

Chapter 10

The EU's Legal Influence on Migration in the African States: The Normative Content of Development Cooperation Projects



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Abstract Within the broader context of the global reach of EU law, this chapter focuses on the EU's legal influence on migration and how the EU stimulates (and sometimes achieves) changes in the domestic legal orders of the African States. A thorough analysis of the projects funded by the EU Emergency Trust Fund for Africa (EUTFa) shows how the EU supports the national migration authorities' institutional and enforcement capacity in third countries. Such projects are effective in achieving legal objectives in third countries, namely preventing irregular migration to the EU, and reveal a clear EU external normative agenda. The combined effect of the proliferation of soft law instruments and the increased blurring of external competences in the EU's external action facilitate this legal influence in third countries. Ultimately, this chapter problematises the use of funding to persuade third countries to change their domestic legislation or enforce it in a manner instrumental to the EU's interests.

Keywords Migration • EU external migration law • EU legal influence • EU-Africa cooperation • Development cooperation • Soft law • EU Trust Fund for Africa

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10.1 Introduction: The EU's Legal Influence on Migration

The European Union (EU) is emerging as an international legal actor with a tendency to diffuse EU law in other regions of the globe. How this process happens is best described as *the global reach of EU law*, in the words of Elaine Fahey.¹ It is a multi-layered field of study that revolves around the notion of EU law's external or extra-territorial effects and focuses on the different causes that contribute to these effects, namely EU law, international law, and soft law. EU migration law is no exception to this trend, and it has various external ramifications beyond the EU's borders, from the production of external effects by internal secondary law and soft law to the conclusions of international agreements on migration with third countries.² However, EU migration law is also an area where the EU is harshly criticised for its inhumane and unjust policies.³ One of the most researched aspects of the global reach of EU migration law is its extra-territorial dimension, also known as externalisation of migration control.⁴ This dimension focuses on the adverse consequences of the EU's external action in terms of human rights violations that might be committed as a result of cooperation.⁵ From a global perspective, EU migration law fuels the inequalities characterising access to the so-called Global Mobility Infrastructure.⁶ Depending on the nationality and socio-economic status of international migrants, EU border controls are carried out in radically different ways. For some international migrants, regular migration opportunities are significantly restricted by practical and legal obstacles.⁷ The external dimension of EU migration law is deemed as contributing to, and even proliferating, the exclusion and subordination of undesired migrants and increasing the dangers they face in migrating.⁸

In this context of undoubted inequalities in international migration, there are two underlying dynamics surrounding the EU's external action on migration: one that is defensive, in line with an emerging geopolitical Union, and another that is proactive, consisting of the promotion of the EU's own regional interests on migration when cooperating with third countries.⁹ The first dimension largely builds on the "securitisation of migration", the process whereby migration is perceived as a security threat,

¹ Fahey 2016; see also, Scott 2019; Casolari and Gatti 2023.

² Maes, Foblets and De Bruycker 2011; Ryan 2019; Molnár 2021; García Andrade 2022; Thym 2023.

³ Fahey 2016.

⁴ Atak and Crépeau 2015; Moreno-Lax and Lemberg-Pedersen 2019.

⁵ Pijnenburg, Gammeltoft-Hansen and Rijken 2018; Liguori 2019; Gammeltoft-Hansen and Tan 2020; Costello and Mann 2020.

⁶ Spijkerboer 2018. While the North-South divide has always characterised migration, as it was originally reflecting a distinction between migrant-sending and migrant-receiving countries, in itself a simplification of international migration, this divide became sharper.

⁷ While all EU citizens can visit the majority of the African States without arranging a visa prior to travel, all African States figure on the EU common list of countries whose citizens must secure a visa to travel to an EU Member State for a short stay, the so-called Schengen visa.

⁸ Moreno-Lax and Lemberg-Pedersen 2019.

⁹ Frasca 2023.

and the framing of migration as a “crisis” which requires exceptional measures.¹⁰ In this regard, the EU adopted a new regulation addressing “situations of crisis and force majeure in the field of migration and asylum” which allows Member States to derogate from certain procedural rules in EU asylum law.¹¹ In addition, the EU's Global Gateway Strategy prioritises the EU's own geopolitical and economic interests, showing a move in their development cooperation objectives away from poverty reduction and eradication.¹² The second dimension foresees the involvement of third countries in the EU migration policies as an integral response to the migration crisis. In the words of the European Commission, the EU's common response to migration “needs to include the EU's relationships with third countries,” as “working closely with partners has a direct impact on the effectiveness of policies inside the EU.”¹³

This chapter focuses on a particular manifestation of the global reach of EU law, the EU's legal influence on migration, specifically related to the African region. The set-up and functioning of the EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa (in short, the EU Trust Fund for Africa or EUTFa) is the example used to illustrate this trend.¹⁴ The choice of allocating external funding to an *ad hoc* emergency instrument exemplifies how development cooperation became a powerful instrument of the EU's external action on migration insofar as external funding influences both the development and review of domestic law in African countries and their law enforcement capacities.

Since 2013, the Commission can create and administer “Union trust funds for external actions” in situations of emergency, post-emergency, or thematic action such as pandemic, natural disasters, and conflict.¹⁵ The Commission's argument for justifying the establishment of an emergency Trust Fund for Africa was poor and unsubstantiated.¹⁶ The existence of generalised crises “in the regions of the Sahel

¹⁰ Ganty et al. 2023.

¹¹ Regulation (EU) 2024/1359 of 14 May 2024 addressing situations of crisis and force majeure in the field of migration and asylum, OJ L, 2024/1359, 22 May 2024.

¹² European Commission, The Global Gateway, JOIN (2021) 30 final, 1 December 2021.

¹³ European Commission, New Pact on Migration and Asylum, COM (2020)609 final, 23 September 2020, p. 5.

¹⁴ European Commission (2015) Decision on the establishment of a European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, 20 October 2015 C (2015) 7293 final. The legal basis is Council Regulation (EU) 2015/3231 of 2 March 2015 on the Financial Regulation applicable to the 11th European Development Fund, and in particular Article 42 thereof. Constitutive agreement establishing the European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, and its internal rules, done at La Valletta, on 12 November 2015.

¹⁵ Article 187 of regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 OJ L 298, 26.10.2012, pp. 1–96.

¹⁶ The EU Trust funds are established for situations of emergency, post-emergency and for thematic actions that are deemed necessary to react to a crisis through a constitutive agreement between the European Commission and the donors according to Articles 187 and 259 of the Financial Regulation 966/2012.

and the Lake Chad, the Horn of Africa, and the North of Africa”—which simultaneously impacted twenty-six African countries—is uncritically assumed.¹⁷ According to the Commission, all these countries were undergoing “demographic pressure, environmental stress, extreme poverty, internal tensions, institutional weaknesses, weak social and economic infrastructures, and insufficient resilience to food crises,” all factors vaguely justifying the need for a Union Trust Fund.¹⁸ The Commission claimed that “in some places”—without mentioning where—these factors have led to “open conflict, displacement, criminality, radicalisation and violent extremism, as well as forced and irregular migration, trafficking in human beings and the smuggling of migrants.”¹⁹ What is more, contrary to the abundant evidence on the nature and scale of African migration, the Commission made a direct link between these supposed crises and *irregular migration* to the EU stating that “for all these countries, the crisis manifests itself as a growing flow of forced migration, including across the Sahara desert, the Mediterranean and other routes towards Europe.”²⁰

The establishment of a Trust Fund for emergency situations has very practical consequences regarding EU public procurement law.²¹ The process of selection of the action projects raises issues in terms of transparency and clarity over eligibility and selection criteria because of the lack of open competition.²² As compared to other EU funding instruments, Union Trust Funds do not follow the EU’s rigid budgetary rules, they reintroduce inter-governmental dynamics in the functioning of the EU and are provided with a different Commission-driven management structure.²³

This chapter shows how legal influence in the African States is achieved by the EU by uncovering the normative content of EUTFA and explains how external funding became a vehicle for the diffusion of EU interests on migration outside the EU legal order. The EU’s legal influence is first placed in the context of the global reach of EU law (Sect. 10.2). It is shown that two features of the external dimension of EU migration law facilitate legal influence in third countries, namely the proliferation of soft law instruments and the increased blurring of external competences in the EU’s external action, with migration control objectives prevailing over other objectives. A thorough analysis of some of the projects funded by the EUTFA in third countries reveals a clear external normative agenda behind concepts that are neutral at first sight, such as capacity-building. Although it cannot be qualified as a “legal

¹⁷ Commission, decision C (2015) 7293, Article 1(2). The countries are, for the Sahel Region and Lake Chad area: Burkina Faso, Cameroon, Chad, the Gambia, Mali, Mauritania, Niger, Nigeria and Senegal; for the Horn of Africa: Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan, Tanzania and Uganda; for the North of Africa: Algeria, Egypt, Libya, Morocco, Tunisia.

¹⁸ Commission, decision C (2015) 7293, whereas 1.

¹⁹ Commission, decision C (2015) 7293, whereas 2.

²⁰ Commission, decision C (2015) 7293, whereas 3.

²¹ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC. See, on this topic, extensively, Spijkerboer and Steyger 2019; Kervyn and Shilhav 2017.

²² Temprano Arroyo 2019.

²³ For instance, the European Parliament only has a right to scrutiny over the Trust Fund constitutive agreement. See Castillejo 2016.

instrument,” the EU’s technical cooperation in third countries bears some legal relevance (Sect. 10.3). By targeting cooperation on “improved migration management” in third countries, the EU secures the global reach of EU migration law in Africa, as effecting legal changes in third countries is one of the EUTFA’s stated objectives. This study problematises the use of funding to persuade third countries to change their domestic legislation or enforce it in a manner instrumental to the EU’s interests. Ultimately, it shows the Union’s position on migration to be a global issue, showing that EU migration law’s objectives prevail over the Union’s role as a promoter of multilateralism (Sect. 10.4).

10.2 The Global Reach of EU Migration Law

The expression *the global reach of EU law* covers a variety of phenomena in which EU law might apply beyond the EU’s borders and shape or influence non-EU law. It encompasses but is not limited to the extra-territorial application of EU law,²⁴ the territorial extension of EU law,²⁵ the Brussels effect,²⁶ as well as the EU’s legal influence in third countries and regions.²⁷ All these concepts are similar in their focus on the different outcomes of interactions between the EU and third countries’ legal orders. However, since these phenomena are complex to measure—because they are context-dependent and diverse—the conceptual distinctions above help capture some nuances. Roughly, these distinctions can be grouped into two different strands depending on the position taken by the author: one is concerned with the regulatory activity itself and one with the respective roles of the European Union and third countries in the regulatory activity.

The first conceptual strand focuses on the one hand on the *source* of the regulatory activity that produces external effects (e.g. EU law, international law, or soft law). Some regulatory activities can be autonomous (EU law) while others can be bilateral (international law).²⁸ Their normativity can also vary depending on which side of the spectrum between hard and soft law the regulatory activity is placed.²⁹ On the other hand, some studies also look at the *outcomes* produced by the regulatory activities in third countries, for instance, if the extra-territorial application of EU law gives rise to human rights violations, changes in the domestic legislation of the third country involved, compliance with international law, etc.

The second conceptual strand concerns the European Union’s and third countries’ respective roles in the regulatory activity. Some studies focus on the role of

²⁴ Cremona and Scott 2019.

²⁵ Scott 2014.

²⁶ Bradford 2020.

²⁷ Rapoport 2021.

²⁸ Lavenex 2014.

²⁹ Saurugger and Terpan 2020.

the *European Union* (e.g. EU law-making, international law-making, EU legal influence, external rule promotion), namely how and for what purpose the EU puts in place the regulatory activity producing external effects.³⁰ Others are interested in the role of *third countries* in the production of the effects, namely if some degree of cooperation with the Union is required (e.g. the third country merely tolerated the extra-territorial application of EU law; the extra-territorial application of EU law requires joint enforcement with the authorities of those third countries; there is spontaneous or planned normative alignment with EU law or international standards on the part of the third country).³¹

The main objective of these studies and concepts is to understand how the EU uses international relations to diffuse its norms in the external environment, consisting of states and international organizations, and why.³² Many authors, particularly in political science, have theorised the capacity of the EU to spread its rules beyond EU borders in different ways, discussing concepts such as “Europeanisation,”³³ “Normative Power Europe,”³⁴ and “external rule promotion.”³⁵ The global reach of EU law is well-documented in many fields of law, such as data privacy,³⁶ consumer health and safety,³⁷ the environment,³⁸ trade,³⁹ and antitrust law,⁴⁰ with varying outcomes.

Migration is also an area in which the global reach of EU law is increasingly evident. Since its beginning in 1999 with the Treaty of Amsterdam, EU migration law has had external implications, producing external effects in several ways.⁴¹ Many instruments adopted on the basis of an EU internal migration competence regulate activities outside the EU’s territory, independent of third countries’ cooperation. In those cases, EU migration law applies extra-territorially. Most instruments devoted to extra-territorial strategies for EU border control essentially come into force in third countries before migrants reach the EU territory.⁴² A glaring example is the EU Visa Code Regulation, visa policy being one of the first migration policies that the Member States partially harmonised, which reveals the importance of preventing irregular (and undesired) migration.⁴³ However, EU migration law also requires the involvement of third countries, international organisations, and private actors in its

³⁰ Govaere 2022; Gstöhl 2023.

³¹ Coman-Kund 2019; Marin 2020, Burlyuk et al. 2023.

³² Withman 2011.

³³ Schimmelfennig and Sedelmeier 2020.

³⁴ Manners 2002.

³⁵ Guérin 2010.

³⁶ Ryngaert and Taylor 2020.

³⁷ Bradford 2020.

³⁸ Redondo Alamillos and de Mariz 2022.

³⁹ Petrov 2008.

⁴⁰ Doleys 2012.

⁴¹ Cremona and Rijpma 2007; Guild 2019.

⁴² Moreno-Lax and Giuffrè 2019.

⁴³ Regulation (EC) no. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas, OJ L 243, 15 September 2009, pp. 1–58.

direct and indirect enforcement.⁴⁴ Despite the absence of a general EU external competence on migration, the Union has made cooperation in migration control a primary objective in its relations with third countries and one of the EU's primary foreign policy objectives.⁴⁵ African States were targets of EU external relations on migration, as evidenced by the subsequent establishment of political frameworks for the external dimension of EU migration law: the Global Approach on Migration (GAM) of 2005,⁴⁶ later replaced by the Global Approach on Migration and Mobility (GAMM) in 2012,⁴⁷ and complemented by the New Migration Partnership Framework in 2016,⁴⁸ and by the New Pact on Migration and Asylum in 2020.⁴⁹

10.3 The EU Trust Fund for Africa

A manifestation of the global reach of EU law, the *EU's legal influence* in third countries describes the process whereby non-EU countries normatively align with the European Union in a given policy field by adopting rules similar or identical to the EU's.⁵⁰ Legal changes in third countries can result from an actual voluntary normative alignment or from more subtle forms of legal influence exercised by the European Union, which advises, equips, and persuades third countries to comply with or better enforce a law in line with the EU's interests. Why and how this normative alignment happens, however, depends on a number of factors, including conditionality mechanisms.⁵¹ Given that legal changes in third countries happen as a combined result of political declarations, external funding for cooperation, and conditionality mechanisms—the main means of persuasion used by the EU—the “voluntary” aspect of normative alignment can be questioned in the case of the EUTFA. In particular, negative conditionality works as a “soft” enforcement mechanism.

The EU's legal influence on migration is particularly evident in the way the EU has projected its rules onto potential candidate States for accession to the Union.⁵² In

⁴⁴ For instance, the Carrier Sanctions Directive testifies to the involvement of private actors in migration control. Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985, OJ L 187, 10.7.2001, pp. 45–46.

⁴⁵ Kunz et al. 2011; Lambert et al. 2013; Ryan 2019; Kotzur et al. 2020.

⁴⁶ European Council, Presidency Conclusions, Brussels, point 4 and Annex I, ‘Global Approach to Migration: Priority actions focusing on Africa and the Mediterranean’, 15–16 December 2005.

⁴⁷ European Commission, The Global Approach to Migration and Mobility, COM (2011)743, 18 November 2011.

⁴⁸ European Commission, Communication on establishing a new Partnership Framework with third countries under the European Agenda on Migration, COM (2016)385 final, 7 June 2016.

⁴⁹ European Commission, New Pact on Migration and Asylum, COM (2020)609 final, 23 September 2020.

⁵⁰ Rapoport 2021.

⁵¹ Frasca and Roman 2023.

⁵² Sedelmeier 2011.

contexts in which EU membership is at stake, the EU's legal influence on migration is associated with candidate States' aligning with the EU migration *acquis* through formal cooperation with the Union before accession. Alignment with the *acquis* can be a precondition to or a consequence of the conclusion of EU association, readmission, and visa facilitation agreements.⁵³ This process is described by Cremona and Rijpma as "the promotion, by the EU, of its own *acquis* towards third countries, and their adoption of that *acquis* into their own domestic legal orders."⁵⁴

There are other ways in which the EU projects its rules onto third countries when EU membership is not at stake. In such cases, legal influence is not exercised via formal cooperation, through the conclusion of EU association, readmission, and visa facilitation international agreements. Instead, a combination of informal agreements and non-legal instruments make it possible for the EU to persuade African countries to adopt or review their migration laws.⁵⁵ In other words, it is not by way of international law that the EU cooperates with the African States, but by softer forms of cooperation, such as the disbursement of EU external funds and political pressure. The proliferation of soft law instruments and an increased blurring of external competences in the instruments used for the EU's external action make development cooperation particularly apt to facilitate the EU's legal influence on migration in third countries. In this way, the EU's legal influence on migration in the African States aims at "migration prevention in the guise of development."⁵⁶

The proliferation of soft law instruments in the EU's external action on migration is now acknowledged as a fact.⁵⁷ These acts of uncertain legal nature resemble international agreements but disregard the EU's procedure for concluding international agreements as laid down in Article 218 TFEU. To cite a few examples, Mobility Partnerships, Common Agendas on Migration and Mobility, Migration Compacts, and different sorts of arrangements have played a key role in the EU's international cooperation with third countries, especially in the African continent.⁵⁸ These informal agreements often constitute the basis for technical cooperation in fields as varied as border control, return and reintegration, search and rescue at sea, and anti-smuggling and anti-trafficking law. They are often accompanied by additional

⁵³ Laube 2019.

⁵⁴ Cremona and Rijpma 2007, p. 15.

⁵⁵ Despite migration featuring as one of the main objectives of EU-Africa relations, there exist few fully-fledged international agreements between the EU and the African States on migration, such as the association agreements with Tunisia (1998) and Morocco (2000), which contain migration clauses, and EU readmission agreements with Cape Verde (2013).

⁵⁶ Carlier, Crépeau and Purkey 2020.

⁵⁷ Cardwell 2016; García Andrade 2018; Ott 2020; Wessel 2021; Kassoti and Idriz 2022.

⁵⁸ For instance, Mobility Partnerships (Cape Verde, 2008; Morocco, 2013; and Tunisia, 2014), Common Agendas on Migration and Mobility (Nigeria, 2015 and Ethiopia, 2015); informal readmission agreements (EU-Guinea, 2017; Ethiopia, 2018; the Ivory Coast, 2018 and The Gambia, 2018).

funding intended to help fulfil the commitments they spell out. Between 2023 and 2024, the EU concluded four new agreements with Tunisia, Mauritania and Egypt.⁵⁹

Moreover, the EU promotes changes concerning migration in the domestic legal orders of third countries with instruments that are not necessarily linked to external migration competence, such as development cooperation.⁶⁰ In fact, other areas of EU external competences are also mobilised for migration control purposes.⁶¹ EU external funding for migration has multiplied. This is shown by the flexible budget lines of the new regulation Global Europe—Neighbourhood, Development and International Cooperation Instrument (NDICI) from the Multiannual Financial Framework (2021–2027).⁶² Indeed, ten per cent of this financial window is earmarked for migration projects in third countries. The blurring between policy fields affects both the quality of the legal instruments in the external policies and the consistency of EU external relations, with migration control objectives prevailing over the main stated objective of development assistance which is to fight poverty in third countries.⁶³

The EU's legal influence in African States is particularly evident in the implementation of the European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa. The creation of this emergency Trust Fund testifies to the increased trend toward diverting funding formerly allocated to EU development cooperation to migration management objectives such as “improved migration management,” and to a geographical re-allocation of development aid to countries deemed key in terms of migration control, which are not necessarily the ones who most need aid.⁶⁴

The EUTFA “was formally constituted at the Valletta Summit on Migration held on 11–12 November 2015.”⁶⁵ The Valletta Summit represented a critical juncture in EU–Africa inter-continental cooperation on migration.⁶⁶ Adopted at the summit, the Valletta Political Declaration and Joint Action Plan laid down a series of commitments whereby the EU supports third countries in migration management, with a focus on irregular migration from Africa to Europe. The Valletta Action Plan calls

⁵⁹ Memorandum of Understanding (Tunisia, 2023), Joint Declaration for a Migration Partnership (Mauritania, 2024), and Joint Declaration on the Strategic and Comprehensive Partnership (Egypt, 2024).

⁶⁰ European Parliament, Growing impact of EU migration policy on development cooperation, briefing of November 2017.

⁶¹ Other areas are the EU Enlargement Policy, the Common Foreign and Security Policy or Common Defense and Security Policy area and are beyond the scope of this Chapter.

⁶² Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument—Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009, OJ L 209, 14 June 2021, pp. 1–78.

⁶³ Poli 2020; Goldner Lang 2022; García Andrade 2022.

⁶⁴ Davitti and La Chimia 2017; Castillejo 2017; Barana 2017.

⁶⁵ Commission, Decision C (2015) 7293.

⁶⁶ Valletta Summit, 11 and 12 November 2015, Political Declaration and Action plan.

for “efforts to mainstream migration into [...] development cooperation” and identifies the EU Trust Fund as a tool to support the implementation of the commitments spelled out in the Valletta Political Declaration and Joint Action Plan.⁶⁷ As the implementing branch of the Valletta Action Plan, this emergency funding fulfil[s] the objectives, implement[s] the Valletta Action Plan and complement[s] financial instruments available for cooperation with African partners by the EU, its Member States and associated countries.⁶⁸

In the words of the Commission and the European External Action Service, funding “ensure[s] that the actions undertaken [...] continue delivering results.”⁶⁹ Under the EUTF, the Union conducts cooperation on migration with 26 African States to “address the crises in the regions of the Sahel and the Lake Chad, the Horn of Africa, and the North of Africa.”⁷⁰ EU Trust funds are only established if there is an added value to EU intervention (meaning that the scale or potential effects are better achieved at the Union level) when the use of the existing financing instruments is not sufficient to achieve EU policy objectives or if they bring clear political visibility for the EU and managerial advantages as well as better control of donors’ contributions.⁷¹ In this regard, the EU Trust Fund for Africa is a great showcase for the European Union’s role as an international actor in development cooperation and migration. Four strategic areas of intervention are identified: “promoting economic and employment opportunities”, “strengthening resilience of communities”, “improved migration management”, “improved governance and conflict prevention”.⁷² However, the way this funding was approved is itself the subject of criticisms due to the poor argumentation on the existence of a crisis justifying the funding.⁷³

The organisational elements of the EUTF can also be criticised. The EU Trust Fund for Africa has two governing bodies: the Trust Fund Board, which sets the global strategy of the fund, and the Operational Committee, which decides on the funding

⁶⁷ Valletta Summit, Action plan, 11–12 November 2015, p. 1.

⁶⁸ Annex IV to the Agreement establishing the European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa and its internal rules, p. 3.

⁶⁹ European Commission, Report to the European Parliament, the European Council and the Council, Fourth progress report on the partnership framework with third countries under the European Agenda on Migration, 13 June 2017, COM (2017)350, p. 16.

⁷⁰ Commission, Decision C (2015) 7293, Article 1.

⁷¹ European Parliament 2018.

⁷² European Commission, ‘EUTF FOR AFRICA. The EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa’, factsheet, © European Union, 2020.

⁷³ The EU Trust funds are established for situations of emergency, post-emergency and for thematic actions that are deemed necessary to react to a crisis through a constitutive agreement between the European Commission and the donors according to Articles 187 and 259 of the Financial Regulation 966/2012. See Spijkerboer and Steyger 2019; Kervyn and Shilhav 2017.

allocation to individual actions.⁷⁴ Both bodies are chaired by the European Commission. They are composed of representatives of the European External Action Service (EEAS), EU and non-EU donors (as full members), and, where concerned, representatives of the African countries and their regional organisations (as observers).⁷⁵ While the EU and the African States are on an equal footing in the Valletta Political Declaration and Action Plan, the EU's priorities dominate the EUTF.⁷⁶ The EU, as the donor, has the power to decide when, how, to whom, and for what purpose the funds will be allocated.⁷⁷ On the contrary, as observers, the African States have little decision-making power on the content of the actions funded under the EUTF, even though their implementation directly concerns their legal systems. Some of the projects funded envisage the development and review of domestic law in African countries or aim at building or reinforcing domestic law enforcement capacities, hence their "normative content." As such, external funding from development cooperation (the EUTF) became an instrument through which the Union exercises its legal influence on migration in third countries.

In 2017, the European Commission and the European External Action Service already reported that:

[i]n the space of one year [2016-2017], several African partner countries have adopted or reviewed migration management strategies and legislation, in cooperation with the EU.⁷⁸

These legal changes in the domestic legal orders of the African States result from the implementation of the projects funded under the EU Trust Fund for Africa. Analysing some of these projects' technical content offers the empirical basis to reflect on the EU's legal influence over the African States. Such projects produce legal effects in third countries, including introducing changes in third countries' legislation, collecting and exchanging personal data for migration control purposes, and building law enforcement capacity through training and material contributions, such as equipment and technology for border surveillance.

In the area of anti-smuggling and anti-trafficking law, the projects funded by the Union aim to improve the capacity of the African countries' authorities (often the police and the judiciary) to take action against criminal networks linked to the smuggling of migrants and trafficking in human beings or otherwise involved in irregular migration. This is the case in Mauritania, where the EU supports the Mauritanian authorities by establishing "a strong institutional system and good governance based on the accountability of national authorities".⁷⁹ This is also the case in Mali,

⁷⁴ Constitutive agreement establishing the European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, and its internal rules, done at La Valletta, on 12 November 2015, Article 4.

⁷⁵ *Ibid.*, Article 5.

⁷⁶ Spijkerboer 2022.

⁷⁷ Clemens and Postel 2018.

⁷⁸ European Commission, Report to the European Parliament, the European Council and the Council, Fourth progress report on the partnership framework with third countries under the European Agenda on Migration, 13 June 2017, COM (2017)350, p. 2.

⁷⁹ EUTF action project T05-EUTF-SAH-MR-09, p. 12.

where the EU's objective is to increase "the volume of cases on criminal networks involved in migrant smuggling and trafficking in human beings [...] investigated by the police and improving the corresponding resolution rate."⁸⁰ And this is also the case in Morocco.⁸¹ The EU's legal influence in the African States is thus exercised to contain irregular migrants directly on the African States' territory before they reach the EU borders. This is done by promoting the enforcement of national laws in line with the UN Palermo Protocols against smuggling and trafficking in human beings.⁸² This objective is acknowledged with these words in another regional project concerning the smuggling of migrants and the trafficking in human beings within and from the Horn of Africa:

[m]igration management has been strengthened by [...] supporting the domestication of international conventions such as the Palermo Protocol into national law.⁸³

In the area of the law of the sea, the EU is notoriously closely involved in developing Search and Rescue (SAR) capacities in third countries, such as Morocco, Tunisia and Libya.⁸⁴ Thanks to the EU's financial and technical support, these countries have scaled up their SAR capacities, sometimes by undertaking concrete legal actions such as the official notification of a SAR region to the International Maritime Organization and the set-up of a Maritime Rescue Coordination Centre. The EU is responsible for augmenting those countries' physical and technical infrastructure used to perform SAR activities by delivering them vessels, technology, and technical training. While the proclaimed objective of these projects is to save people from dying at sea, the parallel objective is preventing people from reaching EU territory irregularly. In Libya, an EUTFA project aims to support the "Libyan authorities to enable them to better perform lifesaving Search and Rescue (SAR) operations at sea and improve the control/management of their borders."⁸⁵

Different projects funded by the EUTFA support the modernisation of domestic civil registry systems, including the collection of biometric data in the Ivory Coast, Senegal, and Guinea.⁸⁶ The EU's interest in such projects concerns potential migrants irregularly staying in the EU, aiming to facilitate their eventual expulsion by rendering the identification procedures smoother. Similarly, the EU Agency Frontex runs projects to support the African States in collecting data and sharing information in the field of migrant smuggling and other border security threats affecting African countries and the EU.⁸⁷ Frontex declares that this is done "through a series of capacity-building activities which aim to develop national and regional strategies,

⁸⁰ EUTFA action project T05-EUTF-SAH-ML-13, p. 8.

⁸¹ EUTFA action project T05-EUTF-NOA-MA-07.

⁸² Stoyanova 2020.

⁸³ EUTFA action project T05-EUTF-HOA-REG-78, p. 4.

⁸⁴ EUTFA action project T05-EUTF-NOA-REG-07.

⁸⁵ Action project number T05-EUTF-NOA-LY-07, p. 3.

⁸⁶ EUTFA action projects T05-EUTF-SAH-CI-02 (Ivory Coast) and T05-EUTF-SAH-SN-07 (Senegal) and T05-EUTF-SAH-GN-05 (Guinea). See Privacy international 2021.

⁸⁷ Africa-Frontex Intelligence Community (AFIC).

set up integrated border management systems, strengthen police and criminal justice responses, as well as to improve the collection, sharing and analysis of data relevant to cross border crime.”⁸⁸ Data from partner countries are collected “with the aim of creating a picture of the situation at the EU’s external borders and the key factors influencing and driving it”.⁸⁹ Frontex’s capacity-building in third countries is based on the EU’s risk analysis that Africa is one of the regions “where threats and challenges for the EU external border originate”.⁹⁰

These examples illustrate how and for what purposes capacity-building projects funded under the EUTFA are implemented in third countries. This proactive action of the EU is instrumental to the EU’s interest in preventing irregular migration. By delving into the content of the EUTFA’s projects and looking beyond the “technical cooperation” label, we learn that the projects have a clear normative objective insofar as they produce legal effects in third countries. Third countries’ compliance with international law (e.g. compliance with anti-smuggling and anti-trafficking law, the law of the sea, global security law, etc.) is promoted in the EU’s external action as long as it serves the EU’s interest in migration control. Micinski and Bourbeau argue that “capacity building” has been extensively used to influence the migration policy of States in the Global South as a form of intervention-lite by the Global North, impacting on third States’ sovereignty.⁹¹ They observe that “capacity building attempts to depoliticise essentially political intervention” while “re-enforc[ing] the long-standing power dynamics in which [migrant] destination countries dictate policy preferences to [migrant] sending countries in ways that are hard to contest.”⁹² Thanks to the allocation of external funding, third countries are persuaded by the EU to align normatively with the EU’s objective of preventing irregular migration from the African continent. Third countries’ authorities adhere to such objectives with support provided by the EU in developing and implementing their legal frameworks in line with the EU’s interests in migration control.

10.4 Conclusion

The EU’s legal influence on migration captures some of the effects produced by the different instruments of EU external action. The EU’s legal influence is a complex combination of soft law instruments, resource allocation, and conditionality mechanisms. While informal agreements may differ from one another in terms of language, level of formality, and binding force, they do not differ in terms of their transactional

⁸⁸ Frontex, Strengthening of AFIC as an instrument to fight serious cross-border crimes affecting Africa and the EU, 2017, p. 2.

⁸⁹ Frontex’s website, under ‘Risk Analysis’ <https://frontex.europa.eu/what-we-do/monitoring-and-risk-analysis/risk-analysis/risk-analysis/>.

⁹⁰ Ibid.

⁹¹ Micinski and Bourbeau 2023.

⁹² Ibid., p. 8.

aspect of offering third countries money—from EU external funding, and mainly from development cooperation—in exchange for actions strengthening migration control and migration prevention from the third country concerned.

The main theme underlying the Valletta Action Plan is that of “capacity-building” of the African States’ local and national authorities to “manage migration,” “manage borders,” “manage voluntary returns,” “fight against the smuggling of migrants and trafficking in human beings,” “ensure security and fight terrorist threats,” “to counter the production and use of forged and fraudulent documents,” and so on.⁹³ The term “capacity” and its variations occur twenty-one times in the text of the Action Plan, often associated with verbs such as “reinforce,” “strengthen,” “build,” “enhance,” or “step-up.”

The EU’s political and financial efforts in EU-Africa migration cooperation are effective in achieving legal objectives in third countries, namely preventing irregular migration to the EU territory. External effects in the legal orders of the African States result from the combined impact of non-legal instruments, such as political agreements (i.e. the Valletta Political Declaration and the Valletta Action Plan) and the external funding accompanying the Declaration (the EUFTA). In this case, the *source* of the regulatory activity producing external effects is soft. As for the *outcomes*, implementing the EUTFA’s projects brings about legal changes in the domestic legal orders of the African States by supporting the adoption of new migration laws or more vigorous enforcement of existing ones in line with the EU’s interests.

There is a need for legal scholars to engage with the EU’s capacity-building in third countries because it is a key aspect of migration cooperation. Behind this outwardly neutral activity lies an international normative agenda of migration control and prevention. Often, the managerial style in which the information is provided prevents readers from fully understanding projects’ implications, including legal ones. This is often coupled with obstacles to accessing relevant information about informal instruments and cooperation projects funded in third countries. Reading between the lines of the projects’ description is often necessary to overcome the uncertainty and elusiveness about the scope and impact of EU migration cooperation.

As shown by the examples drawn from cooperation projects, the normative alignment of third countries to EU interests does not relate directly to EU law, but indirectly to international law. The EU explicitly advises and supports third countries to help them align with international law—in fields as varied as international refugee law, the law of the sea, and anti-smuggling and anti-trafficking law. Implicitly, and most importantly, this alignment of third countries to international law promoted by the EU is instrumental to the EU’s abandonment of its own international law obligations towards migrants, including asylum seekers.

The use of soft law instruments and external funding for achieving migration control objectives in third countries, prevailing over other EU external objectives, raises a series of issues regarding the role of the European Union as an international legal actor in migration. First, the increasing involvement of third countries in preventing irregular migration to the EU has had the effect of absolving the EU and

⁹³ Valletta Summit, 11 and 12 November 2015, Action Plan.

its Member States of their responsibility and legal obligations to protect migrants, perpetuating externalisation dynamics. Moreover, because of their uncertain legal nature and the disregard for formal procedures for their conclusion, soft law instruments prevent democratic and judicial control over their content and implementation. This contributes to an increasing gap between the EU constitutional framework—which establishes rules, principles, values, and objectives to be respected in EU external action—and cooperation in practice.

Soft law instruments are thus used by the EU not in opposition to international law, but in correlation with it. Requiring African states to comply with certain aspects of international migration law (securitising, criminalising) is a strategy implemented by the EU to pursue its own regional objectives of control. In this regard, it is essential to engage with EU capacity-building activity as it reveals the European Union's effect on the creation and sustainability of institutional capacities of third countries' migration authorities, and in designing their migration laws and enabling their enforcement. Despite the EU wanting to portray itself as a proponent of multilateralism—which requires cooperation in the pursuit of a common goal—the EU's regional objective of migration control prevails over truly global efforts in regulating migration, thus contributing to inequalities.

References

- Atak I and Crépeau F (2015) Managing Migrations at the External Borders of the European Union: Meeting the Human Rights Challenges. *European Journal of Human Rights*, pp. 591–622.
- Barana L (2017) The Eu Trust Fund for Africa and the Perils of a Securitized Migration Policy. *Istituto Affari Internazionali*. Available at: <https://www.iai.it/sites/default/files/iaicom1731.pdf>.
- Bradford A (2020) *The Brussels effect: how the European Union rules the world*. Oxford University Press, Oxford. <https://doi.org/10.1093/oso/9780190088583.001.0001>.
- Burlyuk O, Dandashly A, and Noutcheva G (2023) External democracy promotion in times of internal rule-of-law crisis: the EU and its neighbourhood. *Journal of European Public Policy*, 31(3), pp. 900–924. <https://doi.org/10.1080/13501763.2023.2181381>.
- Cardwell P J (2016) Rethinking Law and New Governance in the European Union: the Case of Migration Management. *European Law Review*, 41(3), pp. 362–378.
- Carlier J-Y, Crépeau F and Purkey A (2020) From the European 'Migration Crisis' to the Global Compact for Migration: A Political Transition Short on Legal Standards. *McGill Journal of Sustainable Development*, vol. 16, no. 1, pp. 37–81.
- Casolari F and Gatti M (2023) *The Application of EU Law Beyond its Borders*. T.M.C. Asser Institute, The Hague.
- Castillejo C (2016) The European Union Trust Fund for Africa: A glimpse of the future for EU development cooperation. *DIE Discussion Paper*, no. 22. Available at: https://www.idos-research.de/uploads/media/DP_22.2016.neu.pdf.
- Castillejo C (2017) The European Union Trust Fund for Africa: What Implications for Future EU Development Policy? *DIE Briefing paper*, no 5. Available at: https://www.die-gdi.de/uploads/media/BP_5.2017.pdf.
- Clemens M A and Postel H M (2018) Deterring emigration with foreign aid: An overview of evidence from low-income countries. *Population and development review*, 44(4), pp. 667. <https://doi.org/10.1111/padr.12184>.

- Coman-Kund F (2019) The cooperation between the European Border and Coast Guard Agency and third countries according to the new Frontex Regulation: legal and practical implications. in H. C.H. Hofmann, E. Vos, and M. Chamon, *The External Dimension of EU Agencies and Bodies*. Edward Elgar Publishing, Cheltenham, <https://doi.org/10.4337/9781788973755.00009>.
- Costello C and Mann I (2020) Border justice: migration and accountability for human rights violations. *German Law Journal*, 21, pp. 311–334. <https://doi.org/10.1017/glj.2020.27>.
- Constitutive agreement establishing the European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, and its internal rules, done at La Valletta, on 12 November 2015.
- Cremona M and Rijpma J (2007) The Extra-Territorialisation of EU Migration Policies and the Rule of Law, *EUI Working Papers LAW*, 2007/01, pp. 1–24.
- Davitti D and La Chimia A (2017) A lesser evil? The use of aid funding to foster immigration control. *The Irish Yearbook of International Law*, vol. 10, pp. 132–162.
- Doleys T J (2012) Promoting Competition Policy Abroad: European Union Efforts in the Developing World. *The Antitrust Bulletin*, vol. 57, no. 2, pp. 337–366. <https://doi.org/10.1177/0003603X1205700205>.
- European Commission (2015) Decision on the establishment of a European Union Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa, 20 October 2015 C (2015) 7293 final.
- European Commission, *The Global Approach to Migration and Mobility*, COM (2011)743, 18 November 2011.
- European Commission, *Communication on establishing a new Partnership Framework with third countries under the European Agenda on Migration*, COM (2016)385 final, 7 June 2016.
- European Commission, *New Pact on Migration and Asylum*, COM (2020)609 final, 23 September 2020.
- European Council, *Presidency Conclusions*, Brussels, point 4 and Annex I, ‘Global Approach to Migration: Priority actions focusing on Africa and the Mediterranean’, 15–16 December 2005.
- European Parliament (2018) *Oversight and Management of the EU Trust Funds Democratic Accountability Challenges and Promising Practices*, 2018.
- Fahey E (2020) Unravelling the subjects and objects of EU external migration law. In Bigo D *et al.* (eds.) *The Routledge Handbook of Critical European Studies*. Routledge International Handbooks Routledge, London, pp. 441–451.
- Fahey E (2016) *The Global Reach of EU Law*. Routledge, London.
- Frasca E and Roman E (2023) The informalisation of EU readmission policy: Eclipsing human rights under the shadows of informality and conditionality. *European Papers*, vol. 8, no. 2, pp. 931–957. <https://doi.org/10.15166/2499-8249/695>.
- Frasca E (2023) Informal agreements and quasi-legal mechanisms in EU-Africa cooperation on migration: How the EU takes advantage of the GCM commitments. *Front. Hum. Dyn.*, 5:1207628, pp. 1–14.
- García Andrade P (2022) The External Dimension of the EU Migration Policy: The Legal Framing of Building Partnerships with Third Countries. In Tsourdi L and De Bruycker P. (eds.) *Research Handbook on EU Migration and Asylum Law*. Edward Elgar Publishing, Cheltenham, pp. 288–365.
- García Andrade P (2018) EU External Competences in the Field of Migration: How to Act Externally When Thinking Internally. *CMLR*, vol. 55 (1), pp. 157–200. <https://doi.org/10.54648/COLA2018006>.
- Gammeltoft-Hansen T and Tan N F (2020) Topographical Approach to Accountability for Human Rights Violations in Migration Control. *German Law Journal*, 21, 3, pp. 335–354.
- Ganty S, Jolkina A and Kochenov D (2023) EU Lawlessness Law at the EU-Belarusian Border: Torture and Dehumanisation Excused by “Instrumentalisation”. *MOBILE Working Paper Series*, no. 18.
- Ganty S, Kochenov D (2024) How the EU Death Machine Works. *VerfBlog*, 27 February 2024 <https://doi.org/10.59704/2ed9974995567485>.

- Goldner Lang I (2022) Financial Aspects of the EU's New Pact on Migration and Asylum: Towards Stronger EU-Funded Policy Implementation? In Thym D (ed.), *Reforming the Common European Asylum System*. Nomos, Baden-Baden, pp. 239–255.
- Govaere I (2022) Promoting the rule of law in EU external relations: A conceptual framework, College of Europe, Research Paper in Law, n° 3.
- Gstöhl S (2023) The Pattern of Affiliations between the EU and its Neighbours: Normative, Market and Governance Power Europe. In Fossum J E and Lord C, *Handbook on the European Union and Brexit*. Edward Elgar, Cheltenham, pp. 328–344.
- Guérin N (2010) One wave of reforms, many outputs: The diffusion of European asylum policies beyond Europe. *Journal of European Public Policy*, 25(7), pp. 1068–1087.
- Guild E (2019) The Global Approach and Partnership Framework. In De Bruycker P, De Somer M, De Brouwer J-L (eds.) *From Tampere 20 to Tampere 2.0: Towards a new European consensus on migration*. European Policy Centre, Brussels. Available at: <https://www.epc.eu/en/publications/From-Tampere-20-to-Tampere-20-Towards-a-new-European-consensus-on-mi~2d99d4>.
- Kassoti E and Idriz N (2022) The Informalisation of the EU's External Action in the Field of Migration. T.M.C. Asser Institute, The Hague. <https://doi.org/10.1007/978-94-6265-487-7>.
- Kunz R, Lavenex S and Panizzon M (2011) Governance through partnerships in international migration. In Kunz R, Lavenex S and Panizzon M (eds.) *Multi-layered Migration Governance: The promise of partnership*. Routledge, London, pp. 1–20.
- Kotzur M, Moya D, Sözen Ü and Romano A (2020) *The External Dimension of EU Migration and Asylum Policies*. Nomos, Baden-Baden.
- Kervyn E and Shilhav R (2017) An emergency for whom?: The EU Emergency Trust Fund for Africa—migratory routes and development aid in Africa, Oxfam International, November 2017. Available at <https://www.oxfam.org/en/research/emergency-whom-eu-emergency-trust-fund-africa-migratory-routes-and-development-aid-africa>.
- Lambert J, McAdam J and Fullerton M. (2013) *The Global Reach of European Refugee Law*. Cambridge University Press, Cambridge.
- Lavenex S (2014) The power of functionalist extension: how EU rules travel. *Journal of European Public Policy*, 21:6, pp. 885–903, <https://doi.org/10.1080/13501763.2014.910818>.
- Lavenex S, Schimmelfennig F (2009) EU Rules Beyond EU Borders: Theorizing External Governance. *Journal of European Public Policy* 16/6, 2009, pp. 791–81.
- Liguori A (2019) *Migration Law and the Externalization of Border Controls: European State Responsibility*. Routledge, London.
- Laube L (2019) The Relational Dimension of Externalizing Border Control: Selective Visa Policies in Migration and Border Diplomacy. *Comparative Migration Studies* 29.
- Maes M, Foblets M-C and De Bruycker P (2011) *External Dimensions of EU Migration and Asylum Law and Policy*. Bruylant, Bruxelles.
- Manners I (2002), Normative Power Europe: A Contradiction in Terms? *JCMS*, 40(2), pp. 235–258.
- Marin L (2020) The Cooperation between Frontex and Third Countries in Information Sharing: Practices, Law and Challenges in Externalizing Border Control Functions. *European Public Law*, n° 1, pp. 157–180.
- Micinski N R and Bourbeau P (2023) Capacity Building as Intervention-Lite: Migration Management and the Global Compacts. *Geopolitics*, pp. 1–25.
- Molnár T (2021) *The Interplay between the EU's Return Acquis and International Law*. Edward Elgar Publishing, Cheltenham.
- Moreno-Lax V and Lemberg-Pedersen M (2019) Border-induced displacement: The ethical and legal implications of distance-creation through externalization. *Questions of International Law*, 56(1), pp. 5–33.
- Moreno-Lax V and Giffré M (2019) The Rise of Consensual Containment: From “Contactless Control” to “Contactless Responsibility” for Forced Migration Flows. In Juss J (ed.) *Research Handbook on International Refugee Law*, Edward Elgar, Publishing, Cheltenham, pp. 82–108.

- Ott A (2020) Informalization of EU bilateral instruments: Categorization, contestation, and challenges. *Yearbook of European Law*, vol. 39, 2020, pp. 569–601. <https://doi.org/10.1093/yel/yeaa004>.
- Petrov R (2008) Exporting the *Acquis Communautaire* into the Legal Systems of Third Countries. *European Foreign Affairs Review*, vol13, Issue 1, pp. 33–52. <https://doi.org/10.54648/eerr2008002>.
- Pijnenburg A, Gammeltoft-Hansen T and Rijken C (2018) Controlling Migration through International Cooperation. *European Journal of Migration and Law*, 20, pp 365–371. <https://doi.org/10.1163/15718166-12340034>.
- Poli S (2020) The Integration of Migration Concerns into EU External Policies: Instruments, Techniques and Legal Problems. *European Papers*, vol. 5, no. 1, pp. 71–94. <https://doi.org/10.15166/2499-8249/374>.
- Privacy international (2021) The EU, the Externalisation of Migration Control, and ID Systems: Here's What's Happening and What Needs to Change, 15 October 2021, available at <https://privacyinternational.org/long-read/4651/eu-externalisation-migration-control-and-id-systems-heres-whats-happening-and-what>.
- Rapoport C (2021) À la recherche des frontières de l'extraterritorialité du droit de l'Union européenne: essai d'identification des manifestations d'un phénomène nébuleux. In Dubout E, Martucci F et Picod F (eds.) *L'extraterritorialité en droit de l'Union européenne*. Bruylant, Bruxelles, pp. 17–45.
- Redondo Alamillos R and de Mariz, F (2022) How Can European Regulation on ESG Impact Business Globally? *J. Risk Financial Manag.* 15, 291. doi.org/<https://doi.org/10.3390/jrfm15070291>.
- Ryan B (2019) The Migration Crisis and the European Union Border Regime. In Cremona M and Scott J (eds) *EU Law Beyond EU Borders: The Extraterritorial Reach of EU Law*. Oxford Academic, Oxford, pp. 21–83. <https://doi.org/10.1093/oso/9780198842170.003.0007>.
- Ryngaert C and Taylor M (2020) The GDPR as Global Data Protection Regulation? *AJIL Unbound*, 114, pp. 5–9. <https://doi.org/10.1017/aju.2019.80>.
- Saurugger S and Terpan F (2020) Normative transformations in the European Union: on hardening and softening law. *West European Politics*, 44(1), pp. 1–20. <https://doi.org/10.1080/01402382.2020.1762440>.
- Schimmelfennig F and Sedelmeier U (2020) The Europeanization of Eastern Europe: the external incentives model revisited, *Journal of European Public Policy*, 27:6, pp. 814–883.
- Scott J (2019) The Global Reach of EU Law. In Cremona M and Scott J (eds) *EU Law Beyond EU Borders: The Extraterritorial Reach of EU Law*. Oxford Academic, Oxford, pp. 21–83.
- Scott J (2014) Extraterritoriality and Territorial Extension in EU Law. *American Journal of Comparative Law*, 62 (1), pp. 87–125.
- Sedelmeier U (2011) Europeanisation in new member and candidate States. *Living Reviews of European Governance*, 5, 1 (6), pp. 1–52.
- Spijkerboer T (2018) The Global Mobility Infrastructure: Reconceptualising the Externalisation of Migration Control, *European Journal of Migration and Law*, vol. 20(4), pp. 452–469. <https://doi.org/10.1163/15718166-12340038>.
- Spijkerboer T (2019) The New Borders of Empire: European Migration Policy and Domestic Passenger Transport in Niger, in Caught in Between Borders. In Minderhoud P, Mantu S and Zwaan K (eds.) *Citizens, migrants and humans. Liber Amicorum in honour of Prof. Dr. Elspeth Guild*. Wolf Legal Publishers, Tilburg, pp. 49–57.
- Spijkerboer T and Steyger E (2019) External Migration Funds and Public Procurement Law. *European Papers*, Vol. 4, no. 2, pp. 493–521. <https://doi.org/10.15166/2499-8249/320>.
- Spijkerboer T (2022) Migration management clientelism: Europe's migration funds as a global political project. *Journal of Ethnic and Migration Studies*, 16, pp. 2892–2907. <https://doi.org/10.1080/1369183X.2021.1972567>.

- Stoyanova V (2020) The Right to Life Under the EU Charter and Cooperation with Third States to Combat Human Smuggling. *German Law Journal* 21, pp. 436–458. <https://doi.org/10.1017/glj.2020.22>.
- Thym D (2023) *European Migration Law*. Oxford University Press, Oxford.
- Temprano Arroyo H (2019) Using EU Aid to Address the Root Causes of Migration and Refugee Flows. European University Institute, Migration Policy Centre).
- Tittel-Mosser F (2018) Reversed Conditionality in EU External Migration Policy: The Case of Morocco. *Journal of Contemporary European Research*, vol. 14, no. 4, pp. 349–363. <https://doi.org/10.30950/jcer.v14i3.843>.
- Valletta Political Declaration and Action Plan (2015) Valletta Summit, 11–12 November 2015, Political Declaration and Action Plan. Available online at: https://www.consilium.europa.eu/media/21839/action_plan_en.pdf.
- Wessel R A (2021) Normative transformations in EU external relations: the phenomenon of soft international agreement. *West European Politics*, 44(1), pp. 72–92. <https://doi.org/10.1080/01402382.2020.1738094>.
- Withman R (2011) *Normative Power Europe. Empirical and Theoretical Perspectives*. Palgrave Macmillan, London. <https://doi.org/10.1057/9780230305601>.

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