the participants by scheduling meetings and updates the “scoreboard”, the document accountable for the state of play of individual Mobility Partnerships, where implementation progress is underscored.

While the individual scoreboards were meant to enhance the transparency of Mobility Partnerships state of play, their public unavailability seriously jeopardize the overall transparency of the process. This, in turn, for the part of EU, signals a persistent democratic accountability deficit of the instrument. (except for Moldova Scoreboard, which is publicly accessible online).

The second process, conversely, is managed at the partner country level where a cooperation platform is established. On the ground, member states’ embassies, EU delegations and non-EU countries’ authorities meet in the framework of cooperation platforms to monitor implementation (Reslow, 2015, p. 118)

For the purpose of our analysis, we have proxied the “intent behind policy action of EU”, and namely behind the Mobility Partnerships to the facilitation of EURAs. When conducting an analysis of costs and benefits associated to EURAs, what emerged was the need to provide third countries with appetible incentives in order to elicit their successful conclusion.

As we already anticipated, this undertake precisely lead to set Mobility Partnerships against their own capacity to provide appetible incentives. Mobility Partnerships were accordingly conceived for addressing the need of revamping the framework of readmissions in an ad hoc and more flexible manner (Cassarino, 2014, p. 37). Structurally, for ensuring adaptability to circumstances, the

Commission privileged from the outset a flexible structure, a circumstance that was exploited by MS both in the decision-making and implementation stages.

In addition, participation on a voluntary basis, even bereft of an enforcing compliance mechanism, was considered a solid insurance against defection. For truth sake, such a presumption was immediately invalidated by empirical reality. Moreover, in this regard, a supposedly comprehensive and balanced approach along all migration policy domains and the *quid pro quo nature* of the instrument should have spurred projects falling within all the policy objectives pursued by the GAMM. Unsurprisingly, the largest share of initiatives launched within Mobility Partnerships, solely responded to MS securitarian concerns. Indeed, such “unintended consequences” have severely curbed the potential of Mobility Partnerships.

If we produce a brief account of the dysfunctionality of Mobility Partnerships, we can better understand why the instrument, so far, proved of little help in the signature of EURAs. Once having underscored the dysfunctionalities of the instruments, the groundwork for our empirical analysis is finally laid.

Elsewhere in this section we illustrated that generally EURAs are solely considered advantageous for the EU. This is what resulted by the onerous “demand side” of EURAs. Subsequently, we identified the rationale of Mobility Partnerships in the need of offering compensatory incentives for Third countries. The instrument’s *quid pro quo nature* was intended to condition the granting of incentives upon the Third Countries signature of EURAs. Against this background, we borrowed the notion of “unintended consequences” to remark that political instruments employed by the EU in migration policy can escape their objectives.

In a nutshell, the next section will confirm that Mobility Partnerships are not exempted from this trend. Their political inconsistency is a mark of the weakness of the “supply side” of the EU, to say, its incapacity to provide attractive incentives in return for compliance on the EURA regime. If EU cannot accommodate what is requested by third Countries in return for EURAs, the negotiations are simply bound to fail. Thereafter, everything is set for our empirical analysis.

### 3.4. Dysfunctionalities of Mobility Partnerships

When a sovereign state aspires to enhance cooperation on migration policy with another sovereign state, it has at its disposal a vast array of policy instruments, ranging from development-aid to labour market policies. For the EU, this possibility is drastically reduced.

While the GAMM and its flagship instrument of Mobility Partnerships constituted an attempt to dampen the consequences of EU’s lack of legal competences, the most appetible bargaining chips

required in return for readmission are still in the hands of MS. The prominence of MS is amplified by the structural design of Mobility Partnerships and highlights, despite opposite rhetorical claims, the security bias dominating the instrument.

For instance, from the EU side, the power of advancing projects is solely exerted by agencies carrying out operational tasks in the field of border control, such as Frontex. The security-oriented nature of the MS, and particularly that of Frontex informs the general imbalance of security and development aspects of the partnerships in place (Babayan, 2010, p. 49). This bias clearly features in the strategy of MS, where the number of projects on border security outclasses mobility opportunities offered to TCNs.

Not coincidentally, enveloped in this trend Mobility Partnerships earned in literature, the unpleasant label of “security partnerships” (Carrera & Hernandez I Sagrera, 2009).

Furthermore, as promptly illustrated by Alberola and Langley (2018) in Moldova, Cape Verde and Georgia cases new pathways for legal migration did not materialise and remained abstract commitments by MS. In addition to the scarce number of proposals, those concretely advanced did not lead to real schemes of mobility. Indeed, they entailed information campaigns or training on existing legal channels to the EU or either simply covered rephrased initiatives already in place bilaterally. Even when more appetible incentives such as visa-facilitations were offered they did not envision easier access to EU labour market (2018, p. 33).

The EU, in turn, cannot but acknowledge the incapacity of Mobility Partnerships to reproduce the material shift towards a more balanced approach to migration, rhetorically heralded in official documents. Even if the outcome was to a certain extent predictable, in view of the pressure exerted by Member States during the decision-making process. (Lavenex & Kunz, 2008, p. 452); the flexibility offered by the instrument was intended to buttress mutual trust and mutual learning processes and to expedite the identification of shared problems.

The unintended consequence of this strategy was allowing the MS to carefully select the partners they intended to cooperate with, generating a variable geometry of participation tied to the national strategic priorities. Hence, this recurrent practice reproduces overall differentiation and policy incoherence of EU external migration policy (Carrera & Hernandez I Sagrera, 2009, p. 31).

In addition, even if evidence shows that the projects are inadequately implemented, no enforcement mechanism is envisaged by Mobility Partnerships due their non-binding nature, nor the individual scoreboards are publicly available, rendering any evaluation of projects implementation a leap in the dark.

On top of that, authors have noted how MS exploited the flexibility formula to solely achieve their nationally formulated migration preferences (Reslow, 2011, p. 227). This has not but

exacerbated vertical tension at the EU-level, with its national components solely rephrasing existing bilateral initiatives within Mobility Partnerships and the third countries being denied consistent legal migration pathways. Mobility Partnership, to date, have not secured greater EU policy-coordination in the field of migration. In the same wake, notwithstanding their quid pro quo nature, they did not shape a favourable context for issue-linkage. since the projects advanced mainly responded to the exclusive interest of MS.

We can thus conclude that by now the framework for negotiations offered by Mobility Partnerships was insufficient for addressing asymmetrical interests between MS and Third countries. Reasonably, we can expect that the instrument hardly facilitated the successful conclusion of a EURA negotiation with Morocco.

## VI. EMPIRICAL ANALYSIS:

### MOBILITY INCENTIVES TO ELICIT EURA ADOPTION

As highlighted in the section Tools for the Empirical Analysis, Mobility Partnerships were conceived to work as a joint readmission-visa facilitation policy negotiating framework. Their quid pro quo nature was therefore intended to achieve a mutually beneficial allocation, where, from the perspective of Morocco, the acceptance of EURAs could be leveraged with a relaxation on visa requirements (Abderrahim, 2019, p. 5).

This is typical of how the EU conditionality mechanism works, as the promised reward is withheld until the criteria for compliance are met. However, lengthy, and convoluted, negotiations on readmission showed the fragmentation of the Mobility Partnerships Framework. If expectations resided in triggering a spill over effect where progress in readmissions could be transferred to visa-facilitations, in the case of Morocco the deadlock of the former spiralled into the stalemate of the latter.

Employing the theoretical lenses of the EIRM model, we contend that mobility opportunities granted to Moroccan citizens betrayed the premises for a mutually beneficial partnership. According to our model, EU conditionality succeeds in inducing rule compliance -EURA signature in our specific case- when the incentives promised for rule compliance balance the ensuing adaptation costs. Therefore, attempting to offer an exhaustive overview of mobility opportunities afforded to Moroccans, besides registering the stalemate in visa-facilitations negotiations, we also assess the framework of Mobility Partnerships and the potential impact of new visa rules on visa-facilitations talks. We argue that incentives promised to Morocco on the mobility side were not sufficiently attractive to elicit compliance on readmission.

Therefore, this section seeks empirical validation for the first sub-hypothesis:

**h<sub>1</sub>: Incentives offered to Morocco on the side of mobility are structurally flawed.**

In this spirit, we structure our argument around three main points. First, we clarify when negotiations on visa-facilitations were initiated. We then proceed by assessing the content of the offer and remark its critical points. Second, we reveal the spectrum of mobility opportunity actually granted to Moroccan citizens. Third, holding in due regard the standing of both parties within negotiations, we show how new visa rules could further narrow the margin for a compromise.

# 1. Visa Facilitations: perspectives and inherent flaws

Notwithstanding the twin-track strategy of Mobility Partnerships, visa-facilitation negotiations commenced long after the rounds of meetings for EURAs. As we came to notice by consulting Commission’s DG HOME documents, the Commission proposed to open the negotiations on visa-facilitations with Morocco on 4 October 2013. This was welcomed as “a very concrete and important step in the cooperation between the EU and Morocco”, and “a revolutionary event” since Morocco was the first African Country being prospected visa-facilitations, this following akin requests by Moroccan Government. (Johansson, 2020);(Tittel-Mosser, 2020).

Eventually, after the consent of the EU Council was obtained, the first round of negotiations took place on 19 January 2015, in Brussels, and the latest formal round was held in 2017. In the last three years, discussions mainly stemmed from informal talks within regional processes and the need for repristinating official single-issue meetings was maintained along several EU-Morocco shared political frameworks (14th EU-Morocco Association Council, 2019).

A rapid glance at data released by the Schengen Visa Info (Figure VI-1) leads us to think that mobility towards the EU is topical in Moroccan public discourse and helps us contextualising the interest of Moroccan government for relaxations on visa thresholds.

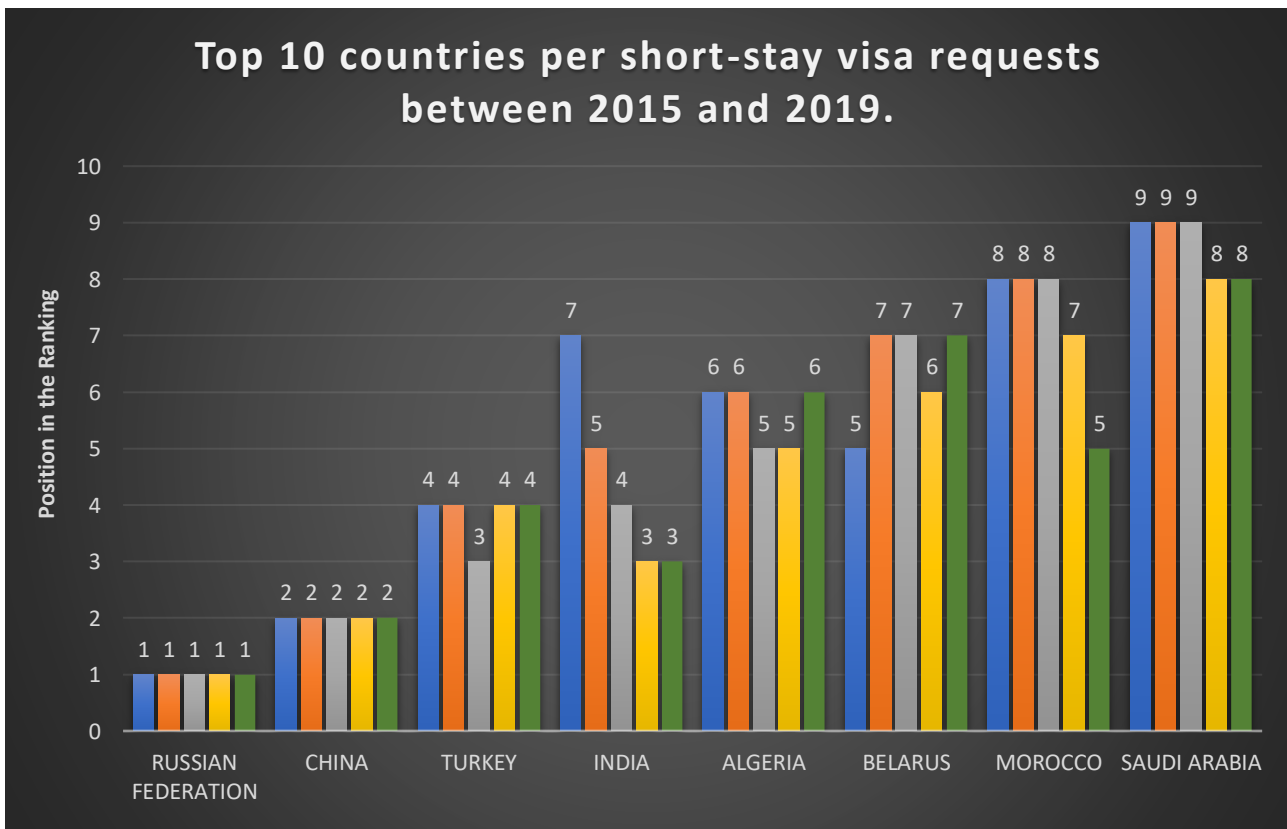


Figure VI-1: Top countries per short-stay visa requests between 2015 and 2019.  
Source: Author personal elaboration based on Schengen Visa Info (2015-2019)

Moving to the object of EU proposal, being visa-facilitations for Moroccan citizens incorporated in the Mobility Partnership Framework, any agreement on the matter is mutually binding. Yet, no agreement of that sort exists to date, so when we examine the content of EU proposal to Morocco, we can just consider what has been offered so far.

In this regard, by recalling the answer provided by Cecilia Malmström, former EU Commissioner for Home Affairs, to a targeted Parliamentary Question, we can better underscore the content and scope of visa-facilitations for Moroccan citizens (Johansson, 2020); (The North Africa Post, 2013). Accordingly, speaking on behalf of the EU Commission, Malmström suggested that the proposal did not entail a removal of short-stay visa obligations for Moroccan citizens visiting the EU. Rather, as expressly stated, the objective pursued by visa-facilitations is that of simplifying existing requirements, to expedite visa procedures and reduce the complexity for the applicants. The first objective concretely means that through visa-facilitations the documentary evidence demanded to Moroccan visa applicants is simplified, this resulting from more relaxed standards than those regularly applied to EU short-stay visas, in compliance with EU Regulation 2018/1806.

On top of the need to accelerate visa procedures, the EU visa-facilitation proposal also addresses the lengthiness of documentary checks by conceding multiple-entry visas with a longer period of validity, as to ensure that multiple entries are managed within a single bureaucratic procedure and the applicants do not incur in further costs (The North Africa Post, 2013).

Regarding the beneficiaries, EU proposes to Morocco to facilitate the mobility of respectively, businesspeople, researchers, and students (European Commission, 2013). By looking at the categories targeted by visa facilitations, the EU's bid seems that of incentivizing the affluence of Moroccan high skill individuals and to tie the categories of beneficiaries to specific joint initiatives within the areas of trade, research and education. As it will be elucidated in seconds, Moroccan Government voiced several concerns over the EU offer, judging it as excessively limited in scope and elitist at best.

The next section is intended to frame these concerns in the broader context of negotiations, EU competences, and actors' perceptions. Indeed, we maintain that the crucial components to explain Moroccan dissatisfaction with EU mobility proposal lie within the interplay of visa-facilitations with the existing visa regime and the limited possibility of the EU to propose alternative legal pathways of mobility. Finally, we also highlight how the recent reform of the EU Visa Code can further intricate the upcoming rounds of negotiations.

## 2. Existing EU visa regime and visa facilitations.

First, EU visa policy is deeply entrenched in the EU's system of policing borders and controlling human mobility (El Qadim, 2018, p. 281). Self-interest in the protection of the Schengen Area where an exclusive freedom of movement for EU MS could be ensured, ever-growing institutional complexity and the need to adjust to multiple wave of enlargements have gradually pushed EU to set up a hierarchical system of mobility (Gülzau, Mau, & Zaun, 2016, p. 164). With a view to keep tight rein on who was enabled to enter, a uniform VISA format valid for all the Schengen members was introduced in (1995) with Regulation (EC) No 1683/1995. In a nutshell, by setting uniform conditions for the access to its gates, EU exerts a "remote control" on the mobility of TCNs. (Zolberg, 2006, p. 443) discouraging access without prior permission through a pre-emptive mobility governance. Uniform VISA requirements are the cornerstone of this strategy, functioning as a pre-emptive check to eventually deny access to unwanted incomers.

In the period 2015-2019, from when negotiations on visa-facilitations were opened to the recent amendment of EU Visa code, EU short-stay visa regime was informed to Regulation 810/2009 (Regulation (EC) No 810/2009). As set out therein, Morocco belongs to the list of Non-EU countries whose citizens are required to hold a visa when travelling to the Schengen Area.

Accordingly, until February 2020, Moroccan citizens could apply for a short-stay visa at the earliest three months before the intended visit and spending a maximum of 90 day in any 180-period in the Schengen Zone. Within this time frame visa holders could freely travel for tourism or business purposes without internal border checks. By the way, as it will be soon expanded, visa rules are only meant to encourage short stays and lay down no alternative pathways for entering the EU for labour purposes, this resting on single MS decisions. The occurrence frustrates Moroccan citizens, seeing mobility as the prism through which they perceive the EU (European Commission, 2004); (Dumas & Goldner Lang, 2015, p. 1).

Leaving aside the restrictiveness of visa rules, access for the eligible Moroccan travellers remains nonetheless very challenging. Local press points at citizens' complaints when submitting their applications for a short stay in Europe. Throughout negotiations, Moroccan delegation reported citizens' complaints regarding the excessive financial costs of the visa fee, long waiting periods between the application and the outcome and the burdensome bureaucratic procedure, comprising the submission of a dense documentary evidence (Telquel, 2015).

Grievances went as far as to take the form of an online petition, launched by the Arabic journal Al Massae in 2019 to stimulate change and addressed to Nasser Bourita, the incumbent Minister of Foreign Affairs (Morocco World News, 2019).



Reportedly, in the last three years conditions for access have worsened due to the constant paralysis of the French and Spanish consulates' externalised systems for processing online applications, which manage the larger share of EU short-stay visa requests from Morocco. For instance, since 2015 France has contracted an external service provider, namely the TLScontact, to process documentary evidence presented by Moroccan citizens while retaining the power to cast the final decision on visas. Even though the externalization was originally conceived as a safety valve to relieve local consulates from a series of bureaucratic steps and speed up visa applications, the crippling of external service providers resulted in issuance delays and reduced mobility opportunity for Moroccans (Cour des comptes, 2017).

In 2018 the French Minister, on the side-lines of a meeting in Rabat, remarked that French “had never issued so many visas to Moroccan citizens like in 2018” (H24Info, 2019). This is reflective of an EU-wide trend given that, from 2015 to 2019, VISA requests from Moroccan citizens have grown steadily, with the country ranking across all the period amid the top ten for visa applications to Europe (Figure VI-2). However, a surging trend of rejection corresponded to an increased demand. Rising number of VISA applications from locals coupled with a surging rate of refusals clearly buttress with empirical and logical substance Morocco's interest in receiving visa facilitations. The foregoing considerations are further reinforced if we observe that in countries benefitting from visa-facilitations with the EU, such as Russia, higher backlogs of request are not associated to enhanced rates of rejections. From this perspective, EU's pledge to concede visa facilitations has great value for Morocco and may hence elicit compliance to the EURA regime.

## Not Issued rate in % for uniform Visas

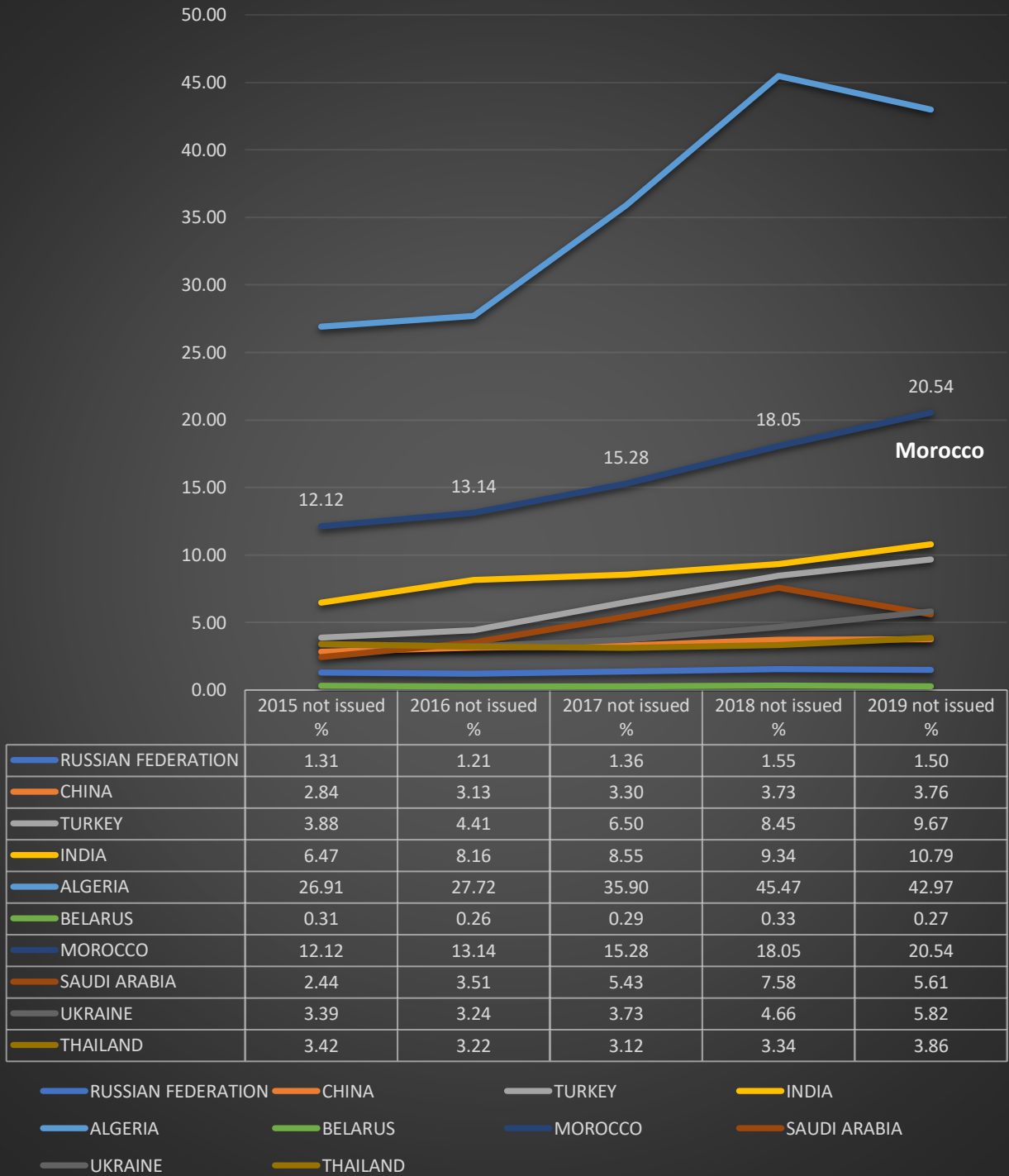


Figure VI-2: Rejection rate of uniform visa applications (including short-stay and multi-entry visas) in the top ten countries for visa requests between 2015-2019.

Source: Author's personal elaboration based on [Schengen Visa Info](#) (2015-2019)

This generates mounting resentment as according to the perception of Moroccan citizens it appears that any visa applicant is seen as a potential irregular migrant (Abderrahim, 2019, p. 23).

If mobility of Moroccan citizens towards Europe is hampered by structural conditions, EU's pledge to relax condition on visas seems insufficient to totally overcome Moroccans requests. As underscored by a DG HOME official, EU schemes for visa facilitations follow predefined patterns and are not grounded on country-specific necessities ( Interview to DG Home Official, 2020). The proposal presented to Morocco was therefore said to be akin to the one prospected to Cape Verde. In addition, as by now, the EU official stressed that no reduced visa fee was established for Morocco, signalling that negotiations are still in their infancy.

On this account, we should expect that the EU proposal to Morocco is reflective of already tested visa-facilitations agreements. We have therefore collected in **Figure (VI-3)** information on visa-facilitation agreements entered into force thus far.

	Russia	Ukraine	Moldova	Western Balkan States	Morocco/Cape Verde
Close relatives (spouses, children, parents, grandparents, grandchildren)					
Members of official delegations					
Regional or national government and parliaments, Constitutional Courts or Supreme Courts					
Pupils, students and post-graduate students and accompanying teachers					
Disabled persons and those accompanying them					
Persons travelling on humanitarian grounds, including medical purposes					
Participants in international sports					

events and persons accompanying them					
Participants in youth international sports events					
Participants in scientific, cultural and artistic activities					No older than 25 years.
Participants in official exchange programmes organised by twin cities					
Journalists					
Pensioners					
Drivers of international cargo and passenger transportation					
Members of train, refrigerator and locomotive crews					
Children under the age of 18 and dependent children under the age of 21					
Members of professions Participating in international exhibitions, conferences, symposia, seminars or similar events					
Participants representatives of civil society organisations					
Representatives of religious communities					

Children under the age of 6.					
Mayors and members of municipal councils				Only Macedonia	
Politically persecuted persons during the communist regime				Only Albania	

Figure VI-3: comparing the draft visa facilitation agreement prospected to Morocco with that of other EU partners.

Categories of eligible included
Categories of eligible excluded

Source: Authors' summary compiled consulting notable EU visa facilitation agreement: Serbia (2007), Montenegro (2007a), Macedonia (2007b), Albania (2007c), Bosnia and Herzegovina (2007d), Moldova (2007e), Ukraine (2007f), Russia (2007g), Cape Verde (2013).

Without a single doubt, were looser condition on visas to be applied, a broader spectrum of Moroccan citizens could have easier access to the Schengen Area, with some categories being entitled to benefit from a complete visa waiver. Following from the EU predefined scheme for visa facilitations, entitled categories could be eligible for 5-years valid visas for a maximum of 90 days within territories of the Member States (Cour des comptes, 2017). A single procedure valid for several years would comprehensively alleviating the financial costs of applicants. Moreover, was the agreement in place, Moroccan citizens could be rewarded with shorter periods of issuance (maximum 10 days of waiting instead of the 15-days assessment envisaged by Regulation 810/2009). On top of this, we should deliver two observations.

First, even if visa-facilitations were to be granted to Moroccan citizens, the broader circle of actors entitled to new mobility opportunities could only access to short-stay visas and would not be eligible for long-term visa, this resting on Member States decisions.

Second, condition of access for Moroccans would not be as permissive as those granted to EU Eastern Neighbours citizens since the spectrum of beneficiaries for the former would be far more restricted in scope. Given that Moroccan officials tend to compare the EU's treatment of Morocco to its policy with Eastern Neighbours, it is very likely that restrictiveness in scope would be labelled as unfair treatment (El Qadim, 2018, p. 295). Indeed, even if entering the Schengen Area would be easier from some beneficiaries, a DG Home expert confirmed that there is a wide perception among Moroccan officials that EU-prospected visa-facilitations for Moroccans are too limited in scope and do not represent a value-added if compared with bilateral cooperation ( Interview to DG Home

Official, 2020). Accordingly, at best, these draft agreements were labelled as “elitist” because they boosted access to people who enter the EU with relative ease (Abderrahim, 2019, p. 22)

In sum, conceived as such, the concrete visa facilitation proposal does not measure up to what Morocco requires. First, lacking any communitarized competence on long-term visas, the EU seemed bound to solely make concessions on short-term visas, taking Moroccan’s optimal negotiation outcome off the table.

Moreover, limited to short-stay visas, the EU’s bid appeared narrower in scope if compared to existing visa-facilitations regimes. Taken together, these aspects converge to explain why Morocco found the EU proposal on visa facilitation unappealing.

### 3. Lacking competences and unattended promises in Mobility Partnerships

From its side, the EU, as enshrined in paragraphs (a) and (b) of Article 79 TFEU holds power regarding:

- the conditions of entry and residence, and standards on the issue by Member States of long-term visas and residence permits, including those for the purpose of family reunification.
- the definition of the rights of third-country nationals residing legally in a Member State, including the conditions governing freedom of movement and of residence in other Member States;

In sum, the EU is vested with the power of setting conditions of entry and residence, applicable standards, and the set of rights accorded to TCNs. For the sake of giving practical relevance to the Article 79 TFEU, the EU equipped itself with a vast array of legislative tools. The EU approach, resembling the restrictive selection operated regarding the categories benefitting from visa-facilitations, consisted in adopting sectoral legislation by category of migrants (Hailbronner & Thym, 2016). An overview of the intricated regulatory framework is offered in [Figure \(VI-4\)](#)

Instrument	United Kingdom	Ireland	Denmark
Family Reunification Directive 2003/86/EC	no	no	no
Long Term Residents Directive 2003/109/EC	no	no	no
Human Trafficking Directive 2004/81/EC	no	no	no
Return Directive 2008/115/EC	no	no	no
Student Directive 2004/114/EC	no	no	no
Researcher Directive 2005/71/EC	no	yes	no
Blue Card Directive 2009/50/EC	no	no	no
Employer Sanctions Directive 2009/52/EC	no	no	no
Single Permit Directive 2011/98/EU	no	no	no
Seasonal Workers Directive 2014/36/EU	no	no	no
Inter Corporate Transfers Directive 2014/66/EU	no	no	no

Figure VI-4: Resuming sectoral legislation for category of migrants.  
Source: Hailbronner and Thym, (2016, p. 274),

At the same time, although it has gained further influence in migration governance over the years, the EU cannot decide on volumes of admission for people coming from Third Countries to seek work, this remaining a MS prerogative according to Article 79 TFEU. Among other things, ascertained how carefully MS guarded their power to decide on long-term labour migration matters, EU committed to promote circular migration schemes with Morocco within the framework of the Mobility Partnership, in the attempt of circumventing its lack of competences in the field (Tittel-Mosser & den Hertog, 2017, p. 97). Indeed, presenting the shared objectives in the Political Declaration, both parties committed to address legal and labour migration by considering reciprocal labour market needs (EU-Morocco Mobility Partnership, 2013, p. 3). It may be illuminating to provide a short comment of what emerges assessing the projects summarised in the Political Declaration.

Arguably, by looking at the shared initiatives, it is glaring how uncooperative MS downsized the potential of the Mobility Partnership.

Exploiting the voluntary nature of project participation, MS showed recalcitrant to create new avenue of legal migration for Moroccan citizens, thus obstructing the EU attempt to overcome its legal competences. As a matter of fact, out of the 18 projects concerning mobility and legal migration, just two projects, one launched by Spain and one by France, envisage the possibly of simplifying the issuance of circulation visas. Except this two, the remaining initiatives either reframe already existing labour-migration frameworks or exclusively promote trainings and study programmes intended to fill forthcoming EU labour shortages (EU-Morocco Mobility Partnership, 2013, p. 3).

In short, no EU MS seemed particularly interested in granting legal migration avenues for Moroccan Citizens. The occurrence seems frankly at odds with what the EU prospected to Morocco when the Mobility Partnership was signed in 2013 and offers a credible explanation of why Morocco deemed the EU proposals concerning mobility as insufficient.

#### 4. New Schengen Code and its potential to adversely impact negotiations on Visa Facilitations.

Following almost ten years of application of VISA rules pursuant to Regulation 810/2009, in March 2018 the European Council put forth a proposal geared at reforming the EU common visa policy, which received the ultimate greenlight from the European Parliament in June 2019 (Regulation (EU) 2019/1155, 2019). Since February 2020, the new rules uniformly apply to all the countries listed in Regulation (EU) 2018/1806, among which Morocco is included, being one amid the 105 non-EU countries whose citizens are required to hold a visa when entering the Schengen Area (Regulation (EU) 2018/1806, 2018).

Considering that visa-facilitations talks are currently in the doldrums and both short-term travel and long-term labour migration to Europe are barely accessible for Moroccan citizens, we expect the New Schengen Code and the implications will permeate EU-Morocco negotiations around mobility once those will be revamped.

For the occasion, in the next few lines we delve into Regulation (EU) 2019/1155, updating EU short-stay VISA rules, in terms of its potential impact on EU-Moroccan negotiations for Visa-facilitations.

On examination of the reformed VISA policy, we contend that overall, the new rules, instead of ironing out divergence of views between the parties, can further narrow the margin for a compromise. Before highlighting the critical aspects of the new course of EU visa policy, we proceed by briefly summarising the salient features of Regulation (EU) 2019/1155 vis-à-vis the earlier rules established by Regulation (EC) 810/2009.



Notably, the Council of the EU has clarified in the past the objective of the amendment, namely that of improving the conditions of legitimate travellers and developing new tools to counter illegal migration (Council of the European Union, 2019). The latter will be treated shortly, but as for the former, the amendments brought by Regulation 2019/1155 to Regulation (EC) 810/2009 appear to go in the direction of facilitating travel planning for short-visa stayers.

Indeed, with respect to new conditions of travel, according to Article 9 of Regulation 2019/1155 legitimate short stayers are granted the right to lodge applications up to six months before the intended travel, instead of the 3 month-term conceded previously. At this stage, it seems premature to foresee how impactful this could be on Moroccan citizens' mobility. Whilst it is common ground that larger intervals for travel planning is more of a user-friendly approach towards Moroccans, short-notice travel might resent of mounting up delays in processing older applications from the EU MS. Recalling how much lingering delays in visa issuance are hampering Moroccans mobility plans, the extended timeframe for the visa request may result problematic.

This type of concern, *inter alia*, can safely pertain to all non-EU visitors. Nonetheless, Regulation (EU) 2019/1155 seems not prepared to internalize an akin drawback. Indeed, Article 23 of Regulation (EU) 2019/1155, in line with Regulation (EC) 810/2009 prescribes that decisions on applications shall be issued within 15 days. Eventually, should delays to the detriment of Moroccan citizens add up, huge backlogs of visa demands would not be compensated by a quicker time of reaction. In the same wake, the deadline to apply for visa applicants remains unchanged, being at the latest 15 days before the departure, as already established by Article 9 of the Regulation (EC) 810/2009.

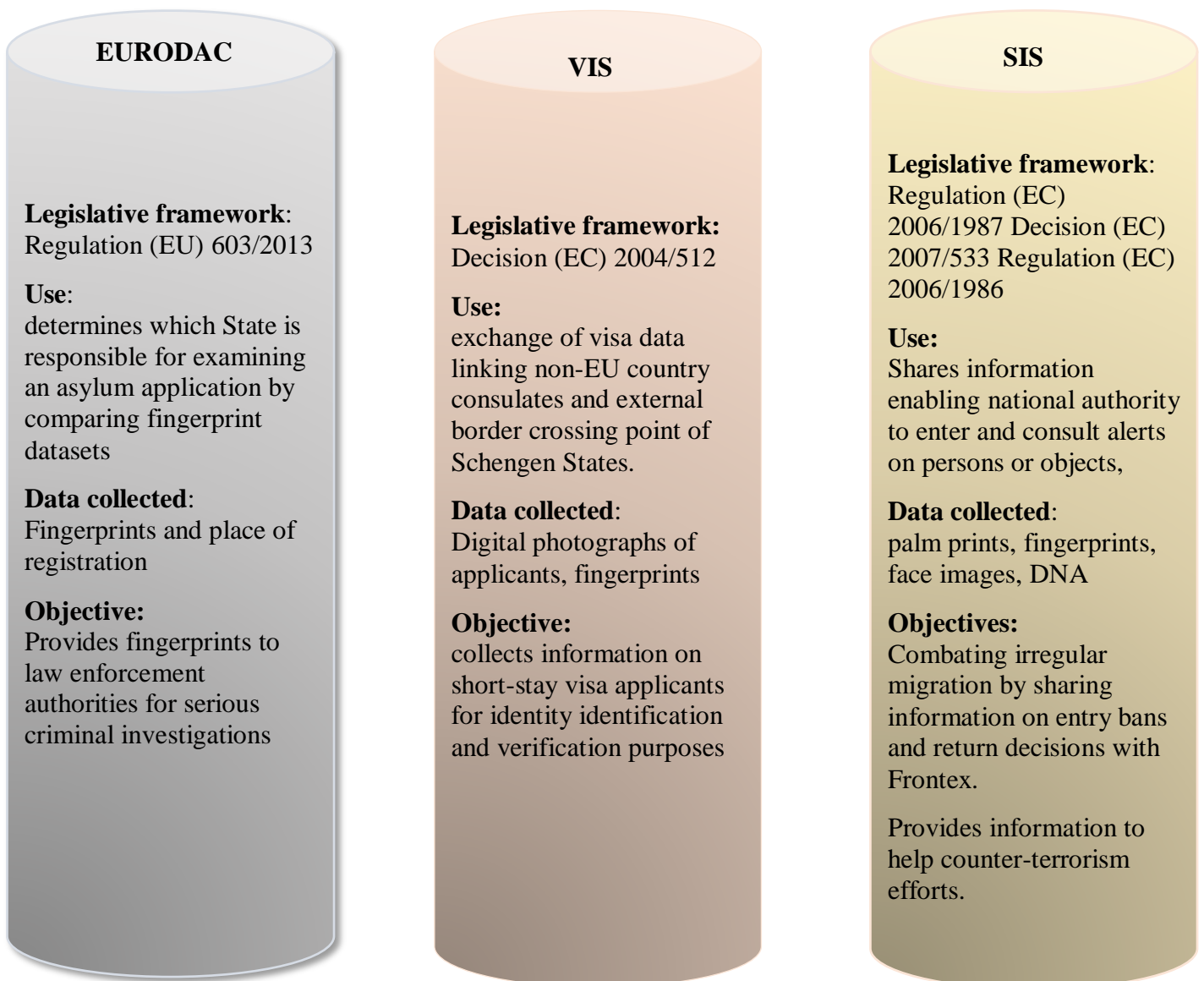
What could be instead interesting for Moroccans is the possibility to receive multiple-entry-visas, with a gradually increasing validity period up to 5 years, under condition that the applicants display a positive visa track record. Bearing resemblance to multiple-entry visas activated within visa-facilitation agreements, new rules on multiple-entry visas envisaged by Article 24 of Regulation (EU) 2019/1155 follow an identical logic: the EU pledges to award facilitated conditions of short-stay travel in return for cooperation on readmission. As we will see in moments, the strategy goes in opposite direction to what Moroccan delegations firmly asks.

In greater detail, the analysis of Regulation (EU) 2019/1155 has highlighted two dimensions whose impact on EU-Morocco negotiations could be detrimental: the already mentioned connection between mobility opportunities and cooperation on readmissions; higher costs for visa applicants deepen Moroccans' resentment.

#### 4.1. Connection between mobility opportunities and cooperation on readmissions.

In recent years, the EU has amplified its efforts to guarantee a more secure external integrated border management., on grounds that without addressing unprecedented streams of asylum-seekers and terrorist threats, freedoms of the Schengen Area would have been put in jeopardy (European Commission, 2017). On more than one occasion, the Commission detailed that ensuring sound control of the EU external borders and prevent unlawful activities such illegal crossings stand together with facilitating access to legitimate travellers (European Commission, 2015a).

In this wake, the EU has developed a vast array of technical instruments geared at information-collecting and sharing on the identity of travellers. In **Figure (VI-5)**, we briefly report an overview of the complex network of databases the EU has devised overtime



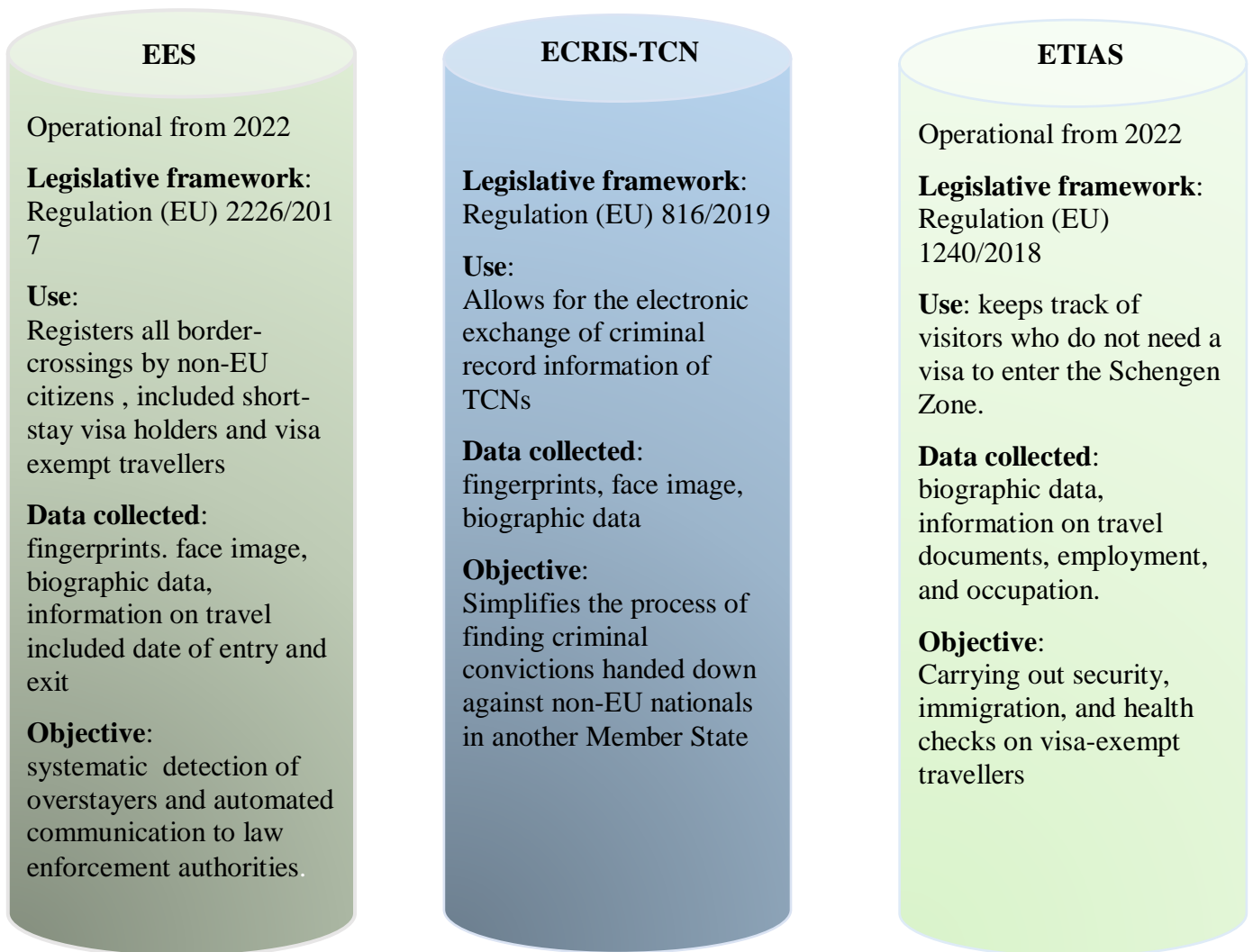


Figure VI-5: Showing an overview of EU databases.  
 Source : author's personal elaboration based on (PICUM and State Watch, 2019)

- List of entries:
- |                                  |   |
|----------------------------------|---|
| EURODAC= European Dactyloscopie  | EES : Entry/Exit System                                     |
| VIS= Visa Information System     | ECRIS-TCN : European Criminal Records Information System    |
| SIS= Schengen Information System | ETIAS: European Travel Information and Authorisation System |
| EES : Entry/Exit System          |   |

Besides setting up several hubs for the collection of travellers' data, the EU has further pushed to ensure uniformity and continuous exchange of relevant information between databases. For this purpose, Regulation (EU) 2019/817 was adopted, ensuring the interoperability between EU information systems in the field of border management and visa regulations. Cross-comparison between data collected in different circumstances is heralded as the most effective strategy to counter irregular migration, unveil identity fraud, and quickly distinguish *bona fide* travellers from potential visa-overstayers (Council of the European Union, 2019a).

Actually, it is insightful to redirect our attention towards this last component. It is no mystery that the EU has always faced troubles making reliable estimates of the number of irregular migrants.

By their specific nature, those are persons either escaping border detection (irregular migrant) or visa-overstayers. For sake of clarity, according to Commission DG HOME, the latter notion comes to indicate a “*person who has legally entered but then stayed in an EU Member State beyond the allowed duration of their permitted stay without the appropriate visa (typically 90 days or six months), or of their visa and / or residence permit.*”(European Commission DG HOME, 2020a).

Uncertainty in quantifying which was the main wellspring of illegal migration has gradually brought EU institutions to intensify FRONTEX mandate of detecting illegal crossing and to establish rigid preventive checks to track down the identity of over-stayers.

Generally, according to FRONTEX and the EU Commission, the number of overstayers amounts to half of irregular migrants on the EU territory (European Commission, 2008); (FRONTEX, 2015). Whether this estimate is credible or not, given that arrivals and detected illegal crossing are on the rise (Orrenius & Zavodny, 2016, p. 3), the interoperability of EU information services provides the EU with unprecedented knowledge of who overstays.

This aspect is not negligible since enhanced data reliability will predictably play a crucial role when EU-Morocco negotiations on visa-facilitations will be restored. While thus far the EU could loosely leverage cooperation on readmission with visa-facilitations, with new operational tools to check who unlawfully remains in the Schengen Area, the EU can tighten mobility opportunities for Moroccan citizens if cooperation on readmission is deemed as insufficient.

Indeed, it bears noting that the already present joint readmission-visa facilitation policy tool to which both parties committed through Mobility Partnerships, is further embedded in the new visa rules prescribed by Regulation (EU) 2019/1155.

Precisely, the Commission is conferred the power to assess yearly or even more frequently third countries’ cooperation with regard to readmissions and their contribution to shared border-management initiatives.

The Commission evaluates the third country on grounds of:

- number of return decisions;
- Number of actual returns as a percentage of the number of return decisions issued.
- Number of readmissions accepted as a fraction of the number of readmissions required.
- Assistance on identification of irregular stayers and timely deliverance of travel documents.

Besides Commission’s power, the monitoring mechanism can also be triggered upon notification of MS, ensuring decentralized control.

Where the Commission considers that the third country is not cooperating sufficiently or where so is notified by a simple majority of Member States, the uncooperative partner can be targeted with temporary restrictive sanctions as more costly visa fees, no visa waivers, lengthy processing times and narrowed validity of visas.

What is glaring is how the EU is increasingly intent on reinforcing, adding the threat of unpleasant sanctions, the nexus between its concessions on the side of mobility and third parties' commitments on readmissions. However, there are few guarantees that this strategy will reach out Moroccan negotiators since apparently it sheds lights on weak understanding amid the parties.

Reportedly, throughout negotiations on visa facilitations, as stated by Menouar Alem, former chief of the EU delegation in Rabat, EU was persistently asked to de-couple EURA negotiations from those concerning facilitated mobility channels, since conditionality is perceived as unfair, paternalistic and contemptuous (Yabiladi, 2015); (El Qadim, 2017, p. 6). Moreover, pushing for de-linkage, Moroccan negotiators advocate that while mobility talks should be embedded in bilateral dialogues, cooperation on readmission should be outlined in a comprehensive regional framework, since multi-lateral talks can also address the African countries whose nationals are concerned (Yabiladi, 2013); (Maroc.ma, 2013).

Besides, what emerged from Moroccan stance before and throughout rounds of visa-facilitations undertaken so far is a continuous reference to the notions of respect and self-dignity.

Concerning the first, expressing the national standpoint, Alem referred to the longstanding cultural and political ties linking the two sides of the Mediterranean, adding that Morocco qualified for a treatment at least equivalent to that afforded to Eastern EU Neighbours (L'Economiste, 2013). The reference to a partnership of equals, is no less proclaimed the hallmark of the broader EU-Morocco relationship, and is consistently invoked from when Morocco was recognized by the EU an "advanced status", opening to unprecedented levels of political cooperation (14th EU-Morocco Association Council, 2019).

Morocco is mindful of the fact that its level of cooperation with the EU remains unprecedented for an African country, and could thus be wrapped up in the formula of "more than association, less than accession" (Molina, 2015, p. 132). That said, the strengthened nexus between readmissions and visa-facilitations could potentially revamp cultural frustration and the feeling of contempt experienced by Moroccans. Indeed, considering how the EU persistently looks at readmissions as a bilateral issue, the perception that its strategical priorities are constantly neglected may embitter Moroccan negotiators.

As for the continuous reference to self-dignity throughout negotiations, despite EU officials seem to downplay it as a tactical move, Nora El Qadim, explains that Moroccan frame EU visa policy

as a by-product of the dignity attributed to their nation. A preferential visa-policy would thus epitomize Morocco's importance on the international stage (El Qadim, 2017, p. 6).

Following this line of argumentation, reduced mobility opportunities generate a wide feeling of resentment and contempt, to which Moroccans refer to as "*hogra*", a term used to designate humiliation, unfairness, and attacks to one's dignity (El Qadim, 2017, p. 7); (El Qadim, 2018, p. 296). In 2012 Alem concisely synthesized how *hogra* relates to visas:

"It is difficult for a person to be in a consulate for four hours, to queue to obtain it, and sometimes they are, they are ... [cringes], they are affected in their dignity, when they need to ask for a visa to visit their family, or because they are an academic invited by a university, or even sometimes, it happened before, a politician whose ... visa is refused" (El Qadim, 2018, p. 295)

As of today, the notion of self-respect has not lost its momentum since in January 2020 during a weekly parliament session at the Moroccan upper house (House of Councillors), members of a cross-section of political parties agreed that "*delays in receiving Schengen visas that Moroccans are experiencing affect their dignity*" (Morocco World News, 2020a).

#### 4.2. Higher costs for visa applicants

One of the crucial changes engendered by Regulation (EU) 2019/1155 regards the higher fee charged for short-stay visas. The augmentation itself is not considerable, but its consequences may aliment distrust from the side of Moroccan delegation. More specifically, according to Article 16 visa fee for non-EU applicants to the Schengen Area is now fixed at 80€. As we were saying, the augmentation corresponds to an overall 33,3 % increase of visa fees, which were previously set at a price of 60€.

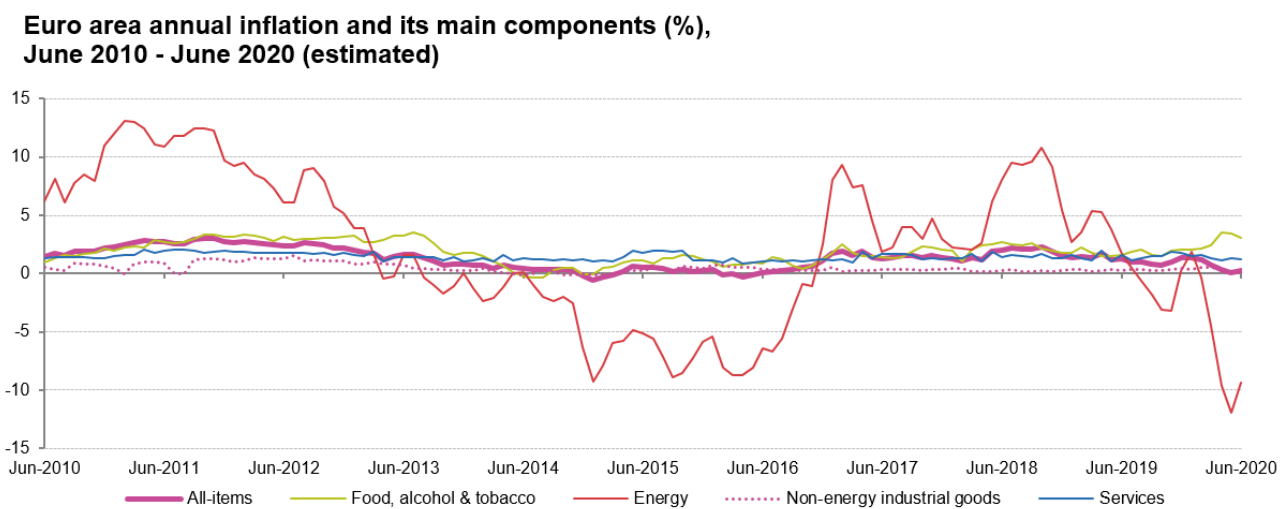
New EU rules for short stays also confirm a visa waiver for children below 6 years old and establish that visa for minors between the age of 6 and 12 remains half of the general fee. This signifies that compared to Regulation (EC) 810/2009, reduced visa fee increases by 5€ and currently costs 40€. Article 16 also prescribes that, compared to the past, Member States are now enabled to completely waive, upon national choice, the visa fee for minors between the age of 6 and 18 years.

In a Question and Answer Session the EU Commission clarified the reasons for raising the general visa fee from 60€ to 80€ (European Commission, 2020b).

Accordingly, visa fee had remained the same since 2006, and the price no longer covered the cost of processing applications, due to inflation. This expense typically entails staffing, premises and equipment. Raising the visa fee, the EU was said to be more prepared to allocate sufficient financial resources to preserve a wide consular coverage worldwide, provide updated training to the consular

staff, expedite the processing of applications, enhance the quality service for travellers, upgrade IT equipment and software, and be better equipped to detect risks stemming from threats to security and irregular migration. Moreover, pursuant to Article 16 of Regulation (EU) 1155/2019, the Commission is now enabled to revise the visa cost every three years, under consideration of rising Union-wide inflation rate and EU civil servants weighted salary.

In this direction, we should not consider the growth of the costs for non-EU applicants as a one-off adjustment, but mostly regard it as an upward pressure on fees. As highlighted in **Figure (VI-6)** the continuous growth of the EU inflation, at any rate, is closely allied to this explanation.



Source: Eurostat (online data code: prc\_hicp\_manr)



**Figure VI-6:** EURO Area annual inflation and its main components (%)  
Source EUROSTAT.

Attempting to frame the concerns of Moroccan citizens, we had access to *Visas: cette Europe qui ne veut plus de nous* (Visas: we are not welcome in Europe), a dossier published by *Telquel*, a francophone and progressive journal, collecting complaints of Moroccan citizens on EU visa rules in December 2019 (Telquel, 2020). In the period of reference, new rules on Schengen-short stay visas had already been approved, but as for implementation, prior rules set out in Regulation (EC) 810/2009 were still applied.

*Telquel* points out, the most of Moroccans bemoan, among other things, the endless waiting period before an application can be submitted and the prices of short-stay visa fees.

The first concern is perhaps addressed within Regulation (EU) 1155/2019, since applicants are now authorized to submit their application via an electronic form. This would probably offset Moroccans

problems stemming from completely booked consulates time-schedules. However, the Regulation does offer no solution for the crippling of external service providers (*for Morocco BLS International and TLS Contact*), which held back the processing of Moroccans ‘applications for stays in France and Spain in 2019. (According to the inquiry of *Telquel*, a similar shortcoming cannot be overlooked, provided that the system of external service providers is overtly reproached by Moroccan citizens, referring to it as “*externalization of visa.*” (Lepoint.fr, 2020).

Frequent criticism can be summarised as follows:

- managing of applications should not be deferred to agents pursuing economic goals such as external providers.
- Lengthy period of waiting stemming from the crippling of external providers incentivize attempts at bribery and further prolongs waiting time for honest applicants.
- Evaluation of short-stay applications is not carried out objectively but is influenced by the surging anti-migrant sentiment in Europe and the local consular cooperation which allegedly creates ad hoc criteria for selection (Bigo & Guild, 2005, p. 107)
- Moroccans bear the visa cost just to initiate the bureaucratic process. If their application is rejected even following the appeal is lodged, no reimbursement takes places.

Considering the abovementioned complaints, particularly that regarding the absence of any channel for refund, we should expect that, once the visa-facilitations talks between EU and Morocco will be given new impetus, Moroccan negotiators will draw attention on the increased visa-fee.

## 5. Recollecting empirical evidence

In sum, notwithstanding Mobility Partnerships were devised extend the mobility opportunity set of Moroccans, our empirical observations on the unfolding of negotiations run contrary to that.

First, the EU’s visa facilitation proposal disappointed Moroccans expectations, provided that long-term mobility opportunities were put off the table and prospected short-term visas were restrictive in comparative terms. Moreover, on top of a plethora of projects proposed, the Mobility Partnership failed to create new avenues of legal migration. We highlighted how Moroccan delegation does not consider EU incentives in isolation, but rather set them comparatively with the treatment given to other countries. From this angle, the notion of a partnership of equals is increasingly challenged by how the EU deals with Morocco. Indeed, this latter sees its self-dignity as affected by negotiations on visa-facilitations and demands a de-coupling of readmission and visa facilitation talks.



However, far from coming to terms with its partner, the EU appears intent on hardening its conditionality regime with the new visa rules, which prescribe reduced mobility opportunities to least cooperating countries in matters of readmissions. As a further aspect, empirical evidence suggests that the increased visa-fee is not a one-off adjustment, but rather part of a consolidated trend, alighting frustrations from the other side.

Considering all their limitations, mobility opportunities granted to Moroccan citizens appear blunt tools for inducing cooperation on readmission. In this perspective, the EIRM prescribes that for the EU conditionality to succeed, incentives shall offset the costs for compliance. This section highlighted that, as for mobility opportunities, empirical evidence goes in the opposite direction and substantiates our claim on the dysfunctional working of EU conditionality in EURA negotiations.

## VII. EMPIRICAL ANALYSIS:

### TRADE INCENTIVES TO ELICIT EURA ADOPTION

Negotiations for a Deep and Comprehensive Free Trade Area (DCFTA) between Morocco and the EU were initiated in the spring of 2013 and authors agreed to consider them as a leverage to entice cooperation on readmissions (Kaiser, 2019, p. 12). Even if the prospect to reinvigorate EU-Morocco trade through a DCFTA is not straightforwardly connected to readmission talks, provided that DCFTA negotiations fall outside the EU Mobility Partnerships, trade affects, albeit indirectly the joint visa-facilitations readmission talks. As Nora el Qadim puts it, negotiations for the liberalization of services within the DCFTA talks were exploited by the Moroccan Delegation “as an arena to voice claims on mobility and freedom of circulation” (El Qadim, 2018, p. 289). The underlying idea was that in order to ensure a real liberalization of services, it was necessary to ensure the mobility of workers in that field (El Qadim, 2018, p. 289). Against this background, Morocco considers negotiations for a DCFTA as an incentive for furthering facilitated legal mobility opportunities. Therefore, in this section we treat the DCFTA a shot in the EU’s arm to induce the signature of a EURA.

Coming back to the core of our analysis, four DCFTA rounds of negotiation have taken place so far, with the last one held in April 2014 (European Commission, 2020). In the same year, the Moroccan government braked the process, asking for a temporary suspension of negotiations. The step backward was announced as instrumental to carrying out an impact assessment of a DCFTA on Moroccan economy (Zorob, 2016, p. 10) . De-facto, negotiations have never been resumed by now. To this certainly concur growing resentment from the Moroccan side as for a contested host of EU court judgements limiting the scope of bilateral trade on fisheries and agricultural product, allegedly impinging on Moroccan’ sovereign claims on Western Sahara and mutually altering the cost-benefit assessment on the DCFTA. Consequently, in the aftermath of *Front Polisario v Council*, held before the EU General Court on 10 December 2015, Morocco suspended contact with the EU institutions in 2016 (*Front Polisario v Council*, 2015).

Admittedly, after a period in the doldrums, the European Parliament amended the EU-Morocco association and fisheries agreements on 12 February 2019, with a view to addressing the dispute about the inclusion of Western Sahara in their scope (European Parliament, 2019); (Moran, 2019). In parallel, the resumption of the Association Council framework for high-level cooperation

substantiated the reinvigoration of EU-Morocco political relations. Accordingly, on 27 June 2019, Morocco and the EU adopted a joint declaration where four structural areas of cooperation were set for the 2019-2020 term, including a clear commitment to relaunch negotiations for the DCFTA (14th EU-Morocco Association Council, 2019). Simply put, both sides have rhetorically endorsed a reopening of DCFTA talks over the last year and a solution to the inclusion of Western Sahara territories in EU-Morocco bilateral trade agreements is finally in sight. However, new DFCTA negotiating rounds are yet to be summoned. How can we explain the DFCTA rhetoric-practice gap against the background of the recent thaw in EU-Morocco political relations? The occurrence suggests that a more supportive political context, on its own, fails to ensure, a revitalization of DFCTA talks. In this section we seek alternative explanations.

We intend on capturing the broader picture of why Morocco considers the EU DFCTA a non-appealing incentive, and eventually a further cost to be added to those stemming from cooperating on readmissions.

We therefore draft our hypothesis that:

**h<sub>2</sub>: The incentive of the DCFTA is structurally flawed.**

At risk of being redundant, in light of the *quid pro quo* structuring nature of bargaining patterns amid Morocco and the EU, if an incentive is not perceived as such and worst as potentially detrimental by Morocco, this will not facilitate the EU's overriding aim to induce cooperation on readmissions. With no intention to set aside the thorny issue of Western Sahara, this section will also shed light on why Morocco considers the DFCTA economically and socially detrimental.

## 1. Economic account: Morocco and the prospect for further trade liberalization.

In the armoury of tools at the disposal of the EU to induce cooperation on readmission, trade-based incentives rank amongst the most appealing for Morocco. Indeed, upon a closer look to Morocco's trade patterns, given its geographical proximity and the scale of its economic and human ties with Member States, the EU emerges as the leading commercial partner by far (Teevan, 2019, p. 8)

According to data released by the Commission DG TRADE in 2020 and plotted in [Figure \(VII-I\)](#), [\(VII-II\)](#), approximately 56.5% of Morocco's imports come from the EU and 64,6 % of Morocco's exports go there. While the EU is by far the most treasured Morocco's partner, accounting for 59,4% of its trade in 2017, in the same year Morocco solely represented 1,0% of the EU's total trade with the world. (European Commission DG NEAR, 2020).

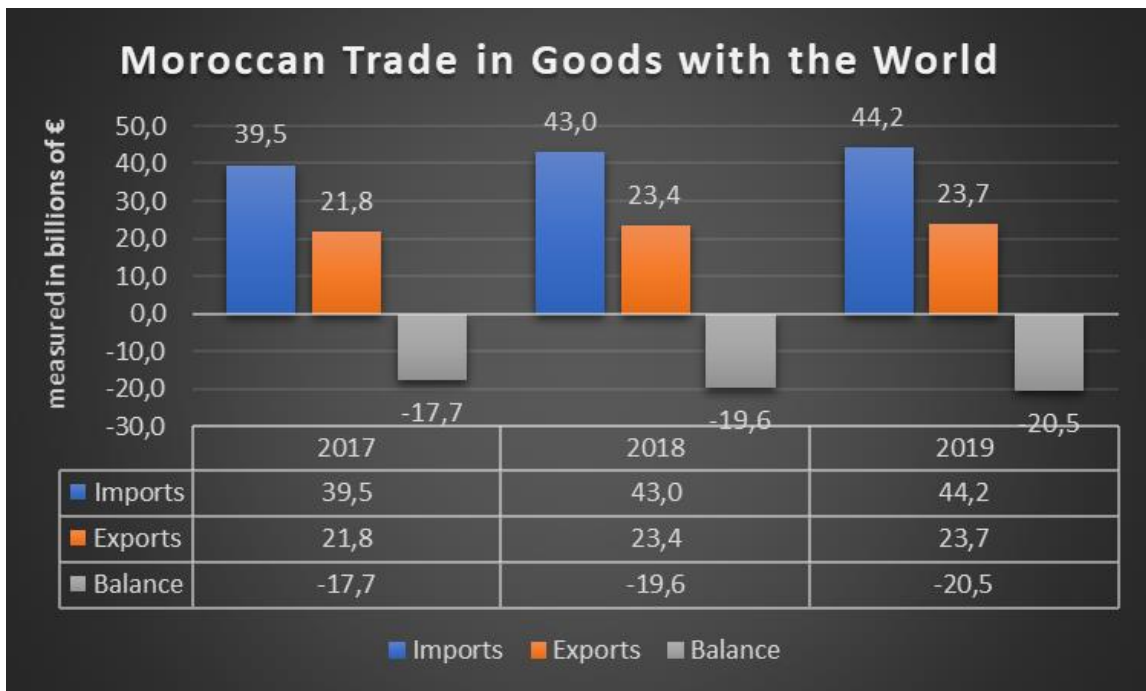


Figure VII-1: Personal elaboration of the author based on DG Trade (2020)

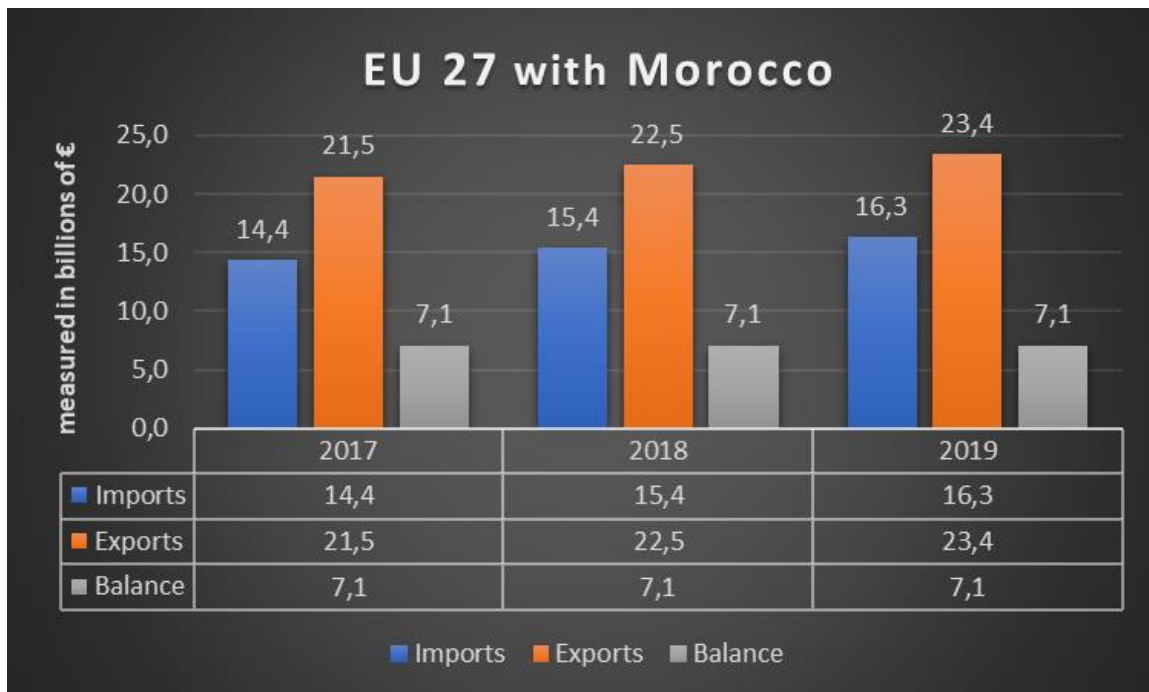


Figure VII-2: Personal elaboration of the author based on Commission DG Trade. (2020)

As a preliminary observation, Moroccan dependency on EU exports and imports implies that further trade liberalization, raising the competitive pressure on local firms, can potentially have a sweeping impact in Moroccan markets, while minimally affecting its EU counterparts (Panagariya, 2002, p. 1415). With regard to the initial argument, enhanced trade in goods between the parties is embedded

in several regulatory frameworks whereby the EU-Morocco privileged trade relationship unfolded. On the contractual side, EU-Moroccan Association Agreement entered effect in 2000, as part of the broader Barcelona Process, and established a Free-Trade Area (FTA). In the same footsteps of other Euro-Mediterranean Association Agreement, Morocco signed a partial free trade agreement with the EU.

We can summarise its main characteristics as follows (Association Agreement, 2000); (Berahab & Dadush, 2020, p. 7); (European Commission, 2020); (Elbehri & Hertel, 2006, p. 497); (Zorob, 2016):

- two-way total liberalisation of bilateral trade on manufactured goods to be phased in 12 years.
- Limited market opening with reference to agricultural products, where sensitive Moroccan goods kept quotas, minimum entry prices and seasonal restrictions.
- A very modest mutual commitments to liberalise services, entailing a rather vague right to establish businesses and provide services in the counterparts' territory.
- Calls for future gradual liberalisation on grounds of re-negotiated protocols every three to five-year term.

Correspondingly, over time the FTA was broadened in scope, encompassing specific protocols on processed agricultural, agro-food (2009) and fisheries products (2006, 2014) on two-way tariff-free goods, even if concessions on quotas and minimum entry prices were preserved for selected Moroccan sensitive products. (European Commission, 2020).

It is quite difficult to comprehensively estimate the structural impact of the FTA on Moroccan's provided that alongside ex-ante analysis (Elbehri & Hertel, 2006); (Rutherford, Rutstrom, & Tarr, 1997), otherwise giving contradictory assessments, to our knowledge ex-post official assessments were not publicly disclosed and few contributions were produced on the topic.

However, if we are to take a stock, views on the FTA remain conflicting at best, when not generally negative. For instance, bipartisan Moroccan press and civil society groups stirred animated discussion on the allegedly adverse repercussions of the agreement on the country's economy and (Berahab & Dadush, 2020, p. 8). In the following lines, we list the most common disputed points:

- Moroccan's dependency from food imports is ascribed to FTA liberalization (Jeune Afrique, 2019).
- EU exports to Morocco have a much higher added value than their reciprocal. Therefore, increased commercial exchanges between the two parties in the FTA architecture are responsible of a structural deficit in Morocco's trade balance.(CADTM, 2018); (Jeune Afrique, 2019); (L'Economiste, 2012).

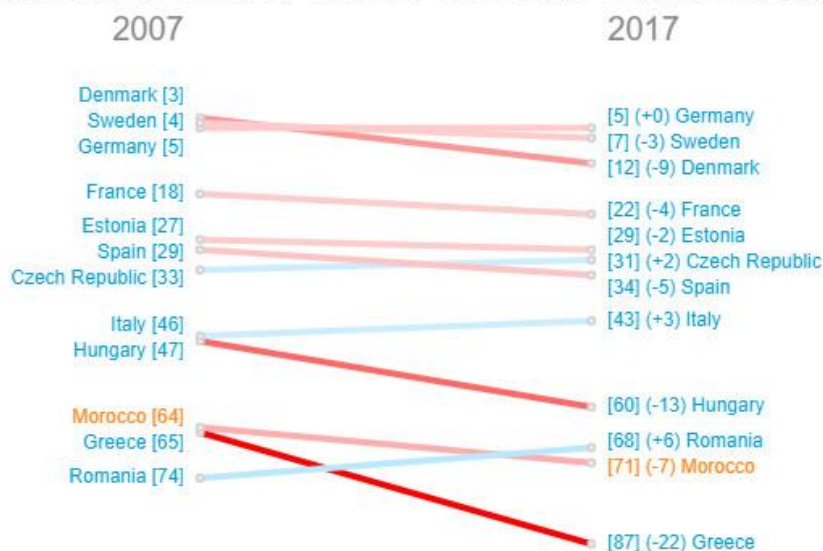
On the other hand, Berahab and Dadush argue that Morocco has derived benefits from FTA in the form of heightened FDI inflows from the EU, increased integration of value-chains and lower prices for local consumers as for EU parts and components (Berahab & Dadush, 2020, p. 10).

Notwithstanding hardly compatible stances exist, and mounting politicization of other Moroccan’s free trade agreement may further exacerbate divisions (Medias24, 2020); (Telquel, 2020), structural weakness of Moroccan economy advice caution against potentially backfiring commercial commitments.

In this perspective, if we take 2017 as a benchmark Morocco was ranked 71 out of 137 countries in the World Economic Forum (WEF) Global Competitiveness Index. The index is calculated according to 12 pillars of competitiveness which includes institutions, policies, and factors that determine the level of productivity of a country. Figure (VII-3) shows how compared to 2007 when Morocco was classified 64<sup>th</sup>, its world ranking worsened and so did its competitiveness vis-à-vis European partners.

According to WEF, Morocco’s business environment is undermined amongst other by corruption, inefficient bureaucracy, inefficiency of higher education and vocational training directly leading to surging youth unemployment, labour market inefficiency and weak technological capacity (World Economic Forum, 2018).

**Global Competitiveness Index, Value for Selected EU countries and Morocco**



**Figure VII-3:** Author’s personal elaboration realized with TCDData360 Open Trade and Competitiveness data. Source: World Economic Forum Global Competitiveness Index.

In sum, the priorly mentioned dependency to EU as a trading partner and trade unbalance are compounded by lower attractiveness of the national business environment, a worrying downward trend in competitiveness and structural economic deficiencies. In essence, these factors account for Moroccan's diffidence towards accelerating trade liberalization with the EU.

Despite the controversies surrounding further market openings, the Advanced Status reached in the framework of EU-Morocco's Association Agreement laid out a roadmap to create a common economic space based on a greater integration of the Moroccan economy into the EU single market (Jaidi, 2009, p. 149). The hallmark of this strategy, consistently with ENP policy framework, was fostering economic integration through an EU-Morocco DCFTA, building on the legal framework provided by the Association Agreement, and expanding both its depth and scope. With declared intent of creating new economic and trade opportunities, DCFTAs come much closer to integrating Morocco in the EU single market than EU-Morocco FTA, including its additional protocol, would do (Koeth, 2014, p. 25). According to the EU Commission, DCFTAs are "comprehensive" inasmuch as, other than addressing tariffs and quotas for merchandise trade, they create a common legal space covering a full range of regulatory areas of mutual interest, including (European Commission, 2011c):

- Freeing up trade in both goods and services,
- Removing technical barriers to trade including technical standards and sanitary and phytosanitary measures (SPS)
- Measures intended to protect investments
- Modernisation of public procurement aimed at easier access to the EU procurement market
- Regulatory approximation to EU competition policy.
- Provisions regulating e-commerce, intellectual property, and the energy market.

In this regard, several authors have suggested that besides far-reaching trade liberalisation, DCFTAs shape a "policy integration" trajectory provided that "behind-the-border restrictions" are eliminated through a legally binding process of regulatory approximation (Zorob, 2016, p. 10). The final goal of DCFTAs seem to be levelling the playing field by establishing uniform rules for economic operators of EU and the partner country based on the EU internal market rules (Van der Loo, 2016, p. 18).

In the idea of the former EU trade Commissioner Karel de Gucht, DCFTAs prospect an unprecedented integration of partner countries in the Single Market (European Commission, 2011c). As a matter of fact, enhanced integration in the Single Market would not come without costs for Morocco. Most of them derive from the top-down structure of DCFTAs. Arguably, partner countries are prospected long-term economic opportunities if they approximate national trade rules to the *acquis communautaire*.

Albeit under DCFTAs far-reaching liberalisation generally rolls out gradually and extended timeframes for regulatory compliance are granted, pursuing long-term prosperity may come at the expense of great upfront adaptation costs for Morocco. To put this in perspective, analysing the sequence of EU enlargement waves, some authors have estimated that local businesses of candidate countries, namely engaged in equally demanding processes of regulatory compliance, incur in half of the DCFTA adaptation costs (Wolczuk & Delcour, 2013, p. 2). In addition, abiding to one-sided rules for trade imposes inescapable constraints on national actors, implying their relinquishment to define trade rules and thus narrowing their policy space (Zorob, 2016, p. 11).

From the Moroccan side, another stumbling block in the road to the signature of a DFCTAs is that such agreements generally worsen the trade balance of partner countries. Analysing the follow-up effects of DCFTAs on EU partners, the Vienna Institute for International Economic Studies and the Berlin Economics Policy Consulting Center estimated that DCFTA can have mixed effects on trade patterns (Havlik, 2018); (Giucci, Movchan, & Walter, 2019).

In particular, among Eastern partners, Ukraine and Moldova worsened their commercial deficit with the EU in the 2014-2017 term. In Moldova, Ukraine and Georgia exports to the EU generally grew, albeit at different pace ,but counter to expectations, the DCFTA was found to have risible effects on partners FDI inflows. Concurrently, in the 2014-2019 period Eastern countries exports became more reliant on the EU purchases and DFCTA had mixed impacts as for the partners capacity to achieve trade diversification.

Before we got this far in the analysis, we had already shed light on how alarming is for Morocco the surge of its trade deficit with the EU, a structural unbalance that, incidentally, was also recognized by EU authorities (La Tribune, 2020). Even if symmetric comparisons are to be excluded in recognition of substantially different geopolitical contexts, and trade patterns with the EU amid Southern and Eastern Neighbours profoundly differs, DCFTAs harbour pitfalls and considerable risks for partner countries such as worsened trade balance and increased dependency on the EU. As we have just shown, both components are cause of concern in EU-Morocco trade relations. Hence, structural trends experienced in partner countries advice caution to Moroccan's authority as for the signature of a DCFTA.

Moving forward, the inner unbalance of DCFTA falls short of being the only aspect to be addressed. Arguably, at the time of negotiations, civil society groups and busines sectoral organizations of Morocco voiced several reservations on the EU-proposed DCFTA.

Admittedly, mounting social outcry pushed Moroccan Government to temporarily halt negotiations in mid-2014, pending its own impact assessment of the social and economic repercussion that the DCFTA would have engendered. (Zorob, 2016, p. 10). Unlike the official Trade Sustainability



Impact Assessment (SIA) of ECORYS, contracted by the EU Commission, to our knowledge Moroccan's own version was never publicly disclosed. (Ecorys, 2013). However, given the role played by Moroccan's domestic economic and social actors in the suspension, we can proceed by directly framing their concerns, running in turn negligible risks of losing accuracy.

Subsequent to the 3rd round of the DCFTA negotiations amid the EU and Morocco, four civil society organizations (CSOs) - the *Association to Fight AIDS (ALCS)*, the *Moroccan Association for Human Rights (AMDH)*, the *Collective "Right to Healthcare in Morocco"* and the *International Treatment Preparedness Coalition for MENA Countries (ITCP-MENA)* signed a joint document addressed to both parties of the DCFTA expressing great concerns regarding the effects of the agreement on Moroccan citizens' access to healthcare. The CSOs criticize EU-Morocco DCFTAs draft as they set higher standards for intellectual property and investment protection, de-facto overstretching the WTO recommendations in the framework of TRIPs agreements. According to the CSOs, raising the bar provides fertile ground for multinational pharmaceutical corporations' installation and puts at risk access to generic medicine for Moroccan citizens.

In sum, civil society organization blame the DCFTA for that they privilege investment and intellectual property protection to the extent that it goes to the detriment of Moroccan's citizens right to affordable healthcare. CSOs sustained efforts produced tangible results, namely when Moroccan Government suspended negotiations in 2014 pending its SIA release. Even when the perspectives for a DCFTA were being overshadowed by Morocco's decision to interrupt institutional contacts with the EU at the end of 2015, the anti-DCFTA front kept on enlarging its social base.

In 2016, by the name of "*Collective for the Preservation of healthcare rights of Moroccan Citizens*", there were 10 organizations, among which trade unions and sectoral organization of the production sector, asking to exclude the provisions on investment and intellectual property protection from the agreement and to be regularly consulted and informed throughout the process of DFTA negotiation (LesEco.ma, 2016). If DCFTA was negatively framed by CSOs, the same can be said for Moroccan economic actors. As revealed by the President of the Moroccan Association of Exporters (ASMEX) in 2014, while Moroccan entrepreneurs consider the DCFTA as an unmissable opportunity to close the gap with advanced economies, approximately 45% of entrepreneurs from ASMEX and the General Confederation of Moroccan Enterprises (CGEM) fear the competitive pressure of European firms and consider the DCFTA a threat to Morocco's economy (Medias24, 2014). The President itself confirmed that globally, Moroccan's business environment frames the DCFTA negatively. Alongside the same interview, the chief of the ASMEX revealed that there is wider perception that a DCFTA would bring about concentrated costs on Morocco's service sector, which accounts to the 60% of the national GDP.

Accordingly, at the same time, the agreement would benefit the manufacturing sectors, which are already liberalized under EU-Moroccan trade patterns (Medias24, 2014). Concentrated costs in the service sector for the Moroccan part render the DCFTA incentive far less attractive, since liberalizing trade in service is a distinctive trait of DCFTAs with respect to standard FTAs which solely cover trade in goods.

Pulling up the sums, structural unbalances of the EU-Morocco draft DCFTAs, sparking protests steered by CSOs and the fears of Morocco entrepreneurs with regard to the loss of market access substantiate why Morocco has never signed a DFCTAs and why negotiations, despite rhetorical calls for restart, are yet to be resumed. Hence, if the EU intends on leveraging the DCFTA as a bargaining chip to entice cooperation on readmissions, it should issue a more balanced proposal reflecting Moroccan's concerns.

## 2. The endless Western Sahara judicial tale: a game-changer for DCFTA prospects.

Another factor which decisively shaped Morocco's view on the DCFTSA was the judicial blow of Western Sahara. Contested between Morocco and Polisario Front, a movement devoted to independence of the territory, Western Sahara is de-facto under effective territorial control by Morocco. The ever long dispute is yet to be settled notwithstanding a UN Resolution dating back to 1975, an Advisory Opinion delivered by the International Court of Justice and remarking Western Sahara's right to self-determination and an UN-led mission periodically renewed ever since 1997. In the following lines, we briefly question how this crux in Morocco's foreign policy overwhelmingly affected EU-Morocco negotiations on the DCFTA and indirectly discouraged progress on readmissions talks.

As we anticipated beforehand, EU and Morocco gradually enlarged the FTA liberalization outreach by periodically signing implementing Protocols as to include fisheries, agro-food and processed agricultural products. The first EU-Moroccan Fisheries Partnership Agreement (FPA) was signed on 2005 and entered into force in 2007, by means of an implementing protocol of the EU-Morocco Association Agreement (European Commission DG MARE, 2020).

In a nutshell, agreements of this sort grant to European vessels fishing rights in Morocco's territorial waters in return for financial assistance in fisheries policy. In 2011 the EU Parliament voted down the renewed implementing protocol on grounds of having a negative cost-benefit ratio, an unsustainable environmental impact and unpredictable effects on the Saharawi population (European

Parliament, 2011). In 2013 the European Parliament and the Council reached a new agreement, but consequences of fishing licenses on Sahrawi people were yet to be addressed. (Protocol between the European Union and the Kingdom of Morocco, 2013). Shortly before the entry into force of the implementing Protocol, set for 2014, the Front Polisario, namely the international- recognized national liberation movement representing Sahrawi people, referred the Council decision concluding the FPA protocol to the General Court of the European Union (Front Polisario v Council, 2018). In July 2018, the European Court of Justice (ECJ) judged the FPA inapplicable to the contested territory of Western Sahara, affirming the right of Sahrawi people to self-determination (Kassoti, 2019, p. 310). In like manner, the EU-Morocco agricultural agreements were also at the center of contested legal proceedings.

After the EU-Morocco Agreement for the liberalisation of selected agricultural products entered into force in 2012, (European Parliament, 2012), Front Polisario brought action against the Council asking for the annulment of the Council decision to conclude the agriculture agreement with Morocco (Front Polisario v Council, 2018). The hallmark judgement came on December 2015, when the ECJ ordered the annulment of the Council Decision concluding the agricultural agreement insofar as it was applied to the disputed Western Sahara territory, on grounds that the Council should have priorly assessed that *“there was no evidence of exploitation of the natural resources of the territory of Western Sahara under Moroccan control to the detriment of its inhabitants and violating their fundamental rights.(para.241)”* (Van der Loo, 2016, p. 12).

Moroccan’s discontent over the ECJ judgement was soon to burst out. Indeed, at early 2016, on behalf of the Moroccan Government, the Ministry of Communication stigmatized in an official statement the political nature of the ECJ ruling, its biased logic and its contrariness to international law. Right after, Morocco officially suspended its institutional contact with the EU. Conterminously, the Council appealed the ECJ Judgement. Nonetheless, in December 2016 the Court of Justice confirmed in its final appeal that Western Sahara is not included in the territorial scope of the EU-Morocco Association Agreement (Council v Front Polisario, 2016).

Basically, the ECJ confirmed for both the EU-Morocco agricultural and fisheries agreements and protocols thereto, that they do not apply to the contested territories of Western Sahara. However, the endless judicial tale is not over yet. In 2019, a recent noteworthy twist was the adoption of amended versions of EU-Morocco fisheries agreement and agricultural agreement and thereto their implementing protocols, to the inclusion of Western Sahara products once again (European Parliament, 2019a); (European Parliament, 2019b).

Admittedly, the EU’s agency decisively contributed to defrost EU-Morocco political relations, paving the way to the EU-Morocco Association Council of 2019, summoned after years of absence

(Moran, 2019). Aside from distensions, according to several commentators the EU, by extending the same trade preferences to products originating by Western Sahara, is aiming to “sanctify the EU’s long-standing practice of treating products coming from Western Sahara as those from Morocco” (Kassoti, 2019). Concomitant therewith, the Polisario Front tried the Council once again over the new-EU Morocco agricultural deal (Western Sahara Resource Watch, 2019).

The heart of our discussion lies in the general implication of the Western Sahara dispute over EU-Morocco political and trade relations. Earlier we stressed how EU Courts rulings have contributed to worsen EU-Morocco political relations. The suspension of institutional contact reverberated in the postponement of DCFTA talks to date, thus temporarily crippling one of the leverages the EU use to entice cooperation on readmission.

On the other hand, the non-application of EU-Morocco fisheries and agricultural agreements to Western Sahara territories and therewith its resources, alters Morocco’s incentive structure for a signature of a DCFTA, whose regulatory provisions are poised to replace the FTA legal framework as for trade in goods. Without the inclusion of products exported from Western Sahara in the DCFTA scope, an occurrence which is likely to materialize following the EU Courts standing on the matter, Morocco would lose a significant share of its revenues. In the event of that, it is glaring how Morocco would partially lose interest in signing a DCFTA and the EU, in parallel, would see a powerful shot in the arm to induce a EURA disappear.

### 3. Recollecting empirical evidence

Overall, given Morocco’s trade dependency to the European Union, one may be inclined to think that trade incentives perfectly fare with the conditionality approach, in that withholding the reward, the EU has less to lose than Morocco would acquire. Morocco’s economic outlook suggest, that if devised consciously, namely comprising brakes to balance out upfront adaptation costs, trade incentives may mitigate resistance on rule compliance. This section demonstrated how the EU-proposed DCFTA harbours considerable pitfalls for Morocco and can critically worsen its trade dependency on the EU. Already cause of concern in bilateral relations, systemic trade unbalance in favour of the EU would steadily grow: an outcome to be avoided at any cost. Critically, we uncovered that further liberalization also entails adaptation costs, with those often internalized at the expense of national economic actors. Moreover, we found empirical evidence for the mounting resistance of civil society to DCFTA prospects. Bottom-up resistance cannot be overlooked, given that social outcry played a key role in the suspension of negotiations of 2014.

Broadening the scope, local economic actors themselves frame DCFTAs negatively, considering the agreement a direct threat to domestic economic stability. In addition, while any decision on further liberalization advises caution, the intersection of the Western Sahara judicial dispute with its potential impact on DCFTA suggest that trade incentive may further lose appeal in the eyes of Moroccan authorities.

Considering the structural flaws highlighted above, while the incentive was endowed with great potential, the EU failed to leverage on the DCFTA to induce EURA acceptance. Adapting our findings to the EIRM, the occurrence implies that not only mobility incentives but also trade incentives offered during EURA negotiations were structurally flawed. This solidly underpins our claim that conditionality's reach is negatively affected by unappealing rewards promised in return for compliance. Proceeding with our dissertation, we will bring to the forefront that, besides providing unattractive incentives in exchange for rule compliance on readmissions, the EU prospects Morocco with hardly bearable adaptation costs.

## VIII. EMPIRICAL ANALYSIS: FOREIGN POLICY COSTS OF A EURA.

At a later stage in the dissertation, we will highlight how collaborating for readmissions cannot be understood as an isolated policy choice due to its potentially sweeping impact on domestic policy.

By the same token, any decision of the matter is not a standalone issue and can also undermine delicate geopolitical equilibria. Suffice it to say, EURAs bear a non-negligible transnational component, given that repatriation of TCNs can run counter policy agendas of Moroccan's African neighbours. Dwelling a geopolitical context whereby each country aims to fulfil its political priorities, to pursue its own, Morocco has to reckon with those of surrounding African countries. Seen in this light, whether this is far from ideal for the EU, Morocco sets a shifting approach in migration management based on readmissions, namely that spurred on by the EU, against its heralded "grand retour to the African Continent" (Cherti & Collyer, 2015); (Le Monde, 2014). Against this background, any attempt to eviscerate the reasons behind the longstanding Moroccan's rejection of an EURA must move beyond domestic policy considerations and cannot disentangle from the adjacent sphere of foreign policy implications.

Against this background we seek empirical verification for the following hypothesis:

### **h<sub>3</sub>: EURAs bring about unbearable foreign policy costs for Morocco**

Therefore, this section will bring to light how accepting readmissions could push further afield Moroccan foreign policy objectives. In this respect, we broke down Moroccan foreign policy agenda and identified three political aims that would be thwarted by the acceptance of an EURA.

First, we intend on analysing how Morocco's "return to Africa" and its aspiration to play a pivotal role within the African Union is at odds with the signing of an EURA. Second, we will illustrate how high-level profile migration initiatives launched by Morocco hardly come to terms with EURAs.

#### 1. Morocco's return to Africa.

As anticipated in the foreword, EURAs bear a non-negligible transnational component, insofar as the country accepting to readmit irregular migrants undertakes a two-step process which features other than the repatriation of nationals also the setting up of bureaucratic and diplomatic channels to return TCNs.

Hence, in a scenario where Morocco was to sign a EURA, a constellation of domestic and foreign challenges would emerge. This section focuses on the latter.

We contend that Morocco has no intention to abdicate its renewed centrality in African affairs and that signing an EURA would jeopardize its foreign policy strategy.

Since ascending the throne of Morocco in 1999, Mohammed VI has crafted Morocco's foreign policy on two overriding objectives. First, cultivating high-level political relations with the EU, an effort which resulted in a wide-ranging partnership and that culminated in the Advanced Status EU awarded to Morocco in 2008 (King Mohamed VI, 2008). In parallel, without dismissing its reliance on and faith in Europe, Morocco has stepped up its efforts to place West and Sub-Saharan Africa at the heart of its political and economic strategy leveraging on crucial factors including domestic political stability, historic ties, privileged partnership with the EU and a strategically unique geographical position (El-Katiri, 2015), (Tobi, 2019).

Morocco's pivot towards Africa, intensified since 2013, undertook a new dimension where economic and commercial engagement are considered the backbone of lasting political alliances. A lynchpin of this strategy was to embed rapprochement to Africa in a symbolic venue, to the extent that King Mohammed conducted 50 business-oriented visits in 29 African countries, personally brokering 1,000 cooperation deals on economic, political, security, and educational issues by the end of 2017 (Hmimnat, 2018); (Moroccan American Center for Policy, 2017).

Under the motto of South-South cooperative patterns, Morocco's continental political strategy reposes on energizing existing business partnerships and relies on national economic actors and the King himself for opening new market spaces in the continent. (Maroc.ma, 2016) Economic led-diplomacy was prioritized under the assumption that promising shared prosperity in the form of win-win economic gains to African partners could be rewarded with resolute diplomatic support for Moroccan foreign policy claims (King Mohammed VI, 2017). Cementing trust and understanding with historical allies and enlarging the circle of partners to non-Francophone countries. (Messari, 2018), Morocco has lately reinforced its regional integration and international standing at once, and is patiently weaving, albeit against the background of persistent hindrances, a dense network of diplomatic aimed at creating windows of opportunity for a lasting solution of the thorny Western Sahara issue.

In the language of figures, Morocco's rapprochement to Africa is embodied in its unprecedented volume of regional strategic investment. According to estimates released by the OCP policy center, a considerable 66% of Moroccan FDI over the 2008-2013 period was invested in Sub-Saharan Africa, diversifying sectors of activity from banking to mining and from constructions to the telecommunications sectors (Messari, 2018, p. 2). FDI in the region went up to reach a hefty 85% in

2017 (African Development Bank, 2016); (Global Risk Insights, 2017). In view of the recent surge in Morocco FDI outflows to Africa, the country ranks straight behind Kenya, South Africa and Nigeria as for the scales of intra-African investment (Berahab, 2017, p. 6).

In parallel, Morocco pushed to strengthen its ties with the African World Bank, where it can count on the largest active portfolio and is gradually earning reputation as a lead investor around four *-Lightning up and powering Africa, Feeding Africa, Industrializing Africa and Integrating Africa-* of the High 5 priorities set as a target to complement the African Development Bank strategy over the 2013-2023 period (Adesina, 2015); (African Development Bank, 2016); (African Development Bank Group, 2019); (African Development Bank, 2020).

Bearing witness to the renewed interest in African markets, a study carried out by the Moroccan Office of Exchange signals an uptick in commercial exchanges amid Morocco and its African partners since 2008. Over the 2008-2016 period, trading volumes increased with West African partners by 13.8% (Figure VIII-1), with Sub-Saharan African partners by 9.1% (Figure VIII-2) and with East African partners by 23,5 % (Figure VIII-3) (Maroc.ma, 2017); (Office des Changes, 2017).

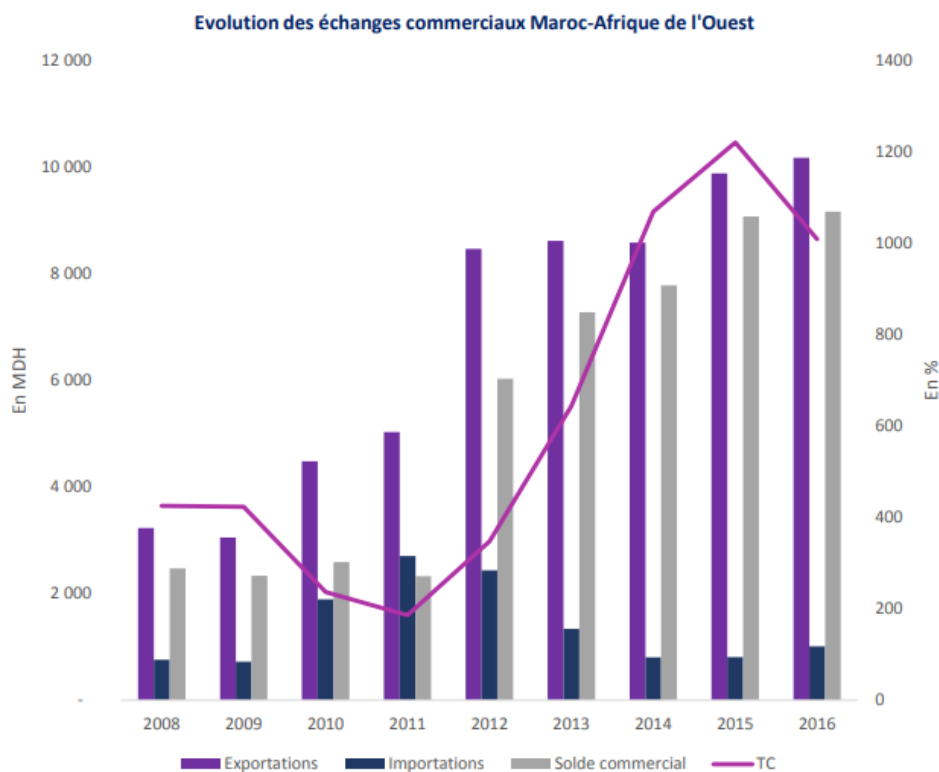
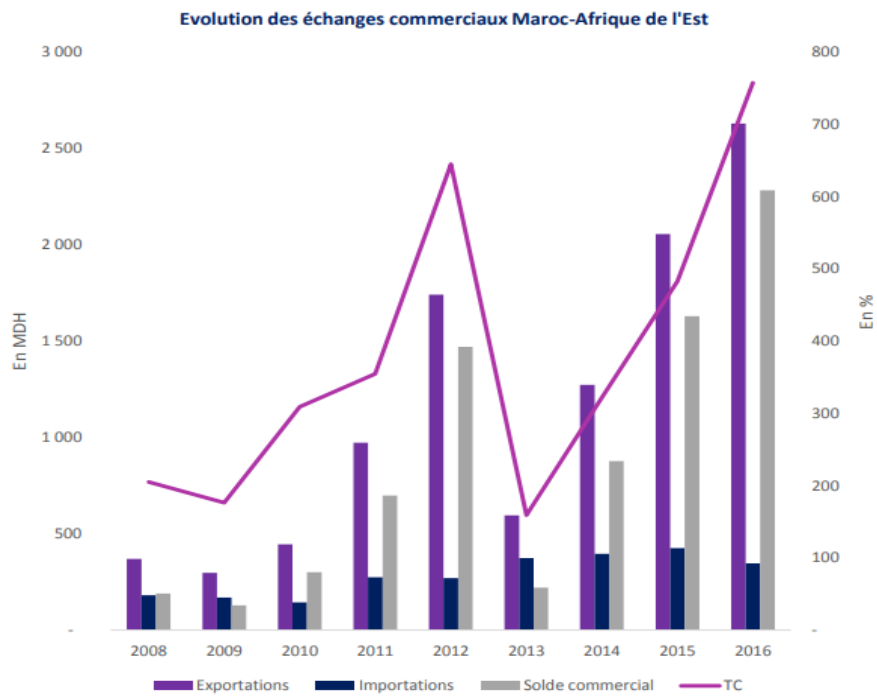
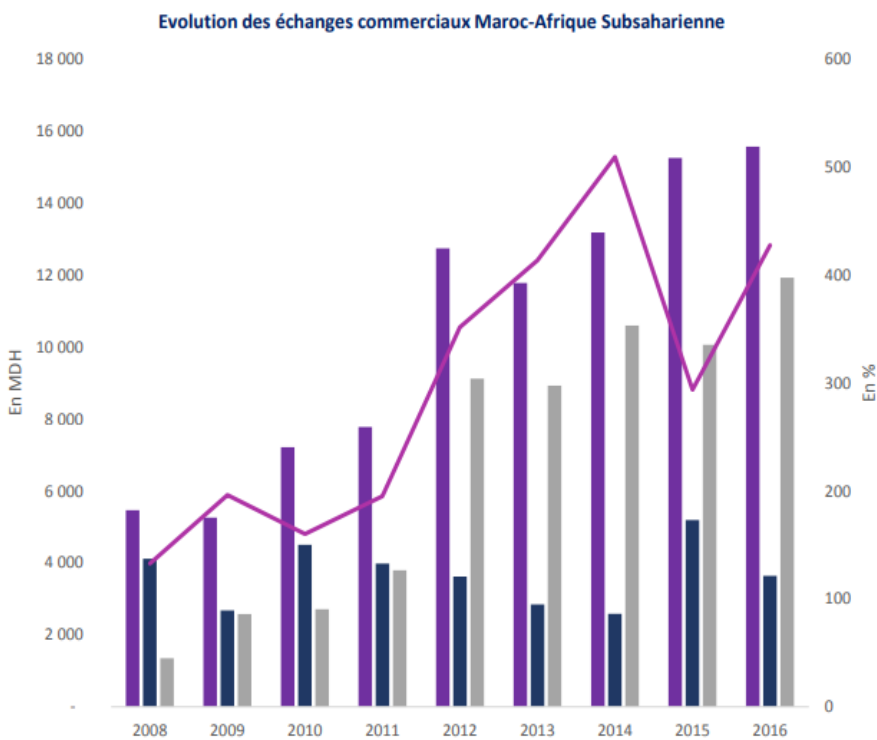


Figure VIII-1: Overview of trading volumes between Morocco and its West African partners over the 2008-2016 period.  
Source: (Office des Changes, 2017)





**Figure VIII-3:** Overview of trading volumes between Morocco and its East African partners over the 2008-2016 period.  
Source: (Office des Changes, 2017)



**Figure VIII-2:** Overview of trading volumes between Morocco and its Sub-Saharan partners over the 2008-2016 period.  
Source: (Office des Changes, 2017).

Although Morocco lags far behind heavyweight investors in the African continent, such as China, USA and France and its external trade heavily relies on commercial exchanges with the EU other than Africa (European Commission, 2020), blending high-profile targeted investments in the region and pioneering entrepreneurial initiatives Morocco has gained clout and ascended to play a key role in the African economy.

## 2. The success of South-South cooperation

Morocco has become a pioneer amid African countries in the development of clean energies, giving rise to the largest concentrated solar power complex in Africa (AFDB, 2016). With a view to bolster already excellent diplomatic relations with Sub-Saharan countries, Morocco has lately prioritized investment in transport and energy infrastructures building solid partnerships with Senegal, Ivory Coast and Nigeria.

Among the success stories, we must recall the construction and extension of "Tangier Med" Port, the completion of the first highspeed train in Africa, projected to travel along Maghreb and Libyan rails by 2035, Moroccan-Ethiopian joint venture to build an advanced fertilizer production plant and the colossal Africa Atlantic Pipeline, an immense undertaking jointly developed with Nigeria and geared at bolstering Sub-Saharan and West African energy security, including that of all coastal countries in between Morocco and Nigeria. (Morocco World News, 2016); (The North Africa Post, 2017).

The completion of this range of initiatives hints at the positive sway of Moroccan South-South economic-driven agenda over its partners and signals that economic-led diplomacy can open-up promising political pathways. Indeed, the host of economic partnerships personally promoted by King Mohammed VI and Moroccan enterprises were favourably met among Ethiopian and Nigerian leaders, traditionally siding with Polisario Front in its sovereign revendications on Western Sahara (Messari, 2018, p. 3).

The occurrence reinforces the view that promoting a multilateral agenda and growing economic interdependence with African partners, Morocco can shape strategical diplomatic relations conducive to its foreign policy goals.

Though being a cornerstone of it, dynamizing African business did not exhaust the overarching Moroccan foreign policy strategy. In this connection, strengthening Morocco's influence on African security consistently spearheaded the foreign agenda promoted by King Mohammed VI.

Accordingly, Morocco has mobilized over many years efforts to broker a peace deal among Libyan civil war factions. The diplomatic pressure concretized in a high-level meeting hosted in Skhirat, a coastal city near Rabat, where parties of the conflict were convened in December 2015 to eventually sign a peace agreement (Libyan political agreement, 2015); (Morocco World News, 2020c). It is worthwhile also mentioning Morocco's recent engagement in Sahel conflicts, where Mohammed VI personally offered to mediate amid the parties, and its commitment to stand as a bulwark against extremist interpretations of Islam by offering religious training to Mali and Mauritania imams (Bassist, 2019); (Sakthivel, 2014). Moroccan's comprehensive strategy to regain economic and politic momentum in African affairs paid off, inasmuch as after a 33-year absence, on the occasion of 28<sup>th</sup> African Union Summit held in Addis Ababa in 2017, Morocco was readmitted to the African Union (AU), persuading 39 countries to vote in its favour, notwithstanding rejection from 9 members.

The international recognition of an independent Sahrawi Republic (from now on SADR) by AU countries and its AU membership were to blame for the longstanding Moroccan's absence from the organization, but even if such recognition persist and the two countries now sit at the same table, Morocco acknowledged that "Africa is fundamental for Morocco and Morocco is fundamental for Africa" (Morocco World News, 2017).

This proclivity to place Africa at the forefront despite ongoing bilateral disputes with SADR, is at odds with the previous "AU empty chair policy", which relegated Morocco on the periphery of the African Continent, and is indicative of the firm attempt of Mohammed VI to seal an institutional entry in Africa, suggesting that forthcoming attempts to solve the dispute over Western Sahara will be made through multilateral diplomatic efforts.

### 3. International and continental migration initiatives: approaches at odds with EURAs

Pulling the sums of what we maintained so far, the adage coined by Hassan II, former king of Morocco, according to which "*Morocco is a tree whose roots lie in Africa but whose leaves breathe in European air*" finds expression in the economic and political re-engagement with Africa accomplished by Mohammed VI.

Not to dissipate its reacquired continental influence, Morocco will presumably weigh up any decision on readmissions against the broader implications it may have on the mutated regional policy context. In this connection, after the 14<sup>th</sup> meeting of the EU-Morocco Association Council, Morocco's foreign minister- Mr. Nasser Bourita- explained that the EU needs to engage with partners in North Africa other than Morocco, not only on migration issues but on all domains of common interest, adding that migration is not a standalone issue, but is part of a global partnership. (Euractiv, 2019); (Maroc.ma, 2019);

What emerges from the above is that Morocco considers any policy on return and readmission, given its implications on international human mobility, a matter to be discussed in multilateral fora.

Arguably a glaring mismatch emerges between the EU's pledge to govern readmissions on bilateral basis through EURAS and Morocco's multilateral understanding of migration governance.

In this wake, emissaries of Moroccan government have repeatedly promoted public statements, policy plans and concrete initiatives that confirm our argument showing the signs of this inconsistency.

Correspondingly, Bourita, during his speech on behalf of Morocco at the 8th Ministerial Conference of the 5+5 Dialogue on Migration and Development, remarked that any cooperative approach on irregular migration should be based on a solidarity-based political consensus. He further stressed that operational cooperation on readmissions alone remains a treatment for the symptoms of migration challenges and does not have sufficient weight on Morocco's realities and global dynamics (Morocco World News, 2020b).

Points for a human-based and more comprehensive approach to readmissions, seemingly at odds with EURAs, were also made by King Mohammed VI during the Intergovernmental Conference on Migration held in Marrakesh on 10-11<sup>th</sup> December 2018. Indeed, the Sovereign punctuated his speech calling the other parties to avert "all-security-approaches". Throughout his intervention, the King remarked that migration reaches beyond human security and thus stands as a much more complex phenomenon than a mere security issue. In doing so, the sovereign called the other parties to initiate a course of action centred on solidarity-based sovereignty, shared responsibility and multilateralism and remarked that Morocco's domestic vision of migration is lined up with its continental and international commitments (King Mohammed VI, 2018).

Therefore, to validate our hypothesis whereby EURAs would militate against Morocco's foreign policy we should delve into the Kingdom's recent pledge to play a leading role in migration matters both at continental and international level. In 2017 and 2018 Morocco jointly organized with Germany the Global Forum on Migration and Development (GFMD), a state-led, informal and non-binding process, intended to shape the global debate on migration and development. The platform

catalysed the preparatory process laying the foundations for the Intergovernmental Conference in Marrakesh, hosted by Morocco, and marked by the approval of the Global Compact for Safe, Orderly and Regular Migration (GCM), endorsed in turn by 164 UN countries. (MCMREAM,Ministre des Affaires étrangères et de la Coopération internationale, 2019, p. 15); (UN, 2017).

As a reward for its unwavering international advocacy on human-based approaches to migration, Morocco received unanimous commend for providing the organizational facilities (Guterres, 2018) and furthermore decisively contributed to the GCM final draft, where all of its study-based and direct experiences with sustainable reintegration of repatriates were considered something to learn from (GFMD, 2019), (UNCTAD, 2018, p. 147).

The GCM is a non-legally binding document and qualifies as the first-ever political framework set at the EU-level to reach a global consensus on migration governance in all its dimensions (Guterres, 2018). The document strikes for its incorporation of the same guiding principles publicly expressed by Moroccan authorities with regard to their country's vision on migration. Indeed, on the same footsteps, the GCM is namely based on human-security more than security itself, recognizes the transnational character of migration, its implications for state of origins, transit and destination, correspondingly remarking the need for multilateral cooperation, and promotes a comprehensive vision of human mobility, entailing shared-responsibility, mutual understanding, labour rights and sustainable reintegration or irregular migrants among others (UN, 2018a) .

Provided that Morocco's approach to migration policy faithfully follows GCM principles (MAP, 2018), exploring how GCM deals with readmissions is illuminating for our case.

Considering this latter, unless EURAs approach shows to be consistent with the path laid out by GCM, signing the agreement would be an incoherent step in Morocco's foreign policy and would militate against the high-profile attained by the country in migration-related issues (Abderrahim, 2019a, p. 11)

In this respect, objective 21 of GCM provides guidelines as for how dignified readmissions and return operations should be finalized. Paragraph 37 highlights the commitment of signatories, amongst which Morocco distinguishes itself as a proactive contributor, to ensure that reintegration of migrants upon return to their countries of origin is sustainable and to devise social and community measures to accomplish this task (UN, 2018a, p. 29).

If we read this programmatic object in the light of the overriding principles postulating shared-responsibility, multilateral cooperation and human security, GCM basically prescribes dignified return operations as being part of a two-pronged process where operational cooperation for swift expulsion of irregular migrants is followed by measures of reintegration in the social fabric of the

origin country. Moreover, GCM assumes migration management efforts in terms of multilateral undertakings. In matters of readmission, this connotes common organizational and operational efforts concerted between origin, transit and destination countries. With both policy orientations in mind, two components render EURAs a far less holistic approach to readmissions.

First, given that the Commission pursues a standard drafting approach, all EURAs bear striking resemblances as for their structure (Trauner & Kruse, 2008, p. 34). With slight degrees of variability, they all feature sections clarifying reciprocal obligations, readmission procedures, categories to be readmitted, costs, guidelines for practical implementation, time limits and entry into force of the agreement. In the language of the GCM, such commitments to operational cooperation would pertain to the first step of the two-pronged process.

On the other hand, EURAs critically lack any reference to the second step, namely that requiring further measures to ensure reintegration of returned persons in the readmitting country. Although the country which issues a request for reallocation covers the costs related to transport, the highlighted gap in migrants post-return management amounts to placing the arising financial and social burden onus exclusively upon the receiving State.

Furthermore, since EURAs include the readmission of TCNs by countries of transit, the receiving state is expected to further cope with challenges stemming from non-nationals integrations. This line of reasoning directly leads to the second point.

Admittedly EURAs are set to streamline bilateral operational cooperation amid the Member State requesting the reallocation and the Third Country under legal obligation to readmit. As opposed to the multilateral approach addressing readmissions laid out by the GCM, EURAs are structured as strictly bilateral deals between the contracting parties. What this concretely means is that when a readmission procedure concerns the reallocation of a TCN, the sending Member State solely participates to the removal operation and stands aside when the transit country puts in a diplomatic effort to relocate the irregular migrant in its country of origin.

Allegedly, in the event that readmission operations are met with public hostility in origin countries, notably a very likely possibility in Africa (State Watch, 2017), lack of dutiful cooperation from origin countries can place unsurmountable obstacles in the way of relocation.

Consequently, the transit country -Morocco for our scenario- constantly runs the risk of failing to relocate and in any case, even if the operation succeeds, has to individually bear administrative, financial and social costs covering the time lag between the irregular migrant removal from the sending country and its relocation to the country of origin.

In short, EURAs seems hardly compatible with the GCM given that they do not address the delicate post-readmission phase and prescribe no direct channels to facilitate the relocation of TCNs

to their countries of origin, therefore placing an excessive burden on the transit countries. Provided that Morocco publicly stated its aspiration to comply with the international commitments on migration made under the political framework set by the GCM, we can conclude that signing a EURA would run counter its foreign policy interest.

In such a perspective, Morocco would pay lip service to its international commitment, advocating a comprehensive approach to migration management at the international level from one side while signing a security-oriented pact from the other.

Allegedly, Morocco would prejudice its high-profile standing as “champion of migrations” and forfeit its legitimacy in the face of international promoters of comprehensive paradigms of migration management (Alrai, 2020).

It bears noting that depleting the credit accrued at the international level would by no means the sole toll paid by Moroccan government. Veritably, the two foreign policy trajectories of growing international legitimacy and gaining clout in the African continent cross when it comes to migration policy. Indeed, since re-joining the AU, Morocco has taken leadership in the continent as for migration-related issues, being designated from AU countries to promote an African Agenda to Migration during the 28th Summit in Addis Ababa in 2017 (El Ouassif, 2019); (The North Africa Post, 2019).

Eventually, on occasion of the 30<sup>th</sup> AU Summit, King Mohammed VI submitted the Agenda, a non-binding programmatic document set to be yearly updated and featuring a holistic approach to migration. The document was unanimously approved by the AU Assembly and sketched two main proposals (IRES, 2018, p. 4):

- To set up an African Migration Observatory whose terms of reference would be the triad “Understand, Anticipate, Act”. Allegedly, the Observatory is set to foster information exchange between African countries with a view to promote controlled management of migration flows. Furthermore, Morocco proposed to host the Observatory in Rabat.
- To appoint an African Union Special Envoy for Migration, tasked with the coordination of AU policies in the domain.

In his keynote speech at the Intergovernmental Conference of Marrakesh leading to the GCM, King Mohammed VI clarified that the African Agenda on Migration will be informed to the GCM principles and Africa will be a key actor and not simply a subject of the pact (MAP, 2018). Consequently, we can underscore that GCM is set to be aligned with Morocco’s continental commitment on migration. Given that, no EURA could be signed by Morocco without reneging on

its continental leadership on migration themes. In the same respect, our claim finds further validation from the moment that adhering to the EU approach on readmission, Morocco would contradict the Common African Position (CAP) position issued in view of the Intergovernmental Marrakech Conference. The document was released by the AU Specialised Technical Committee (STC) on migration, refugees and internally displaced persons and endorsed by Morocco itself.

Consistently with the GCM's vision, with reference to returns and readmission, the CAP calls for global efforts to ensure sustainable reintegration of migrants upon return to their country of origin and accordingly demands social and community measures to accomplish this task. In addition, the CAP anticipates and extends the standards of protection traced by the GCM for returned migrants, recommending to halt repatriation of migrants to third countries. As priorly expanded, EURAs involve the repatriation of TCN in transit countries and thus are at odds with the CAP (AU, 2017, p. 13).

#### 4. Recollecting empirical evidence

Pulling the sums, alongside unbearable international costs resulting from a loss of legitimacy at the international level, by signing a EURA Morocco would deliberately renege on its continental commitments on migration, probably lose its role as an agenda-setter on migration-related issues and contradict the AU's stance on the matter. Following a similar policy path would qualify at best as an incoherent policy choice and with all the likelihood worsen diplomatic relationship with its African neighbours, frustrating all the attempts made to acquire political and economic influence throughout the continent. In essence, the foreign policy costs resulting from signing a EURA are too high to be borne by Morocco, and therefore our hypothesis is validated.



## IX. COSTS OF EURA: DOMESTIC POLICY

The EU Commission was mandated with the task of negotiating a Readmission Agreement with Morocco in 2000. EU official sources confirm that fifteen rounds of negotiations were held in the 2000-2010 term (Johansson, 2020). After a suspension lasted three years, the discussions were revamped after Morocco accepted to sign a Mobility Partnership.

From 2015, in parallel with negotiations for a EURA, the Commission is also mandated to discuss a visa facilitation agreement within the Framework of Mobility Partnerships. Both discussions were temporarily halted due to the landmark ruling T-512/12 held before the EU General Court on 10 December 2015, after which Morocco unilaterally suspended institutional contact with the EU (Front Polisario v Council, 2015). The thaw amid the parties was visible in 2019, where on occasion of the 14th Association Council, EU and Morocco made clear statements concerning the necessity to build a balanced cooperation on mobility and migration, entailing a resumption of readmission talks (14th EU-Morocco Association Council, 2019).

On balance, we consider the disagreement over the Western Sahara dispute just the drop that broke the camel's back, given that Morocco motivated its resistance to sign a EURA with domestic policy concerns since the earlier rounds of negotiations. This section brings to the fore how complying with the EU policy on readmissions would be a dangerous development for Moroccan's domestic stability.

Against this backdrop we seek verification for the ensuing hypothesis:

### **h4: EURAs bring about unbearable domestic policy costs for Morocco**

First, we will shed light on the quintessential contentious point of EURA negotiations, namely the inclusion of TCN nationals.

Second, as also applies to foreign policy considerations, this section will show how compliance with EURA regime by Morocco would be at odds with the current policy course, shaped by the comprehensive New Immigration Policy.

Third, by emphasizing the crucial role played by remittances within Moroccan economy, we will shed light on why EURAs are unpopular with the local population.

### **1. The sticking point par excellence: the TCN clause.**

Admittedly, EURAs represent a "second generation" readmission agreement in that they provide not only the readmission of TCNs but come to encompass the migrants that transited in the country via the signatory country before entering the Schengen Area (D'Humières, 2018, p. 8). This specific

clause lies at the heart of their unpopularity in North African Countries governments and civil societies.

Throughout many of the sixteen EURA rounds, the TCN clause stood in the crossfire of criticism by the Moroccan delegation. Allegedly, Taïeb Fassi-Fihri, former Moroccan Foreign Minister, lamented that the inclusion of TCN in a readmission agreement is an inadmissible impingement on Moroccan sovereignty (El Qadim, 2010, p. 96).

For that reason, Morocco throughout EURA talks, repeatedly called to treat readmission of its own nationals and of TCNs as separate matters (Revue Project, 2013). Following the same logic, the delegation wondered why the EU does not concentrate efforts in seeking cooperation on readmission directly with the third countries concerned (Hadji, 2019, p. 55).

Reportedly throughout EURA talks, Morocco lifted another barrier as for determination of the proofs of transit - notably a precondition of removal operations- contending how unfeasible it is to trace back the migratory routes travelled by undocumented migrants (Carrera, Cassarino, Lahlou, & El Qadim, 2016, p. 5).

Thereby, the adamant refusal of including TCN within the scope of the agreement, constitutes a primal challenge to the policy of EURA instrumentation, given that without a TCN clause, a EURA would not be different to readmission agreements already in force between Morocco and EU member States, and thus hold little value for the EU (European Commission, 2011a, p. 9).

At the same time, the standstill in EURA talks contrasts with Morocco’s attitude on readmissions with single Member States. In this perspective, (Figure IX-I) shows the dense network of bilateral readmission agreements Morocco has concluded with single EU Member States overtime

Country	Date	Legal basis of the Readmission Agreement	Status
France	1983-1993	Non-ratified Exchange of letters	Entered into force in 1984 (additional protocol signed in 1993)
Spain	1992	Provisional Agreement including TCNs	Applied since 2012
Germany	1998	Complete Readmission Agreement	Applied since 1998
Italy	1998	Complete Readmission Agreement	Signed in 1998, never entered into force
Portugal	1999	Agreement on police cooperation containing a clause on readmission	Signed and entered into force in 1998
France	2001	Agreement on police cooperation containing a clause on readmission	Signed and entered into force in 2002
Malta	2002	Complete Readmission Agreement	*
Spain	2003	Memorandum Understanding	Signed in 2003

Spain	2007	Memorandum of Understanding	Signed in 2007
United Kingdom	2011	Memorandum of Understanding	Signed in 2011
Belgium	2016	Memorandum of Understanding	Signed in 2016

**Figure IX-1:** Network of bilateral readmission agreements signed by Morocco.

*\*To our knowledge, Morocco started negotiations for a readmission agreement with Malta in 2002. Nonetheless, negotiations soon reached a standstill and we could find no additional information on the resumption of talks.*

Author’s personal elaboration based on documentary evidence, El Qadim, (2010) and the inventory of bilateral readmission agreements published at [www.jeanpierrecassarino.com/daowtaset/ra/](http://www.jeanpierrecassarino.com/daowtaset/ra/)

Upon looking at the table, it bears noting that out of 11 readmission agreements, we found evidence for the application of 5. This made us question why Morocco commits from a contractual point of view but hesitates to cooperate on readmission in practice. Generally, uncertainty surrounding the implementation of readmission agreements can be related to the costs that go with them. Therefore, policy decisions on readmission need to be carefully pondered by target countries, giving that, as we will see shortly, readmitting people on a larger scale entails structural institutional and legal reforms and can have disruptive impacts on the domestic economy and on societal relations (Cassarino, 2007, p. 183).

On the financial side, for instance, Morocco should cover the expenses for expanding reception centres where migrants are detained before an operational return decision is enforced. Alongside addressing infrastructural concerns, as generally applies to the EU in relation with third countries, Morocco would also need to devise economic incentives to convince its neighbours to readmit their nationals (Hadji, 2019, p. 55).

Furthermore, shedding light on the unease of Morocco with readmissions, agreements of that sort, even those into force, usually suffer from faltering implementation. To give a taste of Morocco’s attitude in that regard, we can briefly recall the Morocco-Spain agreement signed in 1992.

The case is illuminating for two reasons.

First, it substantiates our claims concerning the half-baked results of readmission deals when concretely applied. Compounded to that, as a notable exception to other “first generation agreements” the one in question contains a TCN clause, constituting in turn a test-case to evaluate Morocco’s propensity to accept TCNs.

Reportedly, after going unheeded for ten years, in 2012 Morocco and Spain ratified their bilateral readmission agreement. Therein, Article 1 explicitly lays down a TCN clause, according to which the border guards of the requested state should readmit in their territory the TCN illegally entered in the requesting State from the requested State (Morocco-Spain Readmission Agreement, 1992). The document also prescribes at Article 7, a host of bureaucratic step to be completed in order to collect information of TCNs.

According to a journalistic investigation carried out by ElMundo and relayed by Yabiladi, between 2012 and 2014, Morocco thwarted the vast majority of identification procedures, renegeing commitments made with Spanish border authorities by purposefully delaying the issuance of documents, or worse denying assistance for the identification of illegally-crossing foreigners (El Mundo, 2014); (Yabiladi, 2014). Accordingly, Morocco exploited the absence of an implementing protocol and the ensuing bureaucratic impasse to withhold cooperation and to eschew its duty to readmit.

As a result, negligence on the part of Morocco led to the successful conclusion of only two operations in two years (Yabiladi, 2014b). The affair is insightful to recollect Morocco's stance on TCNs.

First, incidentally, it took 12 years to see the Spain-Morocco readmission agreement ratified, showing how difficult is to convince Morocco on the TCN side.

Second, when operational activities were launched, the country adamantly resisted to put it into practice. Provided that the refusal to cooperate with Spanish authorities happened simultaneously to EURA rounds, we are inclined to think that the TCN clause is an unbearable condition for Morocco, irrespective of its negotiating partner.

Substantiating our argument from a different angle, while no duty of that sort exists for third country nationals, readmission of a country's own nationals is an obligation under international customary law (State Watch, 2017).

Indeed, Morocco's inventory of readmission agreements with single European countries, more than with policy convenience, can be explained with international law abidance and as a response to external pressures (Le Mag, 2013).

As a matter of fact, readmissions agreements are met with hostility by large strands of the Moroccan civil society, that frame them as "externalisation of migration policy in disguise", an "EU obsession", and "unequal agreements" (EuroMed Rights, 2014); (Le Mag, 2013).

The history of protestations dates back in time and involve several CSOs. After the launch of an official campaign in 2009, on behalf of a plethora of trans-continental associations, among which 13 were Moroccans, Migreurop, a Euro-African network monitoring border events, sent an open letter to the EU Commission in 2009 expressing its concerns regarding fundamental rights implications of readmission agreements (Migreurop, 2009).

In 2012, Migreurop warned that the signature of a EURA, could set up a refoulement regime, especially in countries like Morocco and Algeria, where returnees could be indicted for "unauthorized exit" according to national provisions, and thus subject to maltreatment and arbitrary detention (Migreurop, 2012).

In 2013, receiving widespread adhesion by Moroccan CSOs, Migreurop launched an international campaign against readmissions, linking readmission procedures to the construction of detention camps and hinting at the economic hardships entire regions would experience as a result of reduced remittances (Migreurop, 2013).

In this regard, besides grave human rights concerns, Moroccan society also fears the unpredictable consequences stemming from the reintegration of returnees.

The Haut Commissariat au Plan (HCP), the national statistical agency of Morocco, estimates that in the 2000-2018 period approximately 188.000 Moroccan *émigrés* returned to the country, with an average of 10.000 per year (HCP, 2020, p. 56). Reintegration is a multi-faceted concept, also pertaining to the realm of perceptions, and hence a notion difficult to categorize. In our case, we frame reintegration in terms of satisfaction of economic concerns. Notwithstanding 29 among national, international and EU-led initiatives, reintegration of returnees remains a great challenge for Morocco (Boulahcen & Taki, 2014). For instance, since the start of the EU-IOM Joint Initiative for Migrant Protection and Reintegration a meagre number of Moroccan returnees (50) received reintegration support, on top of an average number of 30.000 for the period. (EU-IOM Joint initiative for Migrant protection and reintegration, 2020). Both the project carried out within the EU Trust for Africa and the Voluntary Return and Reintegration Program (AVRR) funded by the IOM, mainly support the return, besides contributing in a small measure – the AVRR assisted 3471 returns from 2013 to 2019- and neglect post-return assistance (Migration Data Portal, 2020).

In addition, projects for reintegration funded with national budget seldomly had a relevant impact on the effective reintegration of returnees.

In this regard, the International Training Center (ITC) of the International Labour Organization (ILO), jointly with the International and European Forum on Migration Research (FIERI) reviewed with available data at hand in 2018 how socioeconomic reintegration of returnees is financed in Morocco (Joint Report ITC-FIERI, 2019).

In essence, the study highlights how Moroccan Government struggles to provide appealing economic perspectives to repatriates.

For instance, ITC-FIERI refer to the World Moroccans Investment fund, managed by the Ministry in Charge of Moroccans Living Abroad (MCMREAM), as one of the main budgetary lines allocated for economic reintegration.

The fund was created in 2009 and geared at incentivizing investment from abroad, subsidizing with the MCMREAM budget up to 10% of the investment of already returned Moroccan citizens or set to do so within a year. Having failed to attract investments from abroad, the project was ended in 2011. It was then retooled in 2015, but remained hardly conducive to tangible results.

Reportedly, the subjects of the measure lamented the narrow coverage in terms of sectors of application, the restrictive eligibility criteria and a lack of first money to invest due to limited access to credit. Other notable initiatives, such as the FINCOME and the Maghribcom, aimed at enhancing skill mobility, passed largely unnoticed by Moroccans willing to return.

In conclusion, the CIF and the FIERI observe that Morocco critically lacks an all-encompassing vision for the reintegration of returnees from abroad (Joint Report ITC-FIERI, 2019, p. 31).

Arguably, if Morocco struggles to reintegrate its own nationals in the economic system, there is no reason to believe the outcome would be better for foreigners, rather the contrary, given that linguistic and cultural obstacles may add up to economic distress.

In addition, Morocco weights the massive influx of TCNs a EURA would imply against the background of an unfavourable local context for migrants. In this regard, within the template of the “Beyond Irregularity Project”, in 2013 the Institute for Public Policy Research (IPPR) revealed that social deprivation reigns among migrants in Morocco (IPPR, 2013).

According to the IPPR, the overwhelming majority of Sub-Saharan are *sans papier*, a commonly used French term to indicate irregularly residing migrants. Devoid of a residence permit, migrants have no access to basic healthcare, no legal employment opportunities or right to housing and are mostly faced with precarious living conditions (IPPR, 2013, p. 14). Consequently, to flee structural poverty, plenty of migrants are co-opted in the informal sector and are forced to accept exploitative labour conditions (IPPR, 2013, p. 38).

Reportedly, another gruelling reality is that confronted with injustice and exploitation, migrants often do not seek legal remedy, given the constant fear of being treated as criminals, arbitrarily detained or deported (IPPR, 2013, p. 31).

In the same footsteps, data collected by Doctors Without Borders (MSF) along the 2011-2013 provided a glimpse into the crescent racially motivated violence against Sub-Saharan migrants. MSF revealed that 63% of Sub-Saharan interviewees had experienced violence during their stay in Morocco and three-quarters of the victims had experienced multiple episodes of violence.

According to the respondents, 64% of violence episodes were perpetrated by Moroccan Security Forces (MSF, 2013, p. 11).

Looking at the grim reality of exploitation to which many Sub-Saharan are subjected and the simmering anti-migrant sentiment in Morocco, it is clear why Morocco dragged its feet, and eventually resisted the inclusion of a TCN clause in EURA negotiations.

Given the pervading intolerance towards foreign incomers, the situation advised caution to Morocco, or else an intolerable risk of depleting further societal relations.

On these grounds, the signature of a EURA with a TCN clause annexed is associated with unbearable costs for Morocco. On top of the above, it considerably contributed to the failure of EURA negotiations and in sight of their resumption, we can presume that the blockade will persist. Building on what we maintained so far regarding the TCN clause, the next section will bring to light that complying to the EURAs regime would imply another unaffordable policy cost for Morocco. Indeed, in 2013 Morocco adopted a new policy to manage migration on its own territory, informed to a comprehensive humanitarian approach.

For the sake of clarity, we decided to decouple the discussion on the TCN clause from that concerning the new Moroccan migration policy. However, both arguments are sides of the same coin. As a proof of this, with all the likelihood, the Moroccan delegation has proved unyielding on the TCN clause also because the ensuing inflow of foreigners would have undermined the foundations of its new migration policy strategy.

## 2. The New National Migration Policy

On 12 September 2013 King Mohammed VI instructed its minister to develop a “ *new vision for a national migration policy, that is humanist in its philosophy, responsible in its approach and pioneer at the regional level*”. At the time, the paradigmatic shift on migration matters, signalling how Morocco perceived itself as a host rather than a migrant-sending country, came totally unexpected (Maroc.ma, 2013b); (Maroc.ma, 2013c).

However, upon a closer look, both foreign policy considerations and civil society activism opened a window of opportunity for a momentous change. Regarding the first aspect, in light with what we contend in the section on foreign policy costs, Moroccan economic and political rapprochement to the African continent induced a more lenient policy towards immigrants, given that a large share of them were Sub-Saharan.

Allegations of massive crackdowns against Sub-Saharan immigrant by MSF, EUROMED and journalist investigation by BBC, among others, tightened the spotlight on institutionalized violence against the migrant community (EuroMed Rights, 2013); (MSF, 2013); (BBC, 2013).

Arguably, overriding geopolitical considerations, namely the need to clear its reputation as a *gendarme of Europe* in the face of African neighbours, to strengthen its continental bonds, and to move past contempt from the international community, propelled a discursive and substantive overhaul in migration policy (Norman, 2016, p. 430); (National Strategy for Immigration and Asylum, 2014). Moving to civil society activism, pressure made at the local level drew the attention of the international community, and hence undoubtedly pushed Morocco get to grips with its problems.

In addition, CSOs and NGOs actively participated in the policy creation phase and exchanged views with the Ministry for Foreign affairs as for policy implementation (Norman, 2016, p. 431). In August, 2013, the GADEM issued a detailed report on the dire living conditions of Sub-Saharan people in Morocco (GADEM, 2013). After a month, the National Council for Human Rights (CNDH) presented to both Parliament Chambers its own report concerning human rights violations perpetrated against immigrants in Morocco. The document largely disavowed Moroccan's migration policy, accused of being too security-oriented and sketched a blueprint for a more humanitarian approach covering four fundamental areas: the situation of refugees and asylum seekers, the situation on non-regularized foreigners, the situation of regularized foreigners and the fight against human trafficking (CNDH, 2013); (African Arguments, 2014).

Reportedly, the King, announced a comprehensive development framework largely based on the CNDH report, called the New Migration Policy and gave instructions to its Minister to develop a strategy in this regard (Maroc.ma, 2013b); (Jeune Afrique, 2013).

In December 2014, the National Strategy on Immigration and Asylum (NSIA) was adopted by the Government Council. A glance to the official document enables us to put in perspective the NSIA (National Strategy for Immigration and Asylum, 2014).

Accordingly, the NSIA aims at achieving four strategical priorities:

- facilitating the integration of irregular migrants.
- providing Morocco with a regulatory framework for asylum.
- setting up a new institutional framework for migration and
- manage migratory flows in respect of international human rights law.

The process integrates a top-down approach managed by the Ministerial Department in charge of Migration Affairs, on behalf of the MCMREAM and in conjunction with other quasi-governmental bodies such as the CNDH and the Interdepartmental Delegation on Human Rights and bottom-up calls for participation of local and international NGOs and CSOs to specific projects.

It bears noting that the humanitarian approach envisioned by Morocco is also echoed by the structure of institutional power delegation. Indeed, unlike EU conventional patterns of power delegation that assign the management of migration matters to the Ministry of Interior, Morocco opted to embed the institutional architecture of the new NSIA in the MCREAM, in charge of Moroccans living abroad and thus dominated by less-securitarian approaches to migration. From an institutional viewpoint, this policy choice reveals an attempt to break with the past and to offer an image of self-ownership of migration policy models.



As a proof of this, alike King Mohammed VI's orientations, the NSIA approach is described as being humanist, global, pursuant to international law, based on shared responsibilities of origin, transit and destination countries, and committed to respect of human rights. (National Strategy for Immigration and Asylum, 2014). Arguably, the call for shared responsibilities difficulty comes to terms with EURAs, which entail, in turn, a bilateral framework for operational cooperation that unloads the responsibilities of the origin country to the transit country.

Moving forward, the NSIA resulted in a series of commendable initiatives, ostensibly praised by the IOM, the UN and the EU among others. International actors lauded in particular the pioneering nature of Moroccan efforts in the African continent (The North Africa Post, 2014); (Morocco World News, 2017a).

For instance, within the NSIA, aiming to improve access to residency cards, Morocco launched two regularisation campaigns for undocumented migrants. Applications for both were managed by the Rabat Office for Refugees and Stateless persons jointly with the UNCHR office in Morocco (Maroc.ma, 2013a).

According to data from the MCMREAM, in 2014, despite some documented procedural obstacles, 23 056 application for regularization out of 27 649 were accepted, with the regularisation ratio standing at 83,53% (MCMREAM, 2020). Migrants from 116 different countries were granted a one-year valid residency card and a work permit eligible for renewal, which allowed them to pursue legal job opportunities, notwithstanding social hurdles (Buehler & Han, 2018); (El Ghazouani, 2019). Among the main beneficiaries for nationality, applicants from Senegal ranked first (24,45%), followed by people from Syria (19,21%), Nigeria (8,71%) Ivory Coast (8,35%) Cameroon (8,91%) Guinea (4,98%) and Mali (4,09%) (Le Reporter.ma, 2015).

The second wave of regularisation took place between 2016 and 2017 and resulted in the granting of residency permits to almost 20.000 applicants with a ratio of approval which was said to be at 82% by CNDH official sources (Morocco World News, 2017b).

The 2017 regularization campaign approved 82 % of applications. Although the nationalities of regularized migrants were not officially disclosed, the bulk of requests came from sub-Saharan people, notably Senegalese (24 %), Ivoirians (18 %), Guineans (6%), and Cameroonians (6 %). (Buehler & Han, 2018). Alongside notable governmental efforts to implement a comprehensive and humanitarian migration policy course, meant to approximate living standards of immigrants to those of own nationals, the NSIA remains a highly inconsistent policy framework. From a legal perspective, regularization campaigns and other commendable initiatives, remain isolated acts.

Despite one of the strategic priorities enucleated by the NSIA was that of developing a legal framework on migration, a security-focused law approved in 2003 keeps governing migration in

Morocco (Jacobs, 2019). Its provisions prescribe heavy sanctions against irregular immigration and human smuggling and completely neglect migrants' rights (de Haas, 2014).

As a consequence, ill-treatment of Sub-Saharanans remains structurally embedded in Moroccan society despite rhetorical claims are made for a more humanitarian approach (GADEM, 2018); (Human Rights Watch, 2014).

While regularisation campaigns have raised some above the poverty line, migrants still face difficult access to healthcare, legal working opportunities and perceive widespread discrimination (Bendra, 2019). By interviewing a plethora of beneficiaries, a group of Moroccan researchers revealed that even among the regularized, the majority feels socially excluded and 47% of the respondents declare that, knowing in advance their living conditions once there, they would have not come to Morocco (Mourji, Ferrié, Radi, & Alioua, 2016, p. 41).

Moreover, the draft law on asylum presented in 2014, is still pending adoption from the Government Council and the Parliament. This largely penalizes attempts to embed solidarity in the system, with consolidated pathways to grant protection not yet institutionalized.

For instance, UNCHR complementary work in Morocco was initially meant to temporarily compensate for the absence of a national asylum system. Still pending the adoption of the draft asylum law, the hand-over of responsibilities to Moroccan authorities is still underachieved.

Therefore, UNCHR presence remains crucial for refugee status determination (RSD). In its 2016-2019 Country Portfolio Evaluation UNHCR Morocco, in line with prior evaluations, admits that, besides the lack of an adequate regulatory framework that incorporates provisions on RSD, non-refoulement, and border assistance, UNHCR activity in Morocco is limited by budgetary constraints (UNHCR, 2019, p. 5).

Generally speaking, notwithstanding persisting cases of discrimination, an underdeveloped legal framework and limited budget capacities, Morocco is setting the stages for becoming a country of destination of migratory flows. The pledge to reinforce its capacity-building and adapting its legal, social and infrastructural resources is indicative of how Morocco strives for self-ownership of its migration policy. Admittedly, the country presents itself as an ending point of migration journeys rather than a gateway to Europe and accepts, akin to European partners, to shoulder responsibilities for first-receipt of incomers. Pursuantly to the principle of responsibility sharing, Morocco is already assuming his own. In similar terms, by signing a EURA, Morocco would abandon a policy path that resulted in higher domestic legitimacy with CSOs and increasing reputation as a pioneer at the continental level.

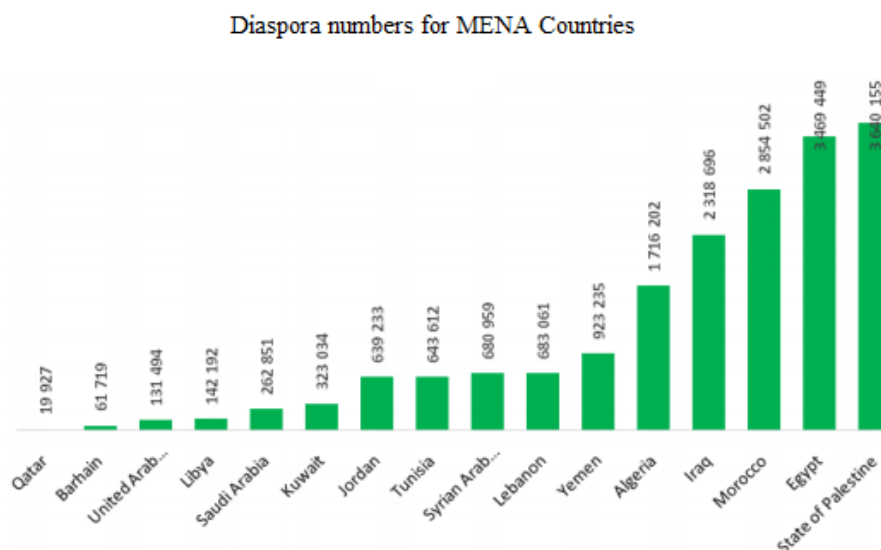
Moreover, if mobilisation of civil society groups pushed Morocco to rethink its approach to migration policy, a EURA would represent an inexplicable step backwards, considering that civil

society groups from Morocco warn against human rights violations resulting from readmissions operations. On top of these implications, operational and budgetary limitations voiced by the UNCHR suggest that Morocco is already struggling to ensure economic and social integration of its own migrant population. Admittedly, readmission tasks as a result of a EURA signature, would overburden the already fragile Moroccan asylum system, which already falls short of resettlement places (UNHCR, 2019, p. 5).

Arguably, a surge of the population entitled to protection without a parallel development of adequate infrastructures for reception would virtually worsen already dire living conditions and be a leeway for further marginalization. As a result of the above, the new policy course initiated with the NSIA is largely at odds with the signature of a EURA.

### 3. Remittances: a non-negligible source of income for Moroccans

Acknowledged how EURA conditions are unbearable for Morocco, given that they entail a TCN clause and seem irreconcilable with the NSIA, as a last point, their impact would sensibly affect income from remittances. **Figure (IX-2)** highlights that amongst MENA Countries, Morocco has one of the most sizeable diasporas living worldwide.



**Figure IX-2:** Diaspora numbers for MENA Countries.  
Source: Dadush (2015)

Moreover, data collected from the HCP, the National Moroccan Statistical Agency show that 86% of Moroccan residing abroad is settled in Europe, with France, Spain and Morocco accounting for the main receiving countries. (Figure IX-3) . What comes to mind is that, in view of the considerable numerical presence, remittances from Europe can constitute a non-negligible source of income for the economy of Morocco.

On this account, some seminal studies have demonstrated the effects of remittances flows by on the economy of Morocco.

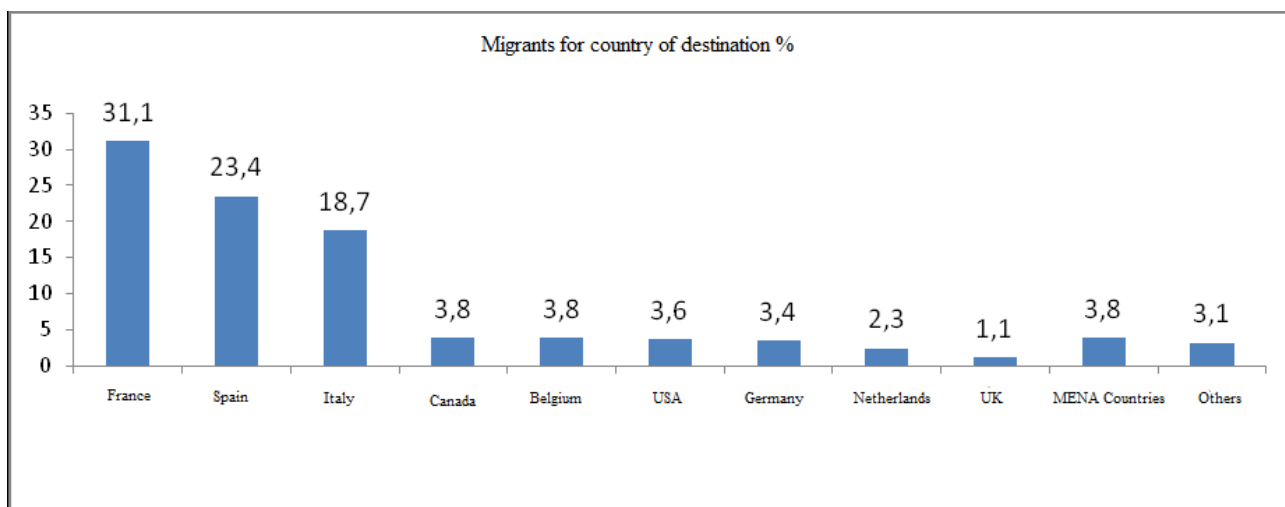


Figure IX-3: Preferred destinations for Moroccans who decide to migrate.  
Source: (HCP, 2020)

For instance, Tabit & Mussir (2017, p. 230) p.230 showed that remittance transfers have a positive impact on GDP, investments and consumptions. Moreover, given that akin transfers are mainly destined for domestic consumption and investment in housing, remittance flows to Morocco seem to have an immediate effect on consumptions and investment.

Makhlouf and Naamane also note that while the majority of remittance flows go to families, boosting domestic consumption, a residual part is saved in the form of deposits and generally provides additional liquidity for the banking sector. Moreover, the authors argue that remittance flows are vital to partially offset the chronic deficit in Morocco’s trade balance and definitely improve the living quality of Moroccan households (Makhlouf & Naamane, 2013, p. 9).

Aside from stimulating macroeconomic indicators, remittances play out a determining role in human capital growth and educational opportunities. According to Bouoiyour and Miftah (2016):

- children coming from remittance-receiving households are more likely to attend school and less likely to quit when compared with those in non-remittance-receiving households

- Second, more international remittances correspond to lower level of children employment in the labour market.
- In remittance-receiving families, girls are more likely to attend school.

On top of that, we can safely say that as for Morocco, remittances boost domestic economy indicators, raise the living standards of households and grant better access to schooling.

Admittedly, given that EURAs would require Morocco to readmit its own nationals, revenue streams coming from remittances would be partly depleted. Clearly, an unfortunate outcome that Morocco would rather avoid.

Another interesting way to put the question in perspective is to compare remittances flows with aid schemes provided by the EU. Considering that remittances positively affect households living conditions and human capital, we can set them against the budget allocated to Morocco under the European Neighbourhood Instrument funding (ENI). Indeed, the Single-Support Framework for the 2014-2017 and 2017-2020 term, indicates that ENI financial aid to Morocco included (Programming ENI Expenditure: Single Support Framework for Morocco 2014-2017, 2014).

- Supporting the access to basic services.
- Fostering democratic governance, rule of law and mobility.
- Ensuring employment, durable growth and inclusivity.
- Providing supplementary financial support to yearly ENP Action Plans for Morocco, residual funding for civil society needs, funding for DCFTA compensations.

Among the items of expense, the more solicited were the access to basic services (30% of the budget) and the support for employment, durable growth and inclusivity (25%). **Figure (IX-4)** displays the EU budget aid committed to Morocco, the budget effectively allocated and the remittance inflows as a percentage of Moroccan GDP.

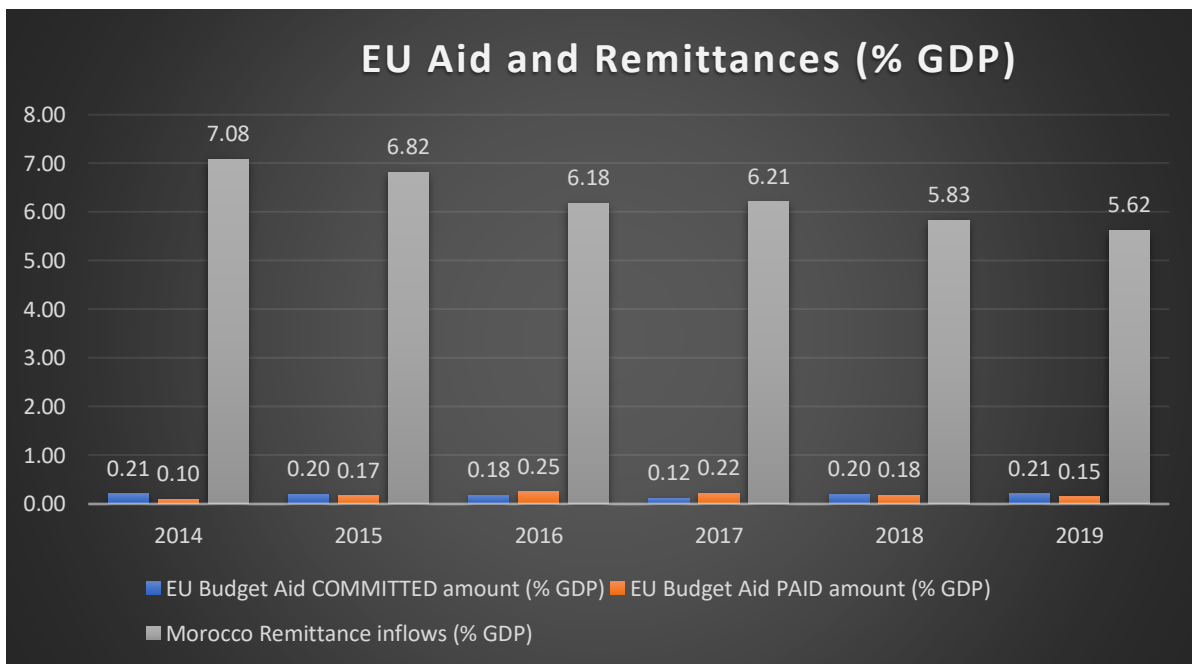


Figure IX-4: Author’s personal elaboration based on data provided by the EU Delegation in Rabat and the World Bank.

Arguably, given how much they cover of the yearly Moroccan GDP, the developmental role remittances can play for Moroccan economy is unparalleled. Considered their diffusion, their share on annual GDP and their globally positive effects on Moroccan society, it is indeed difficult to imagine that Morocco could renounce to a part of its remittances to comply with EU rules on readmissions.

## X. SUMMARY OF THE EMPIRICAL ANALYSIS

Globally, employing the EIRM model, we found verification for all of the four hypothesis concurring to explain the failure of EURA negotiations. By having successfully clarified the fragility of the offer side and the unbearable costs asked in return to Morocco, we found empirical validation for our claim that EURA negotiations failed given that the costs associated to readmissions exceeded the benefits offered in return.

Indeed, according to the EIRM model, EU conditionality elicits rule adoption by target countries insofar incentives offered as a reward for compliance offset the costs deriving from it. Given that the adoption costs outweighed the incentives, the EU conditionality did not succeed in inducing compliance and negotiation failed.

The case of Morocco paradigmatically show that an unbalanced assortment of costs and incentives may be responsible for the policy failure of EURA negotiations. Resuming once again our main findings, when Morocco signed a Mobility Partnership with the EU in 2013, there were high expectations on the part of the EU, that combining visa-facilitation and readmission negotiations Morocco could have been co-opted in the EU regime on readmission.

With the benefit of the hindsight, after having validated our hypothesis derived from the EIRM model, we do know that the assumption clearly missed the core of how asymmetrical bargains unfold. The Mobility Partnership twin-track strategy of negotiating simultaneously the rule to be transferred and the reward promised in exchange is effective insofar incentives are so desirable that compliance costs become bearable.

Limited attractiveness of EU incentives backfired and ruled out any margin for EURA acceptance. In conclusion of our empirical analysis, we can briefly assess which amid the two costs had the greatest effect on the failure of EURA negotiations.

From our side, domestic policy costs made the twin-track strategy of joint EURA-visa facilitation talks derail. Indeed, in consistency with the timeline of negotiations, even prior to the enactment of the New Migration Policy, Morocco motivated its resistance with the inclusion of a TCN clause. Moreover, while geopolitical considerations are liable to change, as Morocco' unexpected rapprochement to the African continent highlights, domestic policy concerns have always alimented distrust on the EURA regime.

By the way, the prominence of domestic factors may be challenged in the future. In this perspective, Morocco is experiencing the setbacks of adapting its institutional infrastructure to the requirements of a destination country. As we illustrated, the internalization of costs is still underway, but the transition between an origin and a destination country is set to reach an end. In this context, if Morocco will bridge the legal gap in migrant protection and conterminously bolster its reception capacity, the EURA regime will be perceived as less detrimental at the domestic level. By that time, foreign policy considerations may play an overriding role in the dialogue on migration with the EU.

## XI. CONCLUSIONS

Employing the EIRM model, we validated four hypotheses concurring to explain the failure of EURA negotiations within Mobility Partnerships. Hopefully, our research will contribute to weaken blind expectations that the EU conditionality approach is unfaltering in inducing rule adoption. Escaping uncritical praise, we clarified the fragility of the of EU offer to Morocco, on grounds of unappealing incentives and unbearable costs asked in return to Morocco. Overall, we demonstrated that EURA negotiations failed given that the costs associated to readmissions exceeded the benefits offered in return. Indeed, according to the EIRM model, EU conditionality elicits rule adoption by target countries insofar incentives offered as a reward for compliance offset the costs deriving from it. Given that the adoption costs outweighed the incentives, the EU conditionality did not succeed in inducing compliance, making negotiations founder. We underscored how domestic policy costs played a decisive role in this respect.

With a view to conclude our dissertation, we will briefly recall our main arguments. Focusing on the mobility side, visa facilitations did not measure up with Morocco requests, given that they were solely valid for short-stays and less permissive than usual.

In the same footsteps, Mobility Partnerships hardly granted new legal pathways of legal migration to Moroccans. On top of that, new visa rules hint at strengthening the nexus between mobility opportunities and cooperation on readmissions, despite Morocco asked instead for their decoupling. Moving to trade incentives, while being promising, they did not address Morocco's longstanding trade deficit. Moreover, the perspective of increased trade liberalization encountered fierce resistance in the civil society. To further complicate matters, a series of ruling concerning products coming from Western Sahara slowly eroded EU-Morocco mutual trust, to the point that Morocco suspended institutional contact with the EU. Moreover, DCFTA may resent of the outcome of the judicial dispute, given that the non-application to Sahrawi territories adversely affects Morocco's interest in committing to further trade liberalization. Piecemeal incentives, were in turn, set against very demanding compliance costs.

To comply with EURAs, in the sphere of foreign relations, Morocco should relinquish its privileged international and continental role in migration matters. Concurrently, after a longstanding strategy of rapprochement to Africa, sticking to the European regime on readmission would probably lead to the fading of confidence by its African neighbours.



Crucially, at the domestic level, EURAs entail salient financial and societal costs. Moreover, their approach runs counter the new policy course initiated by the New Immigration Policy.

However considerable, given our choice to adopt a single-case study research design, empirical results are hardly generalizable. Investigations on rule transfer through ENP, incidentally, inherently come to terms with this reality, given that policy transfer to EU neighbours is tailored on country-specific processes. Furthermore, recalling the methodological challenges referred to in the Methods Section, the reliability of our findings is mainly undermined by the insufficient number of semi-structured interviews we could conduct and the difficult access to reliable data on Morocco's migrant population.

Nonetheless, our dissertation provides crucial political insights into the future of EU-Morocco relations. According to our empirical findings, the failure of negotiations reflects the weak understanding amid the parties. Notably, we underscored how cooperative neighbourly relations are not a reliable indicator of the success of the EU conditionality.

By contrast, if the EU rhetorically promotes a relation among equals, it needs to craft its political offer accordingly.

Crucially, the EU needs to accept the mutated geopolitical context of migration. From the outset, EURAs were conceived as a backstop to clamp down massive unauthorized entries to the Schengen Area. In these terms, they called for bilateral responsibility sharing in migration matters. Now that Morocco is assuming its own, the EURA approach appears outdated and paternalistic. Moreover, the EU's pledge to gauge interest in cooperating on readmissions should take stock of the fact that Morocco, in view of its continental and international commitments, will further reject any unequitable burden-sharing prospect in migration-related matters.

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