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EU Migration Policy: The EU as a Questionable Actor and a Realist Power

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EU migration policy has become a highly contested matter in international and European politics, with different interpretations, perceptions, and narratives being present. This essay explores what kind of actor and power the EU is regarding its migration policy. It will be argued that in this respect the EU is internally divided, which questions its actorness, and a realist, self-interested power. These qualities have become increasingly more pronounced with recent challenges, like the high influx of migrants in 2015. Simplified, the main interests that the EU is defending would be the regulation of the number of irregular migrants arriving and a focus on the entry of highly skilled workers on a short-term basis. This contrasts the interests and desires of the countries of origin, typically African developing countries. Recognising the potential migration holds, they wish to increase the legal pathways to the EU, through visa facilitation and labour migration schemes (Adam et al., 2020).

After explaining the institutional setup, this essay will firstly examine the internal divergences within the Union when it comes to migration policy. Firstly, tensions within the institutional arrangement exist due to conflicting interests on the supranational and intergovernmental levels. With it being an area of shared competence and Member States holding on to important capacities, the Union's power is weakened, particularly in negotiations requiring issue-linkage. Reluctance to pool sovereignty, discrete attitudes towards migration in domestic politics and competing narratives further deepen the divide. More importantly, on this policy issue, the EU fails to be the normative, liberal power it is often described as, promoting its own interests instead. This realist behaviour becomes apparent in the gap between the rhetoric on migration and the harsh practice. Further, development funds are misused for securitising matters, and aid is made conditional on migration cooperation. The externalisation of migration policy leads to significant human rights implications. Hence, how normative considerations on morality and universal values are put aside in favour of self-interests will be explored.

Institutional Framework

First of all, the institutional arrangements and framework of EU migration and asylum policy shall be explained, creating a foundation to understand its role as an actor and power. Migration policy is an area of shared competence between the EU and the Member States, meaning that both can adopt legally binding acts. Internal migration policy has been shaped by the 1985 Schengen Agreement, which removed internal borders and created a common external EU frontier, demanding shared management (Faure et al., 2015). The 1992 Treaty of Maastricht and the 1999 Treaty of Amsterdam gave the EU competence over the matter, with the 2009 Lisbon Treaty refining the division of competencies (Neframi, 2011). A crucial step was the 1999 Tampere Presidency Conclusions, where the goal of "establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention" (European Council, 1999) was set. The 2005 Global Approach to Migration, revised in 2011 as the Global Approach to Migration and Mobility, sets the framework for external cooperation on migration. Its four pillars consist of "legal migration and mobility, irregular migration and trafficking in human beings, international protection and asylum policy, and maximising the development impact of migration and mobility" (European Commission, 2011). Under the Global Approach, two types of agreements regarding migration governance between the EU and third countries exist: Mobility Partnerships and a Common Agenda on Migration and Mobility (CAMM).

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The EU as an Internally Divided, Questionable Actor

Now, there are a variety of reasons for perceiving the EU as a deeply divided actor on this issue. Firstly, the institutional setup causes tension. In the case of migration policy, the European Commission can adopt certain measures and negotiate agreements with third countries. However, the Council must agree and the Member States can decide themselves about signing the Mobility Partnerships or the number of migrants to accept, limiting the Commission's power. The two institutions' policy agendas do not always align, as the Council favours a more restrictive approach than the Commission. As an intergovernmental institution, the Council is influenced by the home affairs ministries, which in turn act on the often sceptical and negative perceptions of migration in the respective domestic politics of the Member States (Hampshire, 2016). Member States may be hesitant to pool sovereignty in a high politics area as salient as migration. In general, the Member States could be divided into holding either intergovernmentalist or integrationist attitudes. Thus, some view further cooperation as undermining national interests, while others recognise it as a vital expansion of EU responsibilities (Friis & Juncos, 2019). These sentiments are heightened regarding the sensitive policy area of migration, as it has important implications for national sovereignty.

Division of Competences as a Complicating Factor

Additionally, international negotiations on migration policy are complex and often require issue linkage, which is problematic due to the Commission not necessarily having full agency over other policy areas. Issue-linkage, "the simultaneous discussion of two or more issues for joint settlement" (Poast, 2013, p. 287) is needed when interests do not align, as is the case with the EU's negotiations on migration with other countries. Typically, the EU seeks to co-operate on the readmission of irregular migrants, often including even third-country nationals due to difficulties in determining a migrant's citizenship, which is characterised by non-reciprocity, and hence, asymmetric interests. Thus, another incentive is necessary to encourage negotiations and agreements (Jurje & Lavenex, 2014). Due to the nature of the division of competencies, the task of providing significant mobility incentives lies with the Member States that might be reluctant to do so (Hampshire, 2016). This further complicates negotiations.

Different Attitudes and Narratives regarding Migration

Furthermore, diverging attitudes toward migration are present in the domestic politics of Member States. Depending on historical ties and geographic location, they experience varying levels of migration, which, in combination with labour market structures and demographics, impact their need for migration, and hence, their policies (Hampshire, 2016). The interests of particularly Mediterranean countries like Spain, Italy, and Greece, which have been highly affected by migrants coming over the sea route, diverge greatly from others' views that do not wish to increase solidarity mechanisms. For instance, the Dublin Regulation, stating that the country of the first arrival is responsible for processing asylum claims, still has not been fully reformed, despite it putting much pressure on Southern states. This creates the need for bilateral agreements between the Member States like Spain or Italy and African nations to cope with the influx of migrants (Schöffberger, 2019). The most drastic example of diverging Member State attitudes can be seen in the first reactions to the unprecedented high number of refugees and irregular migrants arriving in 2015. Responses ranged from Germany or Sweden accepting entry to borders being shut and fences being built within the Schengen area, failing to find a common approach (Morsut & Kruke, 2018). These diverging attitudes stem from the competing narratives and rhetorics around migration. Frames and narratives construct a view of reality and give matters a certain meaning. Migration can then be perceived either as an opportunity with great potential or as a threat to the arrival country and its national security. These conceptions will impact policymaking and whether borders are seen to be 'liquid' or 'solid'; thus whether movement across borders is restricted or facilitated. In recent years, particularly since the 2015 crisis, migration has increasingly been securitised and framed as a threat, linking it to terrorism and the danger to migrant lives (Schöffberger, 2019).

Summed up, the EU displays great internal divisions regarding migration policy, resulting in the inability to speak with one united voice, which could lead to the questioning of its actorhood. Recognition, authority, autonomy, and cohesion have been named as important elements of being an actor (Jupille & Caporaso, 1998) and might not be present in the EU migration policy. Cohesion is lacking due to inner divergences, and the EU is not given full authority

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and autonomy over migration policies, with it being an area of shared competence. Therefore, third countries might not necessarily recognise the EU as an actor in international negotiations and prefer bilateral agreements with the individual Member States. Hence, while the EU's actorness is sometimes generally questioned, doubts might be justified regarding migration policy. That proposes the idea of the EU not even being an actor in this matter.

The EU as a Self-interested, Realist Power

Further, the EU is more of a realist, self-interested power when it comes to migration policy than the 'Normative Power Europe' it likes to be portrayed: as a civilian actor promoting universal values and human rights (Manners, 2002). This criticism applies not only to migration but also to other matters, creating a pattern. For instance, the EU claims to be a promoter of human rights, peace, and democracy, and therefore, has so-called human rights clauses in treaties. Those, however, are applied selectively and commonly not in countries in which the EU has interests. Those realist interests include historical ties, commercial interests, e.g. regarding the provision of energy, or security concerns, as some nations are perceived as allies in combatting terrorism. Hence, from a realist perspective, sanctions become a foreign policy tool and are applied only in case of aligned interests instead of promoting liberal norms regardless of the potential personal gains and losses (Del Biondo, 2015). With several cases, such as non-interference in Ethiopia or Rwanda, supporting that thesis, the EU has shown a poor compliance record as a normative actor. This rhetoric-reality gap is more prominent than for other actors due to the public commitment to norm promotion (Carbone & Keijzer, 2016).

This gap is also present regarding migration policy. The rhetoric emphasises that all policies should be migrant-centred and focus on human rights and the importance of dialogue (European Commission, 2011). In its discourse with African partners, the EU claims to centre its attention on managing migration and creating opportunities for mobility and legal migration. In practice, the restriction of irregular migrations plays a bigger role. Consequently, in the Mobility Partnerships with other countries, the EU prioritises its own interests. Its commitment to creating opportunities for legal migration remains vague, while the demands towards the other country regarding border management and readmission are very specific and concrete (Zanker, 2019). The questionable practices regarding development and human rights in relation to migration, as examined in the following, are also indicative of the rhetoric-reality gap.

Problematic Linkage of Migration & Development

Moreover, the link between migration and development is much discussed in both the literature and within policies and negotiations. On the one hand, migrants can contribute to the development of their country of origin through remittance flows or skill transfers. On the other hand, the EU tends to perceive underdevelopment as a cause for migration, hence encouraging development to prevent migrants from entering the EU (Zanker, 2019). It has to be noted that this causal link between the two areas has been contested, as some scholars argue for an increase in migration with growing levels of development (D'Humières, 2018). The creation of a nexus between development and migration could be interpreted as attempting to improve policy coherence, meeting the goals of the Policy Coherence for Development (PCD). The PCD refers to the alignment of development policy with other areas that have an impact on developing countries. Development could be promoted through migration policies that revolve around supporting remittance flows, engaging the diaspora, and combating brain drain (Keijzer et al., 2016). Instead, scholars have critiqued EU development policy for increasingly being influenced by their foreign policy and security concerns, and therefore, turning it into a tool to foster its own interests instead of improving the living conditions of those most in need. This self-interested stance is confirmed in the 2016 'Global Strategy for the EU's Foreign and Security Policy', which discusses the concept of principled pragmatism and the importance of aligning policies with strategic priorities. As a result, the 2016 Migration Partnership Framework involves Common Security and Defence Policy missions (European Commission, 2016a), which are a central part of the Union's Common Foreign and Security Policy. Widening the scope of the development agenda under the guise of greater coherence allows for the inclusion of issues like migration management or border control. These practices deflect from conventional development goals, which should focus on poverty reduction, promotion of democracy and human rights, and sustainability. Therefore, a broadened development agenda needs to be examined critically, as it questions what the actual goals of development policy should be (Orbie, 2020).

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This can be observed in the 2015 EU Trust Fund for Africa (EUTF), also referred to as Migration Trust Fund. Introduced at the Valletta Summit for Migration, as a reaction to the large influx of migrants and asylum seekers in 2015, its objectives are “greater economic and employment opportunities, strengthening resilience of communities, improved migration management [and] improved governance and conflict prevention” (European Commission, 2015). Addressing the root causes of irregular migration and displacement is the official narrative put forward by the EU. Still, it mainly advances the EU’s interests of reducing the number of irregular migrants arriving in Europe. From an African perspective, it consists of a “European-imposed migration agenda that prioritises EU interests over African ones” (Castillejo, 2017, p. 1), with little opportunity for African ownership and agency, as it lacks a formal co-management requirement. Another problem is posed by the diversion of fund allocations away from the least-developed countries towards those significant for the EU’s migration agenda, particularly since most of the budget for the EUTF stems from development instruments that should be used according to the Official Development Assistance criteria (Castillejo, 2017). Instead, 26% of EUTF funding has been allocated to migration governance and less than 1.5% to regular migration schemes (Raty & Shilhav, 2020).

Further, the EU has started to make development aid conditional on cooperation on migration management, which is highly problematic, due to the dependence of states on development assistance and EU capacity. This was controversially also included in the 2000 Cotonou Agreement with the ACP states, where Article 13 links development aid to the normalisation of migration flows (Arts, 2020). Using the example of the Cotonou Agreement shines a light on the power imbalances that are present in the negotiations between the EU and developing countries: The agreement has been criticised as the EU taking advantage of the asymmetry by imposing its interests and using coercion (Carbone, 2015). While developing countries have some leverage in migration pacts, the relationship is still characterised by reliance instead of equality and could be understood as neocolonialist (Strange & Oliveira Martins, 2019). Consequently, any negotiations on migration agreements are not undertaken on an equal, fair level.

Ethical Consequences and Moral Responsibilities of Externalisation

Overall, the EU’s engagement in the externalisation of migration policy is an indicator of self-interested behaviour. Externalisation refers to controlling immigration to the EU outside of its borders and involving external actors through international agreements. Therefore, Mobility Partnerships or CAMMs are means of externalising, since other states take on the responsibility of readmitting migrants, increasing their border controls, or setting up migration centres. The ethical concerns regarding this practice are multifold. Essentially, the aim is to “prevent migrants, including asylum seekers, from entering the legal jurisdictions or territories of destination countries or regions or making them legally inadmissible without individually considering the merits of their protection claims” (Frelick et al., 2016, p. 193). So, externalising migration allows the EU to reduce its responsibilities and legal obligations to the detriment of the lives of migrants and asylum seekers. The externalisation also exposes the discrepancy between the EU’s rhetorical commitment to norm promotion and the realist pursuit of its own interests. This hypocrisy becomes particularly clear in the case of Turkey. Publicly, Turkey’s human rights abuses and infringement of democratic principles are condemned (European Commission, 2021). Then again, the EU used incentives, such as visa liberalisation, the prospect of EU membership, and financial aid, to reach an agreement in the 2016 EU-Turkey Statement. This facilitates the return of all irregular migrants who arrived at the Greek islands from Turkey (European Commission, 2016b), allowing the EU to avoid assuming responsibility. The human rights implications are severe: Turkey does not allow non-Europeans to qualify for refugee status and only Syrian nationals are eligible for temporary protection (Frelick et al., 2016), which leaves individuals in an extremely vulnerable position. The question of whether the EU is then responsible for human rights breaches outside of its territory, which are related to externalisation, poses a dilemma. Legally, the EU’s assistance in wrongful acts can only be condemned if there was awareness of the conditions, which is hard to prove (Santos Vara & Pascual Matellán, 2021). Still, as a truly normative or even ethical power Europe (Aggestam, 2008) would not operate in a legal grey zone and endanger human lives while protecting its interests, reinforcing the idea of the EU as a realist power. Comparably, NGOs and the UN High Commissioner for Refugees have criticised provisions like the problematic ‘safe third country’ regulation, which allows the EU to deny asylum to those that have previously travelled through other nations deemed to be safe (Borchelt, 2002). At best, showcasing this “defensive exclusion more than inclusive-cooperative security or strong support for human rights and democratic norms” (Smith & Youngs, 2018, p. 53) can be read as very contingent liberalism, exposing the EU’s realist side.

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Conclusion

In conclusion, when it comes to migration policy, the EU is internally divided and fails to speak with one united voice, which is why its actorness is disputed. Several cleavages would have to be overcome to achieve unity: the supranational, more liberal Commission and the intergovernmental, more restrictive Council need to come together, while the hesitancy to pool sovereignty should be diminished. The Member States would need to be willing to see beyond their attitudes, which are influenced by varying narratives on migration, to achieve cooperation through compromises. Besides, the EU's self-interests outweigh normative considerations of morality and values, which becomes apparent in several aspects. There is a gap between the ethical rhetoric and the restrictive practices regarding migration, where deals with other states are used to advance European interests. Acting as a realist power, even development tools are misused to align with the EU's strategic interests instead of fulfilling moral commitments, as foreign aid is redefined in the EU's favour and made conditional on migration cooperation. Through the externalisation of migration, referring to the involvement of other actors, the EU is indirectly responsible for human rights breaches, and thus, not upholding its status as an ethical power. Consequently, this essay has argued for the EU as being a questionable actor and a self-interested power, when it comes to migration policy.

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