

Dangers of Readmission Agreements

With the adoption of the 'Return Directive' in June 2008 and the European Pact on Immigration and Asylum in October of the same year, the EU has intensified the fight against so-called irregular immigration, while still leaving Member States with a wide scope for defining national immigration policies. During the past months, EU Member States have implemented a number of policies aiming to reinforce border control and ensure the return of undocumented immigrants to their countries of origin – notably through 'readmission agreements'. EU countries also seek the cooperation of countries of transit and origin in their fight against irregular immigration by the conclusion of EU-wide and bilateral agreements with those countries. These bilateral agreements grant opportunities for legal migration in exchange for commitments by countries of origin to participate in the control of undocumented migrants. The result of these policies has been the increased stigmatisation, and even criminalisation, of asylum-seekers and undocumented migrants, and the detention and deportation of immigrants, in flagrant violation of their basic human rights¹.

Readmission agreements: A framework for the expulsion of migrants

Migreurop

A readmission agreement is an instrument through which signatory states commit to readmit into their territory their nationals who were apprehended while residing irregularly within the territory of a foreign state, but also other foreigners who transited through their soil. Readmission agreements can be either bilateral agreements, concluded between an EU Member State and a third country, or Community agreements, concluded between the EU – thus committing the 27 Member States – and a third country. Since the European Council of Seville of June 2002, 'readmission clauses' are required to be systematically included in every economic, trade or cooperation agreement between the EU and third countries.

These clauses and the readmission agreements form one of the central features of the EU's policy of externalisation, which became official with the Hague Programme in 2004, and through which the EU externalises to third countries a part of the control of immigration flows. Since then, all development aid, and even all 'economic and trade cooperation', has been subordinated to the negotiation of these agreements. This is notably the case with bilateral agreements for the 'concerted management of migration flows' signed between France and Spain and West African countries, and the 'mobility partnerships' envisaged by the EU.

These agreements are dangerous. They threaten fundamental rights (their implementation risks violating Article 3 of the European Convention of Human Rights through the signature of 'agreements in cascade'², which allow for the expulsion of indi-

viduals without any guarantee of respect for their life and integrity in the 'final destination' country); they violate the principle of non-refoulement³ foreseen by the Geneva Convention (mainly through the implementation of the accelerated procedure currently foreseen in the agreements with Russia, the Ukraine and some Western Balkan countries); and lead to the generalisation of centres for foreigners at every stage of the expulsion procedure. Refoulements are increasingly frequent at the border of Europe, for example, between Italy and Libya, or between Greece and Turkey, confirming that the issue deserves our urgent attention.

The work carried out by the Euro-African network Migreurop on readmission agreements⁴ is organised both at the European and national levels and consists of collaborations among network members, and also with numerous partners in Latin America, Haiti, and Balkan countries, among others. At the European level, Migreurop sent an open letter to the European Commission and the Council of the European Union in January 2009 asking for increased transparency in the negotiation and implementation of readmission agreements⁵. This letter aims to remind European institutions of their responsibilities in relation to the signature and implementation of these Community agreements, and of the consequences of these agreements for migrants' lives and the enjoyment

with another country it is called an 'agreement in cascade' or a domino effect.

3 Set out in the 1951 Refugee Convention, Article 33 (1), which states: "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion". Convention Relating to the Status of Refugees, adopted on 26 July 1951, available from: <www.unhcr/cgi-bin/texis/vtx/home?page=basics>.

4 More information on Migreurop's work is available from: <www.migreurop.org/rubrique271.html>.

5 Migreurop's letter of January 2009 to the European Commission and the Council of the European Union is available from: <migreurop.org/article1350.html>.

of their rights. At the national level, Migreurop's work attempts to draw the attention of national deputies and raise public awareness about the implications of bilateral agreements.

Forced returns, the case of Mali

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Mali: A country of emigration, immigration, transit and return

Historically and geographically, Mali is an important crossroads for civilisations and migration. Mali is at the same time a country of emigration, immigration, transit and return.

It is estimated that around one-third of the Malian population, that is four million people, live outside the country, of which more than half reside in other West African countries. A large number of undocumented Malian migrants in Europe are being confronted with the current strengthening of European immigration policies. The Malian authorities pay significant attention to migrants' financial contributions to the country in the form of remittances and to their support of development in their locality of origin. Created in 2004, the Ministry for Malians Abroad and African Integration (MMEIA) was designed to address the needs of Malians abroad and to make them more aware of their potential role in the country's development.

In recent years, Mali has also become an important country of transit for Sub-Saharan migrants on their way to the West African coast (Mauritania, Senegal, Guinea, Gambia and Guinea Bissau), to Maghreb, and across the Mediterranean to Europe.

Mali is also a country of return, frequently receiving Malian and other Sub-Saharan immigrants expelled from Europe, Maghreb countries of transit, or from war-stricken African countries.

6 Translated from French by Louisa Vogiazides.

1 To date, no EU country has ratified the International Convention on the Protection of the Rights of Migrant Workers and their Families.

2 When a third country that is already signatory to a readmission agreement concludes the same type of agreement

Migrants blocked in transit are either escorted to the Malian border (with Mauritania, Algeria or Libya) and abandoned in the middle of the desert, or sent back by plane tied down and muzzled. Malians subject to involuntary return describe massive raids, degrading treatment and long periods of detention with the prospect of a forced return to their home country, often with no money.

Situation of migrant returnees

Public concern about the issue of migrant expulsion is very acute in Malian society. Migrants' countries of return often lack appropriate structures for receiving migrants who have been forced to return. They also lack mechanisms for protecting the rights of returned migrants. Organisations supporting migrants have documented a large number of human rights violations on which they base advocacy efforts and judicial complaints. Exploratory missions are carried out by Malian civil society organisation, often in collaboration with international solidarity organisations, in order to record the reality of forced returns at borders⁷. Their reports reveal the criminalisation of migrants in transit, flagrant violations of the integrity and dignity of migrants expelled on mass, arbitrary imprisonment, inhumane conditions during transportation and abandonment in the desert.

It is worth noting that the EU policy for controlling migration flows does not foresee centres of assistance for expelled migrants at the borders, nor are any international NGOs active in these border zones. The voluntary associations trying to assist returned migrants lack both the capacity and resources to fulfil the task. At the same time, the EU has financed the establishment of detention centres in countries such as Libya and Mauritania for detaining illegal immigrants prior to their forced return. These centres are part the EU's strategy of 'outsourcing' immigration control outside of EU borders.

The General Delegation of Malians Abroad (DGME), whose mission includes the assistance, protection and promotion of Malians abroad, has an office at the airport of Bamako for the administrative and technical assistance of voluntary and involuntary returned migrants. The arrival of airplanes containing returned immigrants is supervised by civil protection, in collaboration with the Malian Red Cross. However, this is only the case during so-called 'urgent procedures', i.e., when the authorities are informed in advance, which is rarely the case. Involuntary returned migrants often arrive home after several years of absence utterly destitute. Most of them come from rural areas and have no family in Bamako. A number of Malian civil society associations, with limited resources, are active in providing accommodation, medical care, legal assistance and

financial help to return migrants to their home region. No official aid is given to these vulnerable people.

Current challenges in Mali

In view of the risks of illegal immigration (including expulsion), the Malian authorities try to stem migratory flows by promoting education and employment opportunities in Mali, and by negotiating agreements on the concerted management of migratory flows. In 2008, the Ministry for Malians Abroad and African Integration, in partnership with the International Organization for Migration (IOM) and various associations supporting returned migrants, carried out a national awareness campaign on the dangers of illegal immigration.

Financed by the EU, a Migration Information and Management Centre (CIGEM) was inaugurated in Bamako in October 2009. The creation of CIGEM is part of the EU's 'Global Approach to Migration' launched in 2005; CIGEM works to promote the linking of migration with the development needs of migrants' countries of origin and encourages collaboration with migrants' countries of origin and transit in the management of migration flows. CIGEM's activities include the definition of a national migration governance policy, the promotion of a codevelopment approach⁸, the promotion of legal migration schemes, and the fight against illegal immigration through awareness campaigns and the orientation of candidates for migration towards work and education opportunities at home.

The above initiatives in favour of legal immigration clearly reflect the EU and its partner countries' political will to put an end to illegal immigration. The incentives offered to potential migrants to remain in Mali and the mass expulsion of illegal migrants from transit countries and countries of destination are both sides of the same coin. They are part of the EU's self-interested strategy of 'chosen immigration'.

For example, the incentives offered by European countries for 'voluntary return' are poor and underfinanced. Migrants blocked in transit are not assured of being taken care of upon their return, while expelled migrants are not eligible for any 'reintegration' programme financed by the EU. Migrant associations also plead for the return of property and contributions to the social security system from the former country of residence. Some people reclaim up to 22 years of social contributions.

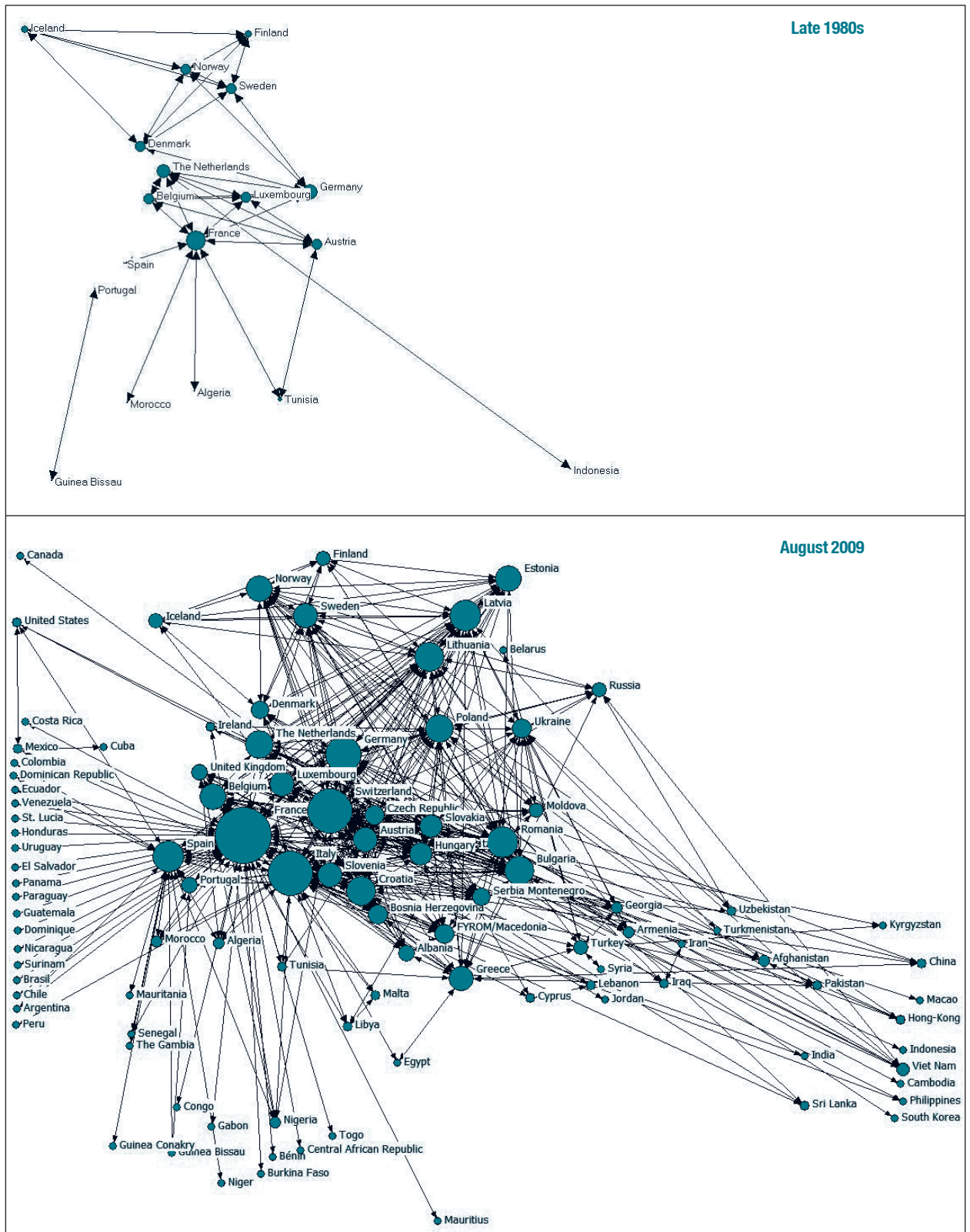
It is in this context that the cautious position of the Malian authorities in the negotiation of the agreement with France on the concerted management of migratory flows must be situated. On the one hand, they appreciate the contribution of Malian emigrants to Mali's national development, but on the other hand, they depend on EU development aid, which is increasingly becoming conditional on the

adoption of agreements on the concerted management of migratory flows. How long the wrangle will last is unknown. The global economic crisis and its consequences have reaffirmed Mali's concerns. The crisis has been accompanied by cuts in EU development aid. The labour market contraction is also spurring tougher restrictions on migration, which affects the capacity of migrants to send remittances. Tougher immigration restrictions often imply human rights violations, but are ineffective in stopping illegal immigration: people still put their lives at risk to reach Europe, at any cost. ■

7 AME carried out an exploratory mission at Mali's border with Algeria together with the Afrique Magazine in 2007 and with Apdha (Spain) at the border with Mauritania in 2008.

8 Codevelopment is a trend of thought and development strategy in development studies that considers migrants to be a developing factor for their countries of origin.

Figure 3: Increase in the bilateral patterns of cooperation on readmission involving European countries



Source: European University Institute, Robert Schuman Centre for Advanced Studies, available from: <www.mirem.eu/datasets/agreements/>