Agreement Duplicity: France’s bilateral migration agreements & EU migration partnerships

Marion Panizzon, University of Bern

prepared for the conference on the “Governance of Asylum and Migration in the EU”, University of Salford, 26-27 January, 2012
Research question

Do EU Migration Partnerships (MPs)

• complement (efficiency gains, agreement dualism) or

• compete (inefficient overlaps, agreement duplicity)

with the bilateral migration agreements of EU Member States?
# Three variances

<table>
<thead>
<tr>
<th></th>
<th>EU MP</th>
<th>French bilateral</th>
<th>EU readmission</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armenia</td>
<td>Oct. 2011</td>
<td>--</td>
<td>under negotiations</td>
</tr>
<tr>
<td>Cape Verde</td>
<td>May 2008</td>
<td>Nov. 2008</td>
<td>under negotiations</td>
</tr>
<tr>
<td>Georgia</td>
<td>Nov. 2009</td>
<td>--</td>
<td>Jan. 2011</td>
</tr>
</tbody>
</table>
Elephants in the room

• Scope of France’s MFN exemption under GATS
• Scope of GATS definition of TMNP
• Employees of French firms or foreign
EU Migration partnerships

• Operationalize 4 pillars of the GAMM
  – legal migration
  – migration and security
  – migration and development
  – asylum
• Revitalize European Neighbourhood Policy (ENP)
• Conditionality with EU readmission agreements
• No labor market access
  • quotas still in natl competency (Art. 79:5 TFEU)
  • EU MS with bilateral migration agreements at their disposal refuse to use the MP venue to grant labor market access quotas

• EU MPs require more and offer less than bilateral migration agreements of EU MS
Sui generis decision-making in EU MPs

- Consequence of failed attempts to construct a common EU migration law top-down (stalled economic migration directive of 2005)
  - Intra-EU function: Bottom-up harmonization of national immigration law
    - Collation of different national projects, no joint EU projects
  - Result of difficulty to get EU readmission agreements concluded by migrant sending countries
    - Extra-EU rationale: « Partnership approach »
## EU MPs signed so far

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Belgium, Bulgaria, Czech Republic, Germany, <strong>France</strong>, Italy, Netherlands, Poland, Romania, Sweden</td>
<td>Belgium, Bulgaria, Czech Republic, Denmark, Germany, Estonia, Greece, <strong>France</strong>, Italy, Lithuania, Latvia, Netherlands, Poland, Romania, Sweden, United Kingdom</td>
<td>Bulgaria Cyprus, Czech Republic, <strong>France</strong>, Greece, Germany, Hungary, Italy, Lithuania, Poland, Portugal, Romania, Slovenia, Slovakia, Sweden</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(Dis)Similarity of EU MPs and French agreements

Similarity
• One-size-fits all template which is « sold » to the source country
• Reflect a balanced approach to migration, but in reality migration control outweighs

Dissimilarity
• EU MP are non-binding
  → more flexibility to opt-in as a country and add projects on ad hoc basis
  → Less reliable enforcement
  → escape ex ante legislative scrutiny by EU Parliament and ex post judicial review by ECJ
  → Network governance
French bilateral agreements

- **offer more** than EU MP
  - Labor market access **quotas**
  - Labor market access **facilitation**
  - **Visa** extensions and renewals

→ only if France has an exemption from the most-favored-nation-treatment clause in WTO/GATS
  - France has such an exemption towards francophone countries
Rule: Agreement duplicity (Senegal)

- EU MP offers less than aggregate sum of national migration policies offered in bilateral migration agreements
- EU MP requires more in terms of readmission than bilateral migration agreements
  - towards all 27 EU MS, third-country-nationals-clause
- no special relationship with EU
  → agreement duplicity which leads partner country to stall negotiations on EU MP and only go for bilateral agreement
Exception: Agreement dualism (Cape Verde)

- EU MP offers less than French agreement
- EU MP requires more (in terms of readmissions)
- in addition, Cape Verde has been offered a special partnership with the EU (beyond the EU-ACP Cotonou Partnership agreement)

→ EU MP and French bilateral migration will run in parallel (EU MP will not be stalled)
Conclusions: Triadic relationship rather than one-to-one parallelism

- EU Mobility Partnerships
- EU readmission/visa relaxation agreements
- Bilateral migration agreements
Thanks for your attention!

marion.panizzon@wti.org