

Report – TRANSMIC Academic Roundtable on EU External Policies on Migration, Borders and Asylum

Leonhard den Hertog

On Tuesday the 24th of May, the Justice and Home Affairs Section of the Centre for European Policy Studies (CEPS) organized an Academic Roundtable in the context of the TRANSMIC project. This event was co-organised with Maastricht University. The Roundtable focused on **'The EU External Policies on Migration, Borders and Asylum - Policy Transfers or Intersecting Policy Universes?'** and brought together a number of researchers from different academic career stages. In line with the TRANSMIC objectives for outreach and networking, this event featured both researchers from within the TRANSMIC network as well as researchers from beyond.

The event addressed the intersection between migration and foreign affairs policies that has found wide attention in the literature covering the 'External Dimension of EU Migration Policy'. Most of the literature has focused on the policy transfer, external governance and implementation approaches. The question was asked whether these approaches facilitate a proper understanding of why certain instruments are used instead of others by EU actors when cooperating with third countries. Moreover, can the different legal, policy and financial instruments be understood as ways to circumvent rule of law and fundamental rights constraints?

The meeting was opened by **Sergio Carrera** (Head of Unit and Senior Research Fellow, CEPS and Associate Professor, Maastricht University) who framed the current EU policy debates on instruments in light of the search for flexibility and the challenges this produces.

The first panel took an actor-focus, showing the involvement of e.g. European Commission departments, third countries and international organisations in the EU instruments. The role of EU instruments and actors is often conceptualised as going one way: namely towards third countries. In his contribution, **Jean-Pierre Cassarino** (Researcher, Institut de Recherche sur le Maghreb Contemporain de Tunis (IRMC)) highlighted that third countries also engage in 'reverse diffusion' to the EU and its Member States, taking examples from Tunisia. As to the role of the EU's financial instruments, **Nora El Qadim** (Lecturer, Paris 8 University) argued that they cannot just be understood as 'incentives' in the cooperation with third countries but rather that their role is not so straightforward due to the EU institutional structures of managing funding and the political priorities in third countries. **Leonhard den Hertog** (TRANSMIC postdoctoral researcher, CEPS and Maastricht University) discussed the crucial but often overlooked role of international organisations in EU external funding instruments for asylum, borders and migration. Their role goes well beyond the 'implementation' of projects and also includes the setting of priorities for the EU funds' programming, especially in 'crisis' situations. This also challenges the conceptualization in the literature of EU policy transfer to third countries, bringing into the picture the crucial role of these organisations in this cooperation. The last contribution of this panel by **Julien Jeandesboz** (Professor, Université Libre de Belgique) focused on the EU border control databases from a socio-technical understanding. He argued that these databases cannot be fully understood through an instrumental lens but that the politics behind their establishment suggest that they have become ends in themselves rather than a means to an end.

The second panel, chaired by **Hildegard Schneider** (Professor, Maastricht University, TRANSMIC Coordinator) focused on the boundaries between law and politics at the intersection between EU's internal and external policies pertaining to migration, asylum and borders. The contribution by **Paula Garcia Andrade** (Professor, University Pontificia Comillas Madrid) addressed the competence division in these policies, *inter alia* highlighting how the EU has to rely on the implied external powers for several of

its actions. In that light, she argued that coordination both horizontally and vertically is important, citing the Mobility Partnership as an example. The contribution of **Fanny Tittel** (TRANSMIC PhD researcher, University of Minho) addressed the question of whether these Mobility Partnerships can be understood as 'soft law' and as having external legal effects. She argued that such effects are indeed present, as third countries engage in amending their laws supported by EU funding under some Mobility Partnerships. The final presentation by **Zvezda Vankova** (TRANSMIC PhD researcher, Maastricht University) mapped the international legal frameworks that can serve as benchmarks for assessing EU circular migration policy.

The discussion following the presentations focused on issues of competence delineation and assessed the degree of relationship between MPs and legal reforms in third countries. The discussion also focused on whether coordination between EU actors across these competence divisions is possible and necessary, and whether the Mobility Partnerships or the newly set up EU funding structures provide valuable instruments to achieve such coordination. Some argued that the current crisis-led policy making in the EU leads to 'flexible' loose cooperation frameworks that evade questions of competences and scrutiny. The discussions also highlighted that policy transfer and implementation literature often lacks an understanding of the actor dynamics both in the EU as well as in third countries.