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► **To cite this version:**

Jean-Pierre Cassarino. A Reappraisal of the EU's Expanding Readmission System. *The International Spectator*, 2014, 49 (4), pp.130-145. 10.1080/03932729.2014.954184 . hal-01275973

HAL Id: hal-01275973

<https://hal.science/hal-01275973>

Submitted on 18 Feb 2016

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A Reappraisal of the EU's Expanding Readmission System

Jean-Pierre Cassarino

Readmission is not simply a means of removing undesirable foreigners through coercive methods. When viewed as a way of ensuring the temporary stay of foreign workers in the labour markets of European destination countries, readmission may also impact on the participatory rights of a growing number of native workers facing equally temporary (and precarious) labour conditions, in a context marked by employment deregulation and wage flexibility. These implications have clear democratic significance. A new analytical perspective applied to the expansion and development of the readmission system, is aimed at promoting a reflection on an unexplored research area bridging the gap between labour migration regulation and labour market deregulation.

Keywords: Labour migration, readmission policy, labour markets, precariousness, labour rights

Readmission pertains to the removal of “persons who do not or no longer fulfil the conditions of entry to, presence in or residence in the requesting state”.¹ Readmission is not a new topic in law,² history, political science³ or International Relations.⁴ What is new, however, are the ways in which cooperation on readmission has been configured and practiced over the last three decades or so, while gaining tremendous momentum in bilateral and multilateral talks between European Union (EU) member states and non-EU countries. It could even be said that readmission has become a major crossover issue, weaving its way through various bilateral and

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¹European Commission, *Community Return Policy on Illegal Residents*, 26.

²Hailbronner, *Readmission Agreements and the Obligation of States*. See also Bouteillet-Paquet, “Passing the Buck”; Noll, “Readmission Agreements”, 495-7; Charles, *Accords de réadmission*; Coleman, *European Readmission Policy*; and Peers *et al.*, *EU Immigration and Asylum Law*, 553-89.

³Cassarino, “Informalising Readmission Agreements”; Trauner and Kruse, *EC Visa Facilitation and Readmission Agreements*.

⁴Panizzon, “Readmission Agreements of EU Member States”.

multilateral talks, ranging from the fight against terrorism to energy security, development aid, social protection and other diplomatic and strategic matters.

A large number of studies have focused on the growing securitisation of migration management policies in Western Europe to account for the pervasiveness of readmission in political discourses. This will not be discussed here, nor will the unquestionably coercive nature of readmission which represents just one aspect of the wider architecture that sustains and consolidates the readmission system in European democracies. This system has regulatory and disciplinary implications for foreigners and citizens alike. In a context marked by employment deregulation and wage flexibility, the temporary nature – imposed by readmission – of foreign workers' stays in the labour markets of European destination countries also impacts on the participatory rights of a growing number of native workers facing equally temporary (and precarious) labour conditions in a context marked by employment deregulation and wage flexibility.

This article is aimed at introducing a new analytical perspective as applied to the expansion and development of the readmission system. It seeks to promote a reflection on an unexplored research area bridging the gap between labour migration regulation and labour market deregulation. To do so, this article will not specifically engage with the theoretically informed literature on the external dimension of EU Justice and Home Affairs before or after the Lisbon Treaty. Rather, it takes stock of these scholarly debates, including those related to other key issue areas, with a view to capturing the coercive regulatory and disciplinary functions of the EU readmission system. It is hypothesized here that its current materialisation has implications for migrant workers *and* native workers more generally. Whereas the scholarship has started to address the regulatory function of readmission and its consequences on the social and economic conditions of migrant workers in industrialised economies,⁵ the disciplinary function of the readmission system has been unexplored so far. The disciplinary function refers to the capacity of the readmission system to contribute to or to feed into the drive for temporariness in labour market policies. This under-researched function implies a reconceptualisation which inevitably broadens the analytical spectrum.

The data

Countries of destination, transit and origin often cooperate on readmission by drafting an agreement. Bilateral agreements may be formalised, as is often the case, through the conclusion of standard agreements that specifically deal with readmission. However, making an inventory of bilateral standard readmission agreements would never suffice to provide a clear picture of the various cooperative mechanisms that have been designed to facilitate the removal of unauthorised aliens. Under certain circumstances, two states may agree to conclude a bilateral

⁵See for example De Genova, "Migrant 'Illegality' and Deportability". See also Walters, "Deportation, Expulsion"; and Anderson, "Migration, Immigration Controls".

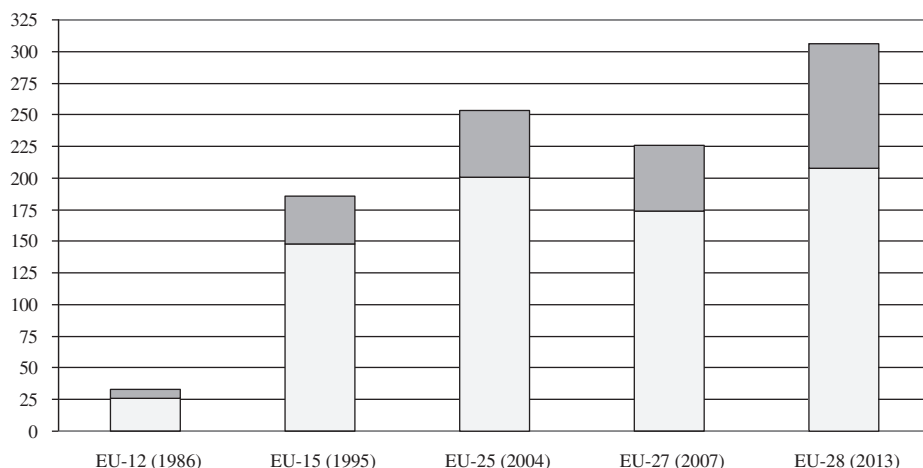


FIGURE 1. Number of bilateral agreements linked to readmission concluded by EU member states with non-EU countries, from the EU-12 to EU-28.

Note: The figure plots standard readmission agreements in light grey and non-standard agreements linked to readmission in dark grey.

Source: Data collected by the author, RDP © EUI, <http://rsc.eui.eu/RDP/ra>.

arrangement without necessarily formalising their cooperation on readmission. They may decide to graft readmission onto a broader framework of bilateral cooperation (e.g., police cooperation agreements including a clause on readmission, administrative arrangements, and partnership agreements) or to deal with it through other channels (e.g., by using exchanges of letters or memoranda of understanding).

Part of the rationale behind such non-standard agreements is to respond flexibly to various contingencies. The unbalanced costs and benefits⁶ that characterise cooperation on readmission have prompted various countries of immigration to opt for flexible cooperative regimes that do not require lengthy ratification processes and can easily be renegotiated to avoid unilateral defection. Many EU member states, as well as other countries around the world, have concluded such bilateral non-standard agreements in order to address re-documentation and the swift delivery of travel documents or *laissez-passeurs* to expel unauthorised aliens.

It is important to adopt a dual approach, encompassing agreements that are both standard and non-standard, to address properly the unprecedented expansion of the cobweb of bilateral agreements linked to readmission. At the time of writing (June 2014), the 28 EU member states had concluded more than 300 bilateral

⁶The unbalanced costs and benefits linked with bilateral cooperation on readmission were already addressed in detail in Cassarino, “Informalising Readmission Agreements”, 182: “While the interest of a destination country seems obvious (unwanted migrants have to be effectively removed), the interest of a country of origin may be less evident, above all when considering that its economy remains dependent on the revenues of its (legal and illegal) expatriates living abroad, or when migration continues to be viewed as a safety valve to relieve pressure on domestic unemployment.”

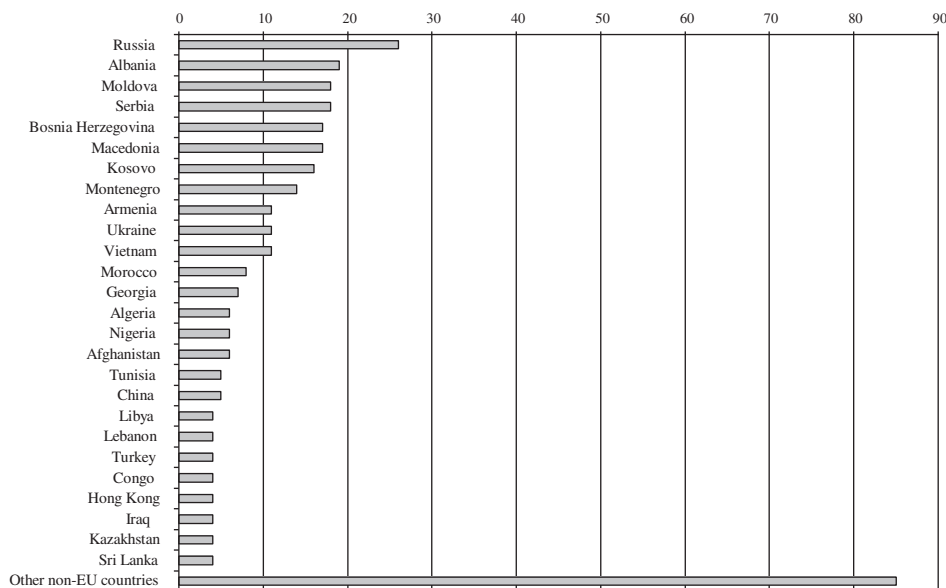


FIGURE 2. Number of bilateral agreements linked to readmission concluded by each non-EU country with the 28 EU member states (+ Iceland, Norway and Switzerland), June 2014. *Source:* Data collected by the author, RDP © EUI, <http://rsc.eui.eu/RDP/ra>.

agreements with more than 85 non EU-countries worldwide (see Figure 1). When the then European Community had 12 member states (1986), around 33 bilateral agreements existed. When the European Union had 25 member states (2004), the number of agreements had skyrocketed to 250. This total number slightly declined in 2007 as a result of the EU accession of Bulgaria and Romania (with which numerous bilateral agreements on readmission had been concluded by the EU-25 member states).⁷

In previous works,⁸ the numerous factors shaping patterns of bilateral cooperation were addressed in detail, putting emphasis on the need to consider the above-mentioned dual approach. This approach is, in fact, crucial to illustrating the full extent of an expanding web of bilateral agreements. It links together a growing number of highly diverse countries across all continents (see Figures 2 and 3): rich and poor, large and small, densely and scarcely populated, geographically close and distant, democratically governed with respect for human rights and authoritarian with poor human rights records.

Moreover, the reasons why patterns of cooperation differ markedly were explained, emphasising the ways in which international state actors codify their bilateral interactions. Such patterns are linked to complex contingencies that set

⁷The list of standard and non-standard agreements linked to readmission is accessible at <http://rsc.eui.eu/RDP/ra>.

⁸Cassarino, *Unbalanced Reciprocities*.

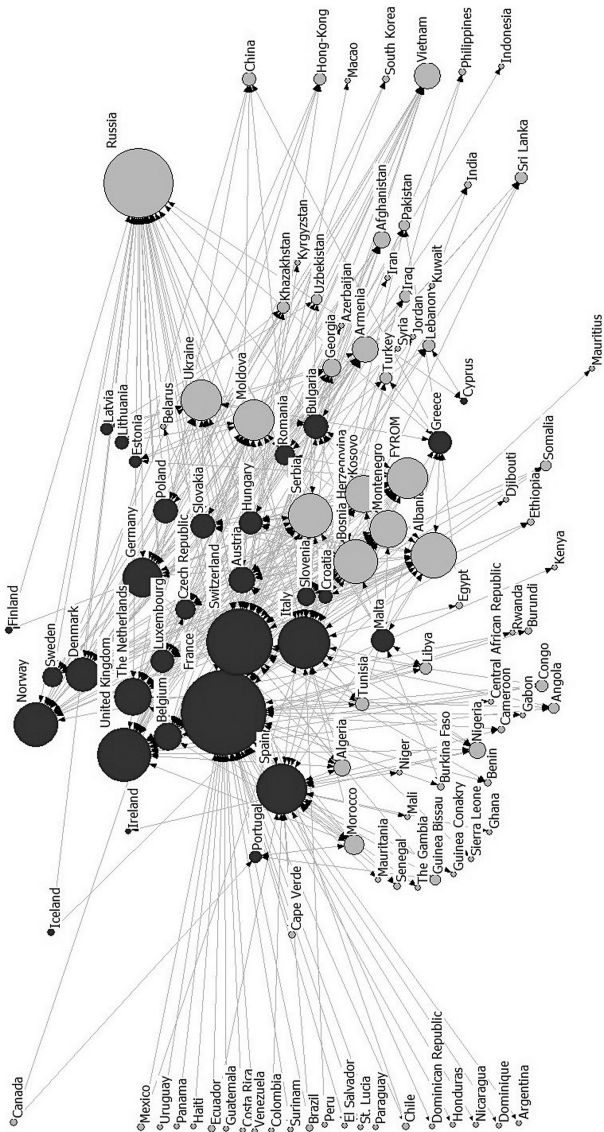


FIGURE 3. Cobweb of bilateral agreements linked to readmission concluded by the 28 EU member states (+ Iceland, Norway and Switzerland) with non-EU countries, June 2014.

Note: The bigger the circle, the stronger the involvement of the country in the cobweb of bilateral agreements. Darker blue circles indicate EU member states (+ Iceland, Norway, Switzerland).

Source: Data collected and processed by the author, RDP © EUJ, <http://rsc.eui.eu/RDP/ra>.

the boundaries of a domain in which bilateral cooperation on readmission is possible or foreseeable.

It can be noted that: 1) not all non-EU countries are equally prone to cooperate on readmission with an EU member state at the bilateral level and 2) the scope of cooperation is continuously shaped by the combination of four interdependent drivers. The first one has to do with 'geographic proximity', whereby two neighbouring countries are expected to have a higher propensity to cooperate with one another on readmission, owing to frequent cross-border movements. The second concerns the level of salience that migration and mobility have attained in the relations between one country and another. This second driver applies particularly to former European colonial powers which, given the unpopular impact of readmission on their historical relations with their former colonies, will more often than not opt for flexible (and less visible) non-standard agreements to ensure a modicum of cooperation without jeopardising their strategic relations. Cooperation may take place, while at the same time being shaped by sensitivities around the colonial legacy, and the collective memory of the actors involved. The third driver pertains to incentives and conditionality. These have been studied extensively by scholars across various disciplines, with reference to countries in the Western Balkans, the Caucasus and Eastern Europe, among others.⁹ These were offered entry quotas for their nationals, trade concessions, increased development aid, and visa facilitations, in order to offset the costs of cooperation, and to deter the state in question from renegeing over time. The fourth driver has to do with the positions of relative power certain non-EU states have attained over time in relation to issues that are just as strategically important as cooperation on readmission, if not more so. This noticeable empowerment has been conducive to enhanced regime legitimacy. It has also had implications for how cooperation on readmission has been configured, having a strong bearing on its implementation and scope.

Again, these drivers have been amply discussed elsewhere¹⁰ with a view to demonstrating that their combined, not individual, impact has affected the diversity to be seen in current patterns of cooperation. These drivers jointly delimit a domain of cooperation that today sustains an expanding readmission system.

The readmission system

Ever since the adoption of the Treaty of Amsterdam, which empowered the European Commission to negotiate and conclude EU readmission agreements

⁹Among many others, see Trauner and Kruse, *EC Visa Facilitation and Readmission Agreements*; Lavenex and Schimmelfennig, "EU Rules beyond EU Borders"; Panizzon, "Readmission Agreements of EU Member States".

¹⁰Cassarino, *Unbalanced Reciprocities*.

(EURAs) with third countries,¹¹ there has been a growing academic literature on this highly politicised and sensitive issue in the external relations of both the European Union and its member states. If the reasons why cooperation on readmission has become so pervasive in current bilateral talks are to be comprehensively addressed, the focus must be on the conditions that have contributed to making cooperation on readmission a key priority.

The readmission system is not only built on obligations arising from international customary law, as some lawyers would argue. Nor is it only a system based on incentives and unequal costs and benefits, as per the tenets of rational choice theory in International Relations. It is also a system dependent on certain predominant schemes of understanding, paradigms, and ideas, as well as a hegemonic lexicon shaping policy perceptions. These factors combine to delimit the boundaries of a system that is structured against a global (and at times chaotic) environment.

Undoubtedly, systems provide a “difference”¹² for those who belong to them and adhere (at least in theory) to their codes of conduct, values and visions. Systems also confer meaning on state actors’ repetitive interactions, even if their inherent meaningfulness does not necessarily equate with effectiveness. The readmission system is, as John Dryzek *et al.* would probably argue, a “concourse structure”, namely “the product of individual subjects, and one that, once created, provides a context for the further development of their subjectivity”.¹³ In effect, this system is also aimed at bestowing plausibility on policy options while seeking consent through ritual practices and habitual workings.

Recognition of such a system is important insofar as it draws attention to the need to consider the potential existence of a causal link between beliefs and (perceived) interests, subjectivities and priorities, as well as between values and policy agendas. In effect, even if cooperation on readmission is based on reciprocal commitments and obligations between countries of origin, on the one hand, and countries of transit and of destination, on the other, the conclusion of a readmission agreement is motivated by expected benefits which are unequally perceived by the contracting parties.¹⁴ In other words, its implementation is based on a fragile balance between the concrete benefits and costs attached to it. Policymakers know

¹¹See Lavenex and Stucky, “Partnering for Migration”; Cassarino, *Readmission Policy in the European Union*; Wolff, “The Politics of Negotiating”; Charles, *Accords de réadmission*; Coleman, *European Readmission Policy*; and Peers *et al.*, *EU Immigration and Asylum Law*.

¹²Luhmann, “System as Difference”.

¹³Dryzek *et al.*, “Subject and System in International Interaction”, 502.

¹⁴For example, country A may be motivated by the need to “tackle irregular migration” coming from or transiting through country B and by the desire to reinforce its credibility in migration controls with regard to its domestic constituency. Concomitantly, country B may be motivated to conclude a bilateral readmission agreement in exchange for enhanced international regime legitimacy (despite its poor human rights records) or because it seeks to reinforce at a certain point its leverage on country A with regard to other key issue areas (e.g. trade concessions, reinforced police cooperation, strategic diplomatic alliances...).

that reciprocal obligations¹⁵ are too asymmetrical to secure the full implementation of an agreement on readmission in the long run. They also know that grafting cooperation on readmission onto other issue areas may compensate for the unbalanced reciprocities characterising cooperation on readmission. Among others, it is because of this awareness that the cobweb of readmission agreements has acquired formidable dimensions over the last two decades or so.

Relative gains-seeking can help explain why two state actors cooperate on readmission. Such relative gains¹⁶ do motivate state actors to cooperate or not. However, 'particular systems' are also shaped by beliefs, ideas and predominant schemes of understanding that can foster the conditions conducive to cooperation, and impact on the state actors' perceptions and behaviour. The readmission system and its expansion are a case in point.

Viewing the readmission system as a "concourse structure" is essential for investigating the conditions under which readmission has evolved over time and expanded, despite the asymmetric costs and benefits that characterise cooperation on readmission. Consequently, one is entitled to consider that the evolution and expansion of the readmission system have been contingent on the existence of broader conditions. In turn, these broader conditions have determined new functions having implications for labour migration and for labour *tout court*.

The system's three functions and the emergence of a new migration lexicon

Bilateral cooperation on readmission (whether based on standard or non-standard agreements) would never have taken on the spectacular magnitude that it has, beyond the moorings of national vested interests, had it not been for the emergence of exceptional epistemic conditions. Epistemic conditions pertain to the role of power in knowledge construction, as it applies to migration, labour and the meaning of work, in a Foucauldian sense. In other words, the expansion of the readmission system has also been contingent on overriding circumstances that have, over the last few decades, modelled the destiny of a growing segment of actors in all countries of migration. As a prerequisite to further explaining this point, a distinction has to be made between the coercive, regulatory and disciplinary functions underpinning the readmission system.

Readmission is coercive because it results from a prescriptive administrative order forcing a person to act in a specific way. Coercion has a double-edged effect. On the one hand, it leads to a sanction that might have severe implications for the rights and safety of foreign nationals, above all when they are physically removed to conflict-ridden countries or to countries where irregular migration is punished

¹⁵Keohane, "Reciprocity in International Relations", 1-27.

¹⁶Snidal, "Relative Gains and the Pattern of International Cooperation".

by law. On the other hand, its public manifestation reinforces the credibility of law-enforcement agencies,¹⁷ and by the same token reifies the managerial centrality of the state with regard to its constituencies. Border controls, the forecasting of yearly expulsion quotas and the proliferation of detention centres in the territory of EU member states contribute to making the presence of the sovereign more visible and powerful in the public eye, above all in times of economic crisis, social discontent and the retrenchment of the welfare state.

Readmission is regulatory because cooperation on readmission is one of the various mechanisms geared towards controlling people's mobility. From the point of view of officials and the expert opinion that they outsource, readmission is cast as *the* means to 'combat illegal migration', and to ensure the removal of denied asylum-seekers and unauthorised migrants. It has also been presented and used as the technical instrument for deterring regular migrant workers from overstaying their temporary job contracts. This regulatory function has gained momentum over the last fifteen years. At a bilateral level, countries like France, Italy and Spain have made the implementation of labour migration recruitment schemes conditional upon non-EU countries' reinforced cooperation on readmission with a view to ensuring the short-term recruitment of foreign labour in their domestic labour markets.¹⁸ For example, this conditionality is enshrined in Spain's *Plan Africa*, in Italy's bilateral arrangements with some Mediterranean countries, and in France's pacts on the joint management of international migration and codevelopment concluded with various African countries.

At EU level, this same conditionality became explicit following the adoption of the EU's Global Approach to Migration (GAM) in December 2005, which later led to the adoption of mobility partnerships.¹⁹ The EU's attempt to conditionally link mobility partnerships with cooperation on readmission reflects how the regulatory function of readmission (i.e. ensuring the temporariness of foreign labour) has become a key component of its migration policy, especially following the adoption of the European Pact on Immigration and Asylum.²⁰ The next section will address the implications of this form of securitised labour temporariness.

¹⁷Campesi, *Arab Spring and the European Border Regime*.

¹⁸Castles, "Guestworkers in Europe". See also Wihtol de Wenden, *La question migratoire au XXIe siècle*.

¹⁹The Global Approach to Migration (GAM) was renamed Global Approach to Migration and Mobility (GAMM) in late 2011. Mobility partnerships are non-legally binding joint declarations concluded with non-EU countries. They are based on a three-fold approach to migration: 1) the management of legal migration, 2) the link between migration and development and 3) the fight against irregular migration (including cooperation on readmission). See European Commission, *On Circular Migration and Mobility Partnerships*. For an analysis of mobility partnerships, see Carrera and Hernández i Sagrera, "Mobility Partnerships". See also the recent book edited by Triandafyllidou, *Circular Migration between Europe*.

²⁰The Pact, sponsored by France and endorsed by the EU member states in October 2008, forms the basis for immigration and asylum policies common to the EU and its member states. It covers issues ranging from the organisation of legal immigration to reinforced border controls and the fight against unauthorised migration. More importantly, it fosters the conclusion of bilateral agreements with non-EU countries dealing with legal and unauthorised migration, as well as with cooperation on readmission.

Finally, readmission is disciplinary because the expansion of the web of bilateral agreements on readmission results from the acceptance of enhanced cooperation on readmission as a necessary evil if European labour markets are to be protected from 'external threats', namely unauthorised migration.

This acceptance may in fact stem from the regular and frequent interactions that have taken place in regional consultative processes (RCPs) on migration management, organised by governmental, intergovernmental and international organisations in all regions of the world from the mid-1990s onwards. Their official rationale is to promote inter-state dialogue on migration management issues among representatives of countries of destination, transit and origin. While regular interactions among actors with diverging interests and contingencies are not a novelty in world politics, RCPs on migration management are quite unique in their capacity to define overriding common principles, which become enshrined in what has been called the "international agenda for migration management". They have been critical in leading towards the global acceptance of the international agenda, shaping the needs and perceptions of various state actors and instilling in the minds of participants guiding principles and plausible truths which, in turn, have been elevated to shared principles and values, setting standards for how human migration should best be administered, regulated and understood.

The production and reproduction of a hegemonic knowledge capable of shaping subjectivities and policy options during recurrent bilateral and multilateral migration talks has gradually created a new migration lexicon conducive to consensus formation – and to detaching those who repeat (and assimilate) it from their own realities and vested interests. Consider, for example, officials and migration stakeholders in countries of origin who hail the "effectiveness" of their EU-sponsored temporary migration programmes, while minimising, if not disregarding, their effects on (low-cost) migrant workers' labour conditions and limited economic and social rights in destination countries. Equally, while certain migrant-aid associations and NGOs point out failures to observe human rights and to respect internationally recognised standards relating to labour migration and asylum, others tend to repeat uncritically, in their own advocacy, the same hegemonic notions and thought categories found elsewhere.

There can be no question that the global expansion of the readmission system is inseparable from the impact and consolidation of these epistemic conditions. They have had serious implications with respect to the extent to which migrant workers' rights and aspirations are respected and in terms of the gradual acceptance of temporariness as the paradigmatic reference point for labour policies. The next section considers the flipside of these matters.

Time contraction: the common denominator

Today, temporariness and job uncertainty (including precariousness and flexibility), are the common denominators of the modern working experience for a large

proportion of workers, both native and immigrant, in all fields. How significant or relevant are these common denominators to this reflection on the readmission system?

To answer this question, a look has to be taken at the regulatory and disciplinary functions of the readmission system, as described above, rather than at its coercive function.

First, it has to be noted that bilateral cooperation on the readmission of aliens has gained momentum in Western Europe, alongside the implementation of temporary migrant labour programmes. Today, cooperation on readmission between EU and non-EU countries is presented as a precondition for implementing such programmes. Arguably, France, Italy, Spain and Switzerland have been among the most proactive European countries in promoting and negotiating such programmes for conditional and temporary labour migration.

Apart from the possibility of sanctioning over-stayers, these bilateral agreements tend to favour the short-term stay of migrant workers over their long-term residence. The political will to ensure the temporariness of labour migrants has a certain bearing on their access to rights and their own aspirations for stability. It is a well known fact that time impacts on migrant workers' experience of migration in the broadest sense, and particularly on their ability to benefit from rights, and to be protected from vulnerability and exploitation. A study published in 2011 by the International Labour Organisation (ILO) clearly explained that the more temporary the employment of migrant workers, the more difficult the realisation of their social and labour rights in destination countries.²¹ These include freedom of association, unionisation, the right to equal treatment in terms of salary, family allowances, working conditions and hours of work, training and apprenticeship, social protection and, last but not least, family reunification. By law, family reunification is not an option for temporary migrant workers or residents in some Western European countries (e.g. Switzerland²²), or is strictly conditional on prohibitive accommodation and financial prerequisites (e.g. Belgium, France, Norway and the Netherlands).

In a similar vein, skills acquisition, integration in a company, and employer/employee relationships are intensely shaped by the temporary duration of a job contract. A study conducted by the European Migration Network concluded that if the period of employment of migrant workers is too short – say, two years – there might be little reward for employers to invest in their training.²³ Admittedly, this holds true for any kind of temporary employment.²⁴ However, when temporariness is regulated by readmission, it generates a form of containment with

²¹Wickramasekara, *Circular Migration*.

²²See Observatoire Suisse du Droit d'Asile et des Etrangers, *Le Regroupement familial*, http://www.odae-ro.mand.ch/IMG/pdf/Rapport_regroupement_familial.pdf.

²³European Migration Network, *Temporary and Circular Migration*, 61.

²⁴Michie and Sheehan, "Labour Market Deregulation".

a double-edged effect. On the one hand, employers know that policy discretion, based on short-term security-oriented concerns, might abruptly jeopardise their possibility of investing economically in migrant workers' training. On the other hand, migrant workers' aspirations to integrate and socialise in a company are limited, as are their rights to family reunification and professional advancement.

All the abovementioned basic rights, which are comprised in internationally recognised standards, such as ILO Conventions 97 and 143, have gradually been eroded. This has led to a "protection gap"²⁵ between internationally recognised standards applying to migrants, and their effective implementation in destination countries. At the same time, what makes current temporary migration schemes different from those that were implemented until the late 1970s lies precisely in what could be described as a process of time contraction, leading inevitably to a certain containment of rights²⁶ and career development.²⁷

This process of time contraction did not come about overnight. It sprang from a quest to find out why past temporary migration schemes had resulted in the prolonged, if not permanent, stay of migrant workers in most European destination countries.²⁸ The reasons stemmed from a mix of economic and non-economic factors, as well as from a complex socialisation process, and trust-based relationships between employers and their foreign employees, making the former more inclined to renew job contracts with the latter so as to reduce additional recruitment and training costs. A lot has been written on these factors, which Philip Martin referred to as "distortion effects".²⁹ While contributing to migrant workers' prolonged stay in European countries, they also, and perhaps more importantly, contributed to raising migrant workers' awareness that stable conditions in destination countries would enhance their opportunities to attain social and economic rights, organise themselves through collective action, and aspire to advancement, stability in their lives, and greater participation in local society.

A troubling continuum

The 1973 oil crisis and its effects on employment security, inflation and social cohesion, combined with the ensuing economic downturn of the mid-1980s in Europe and the neoliberal drive for labour market competitiveness and flexibility,

²⁵This gap is extensively analysed by Cholewinski, "International Labour Law", 416-21.

²⁶Relatedly, in 2002, Nicholas De Genova introduced the notion of "deportability", i.e. the possibility of being deported or expelled as a result of policy discretion which reinforces migrant workers' vulnerability. De Genova, "Migrant 'Illegality' and Deportability".

²⁷Castles, "Guestworkers in Europe".

²⁸*Ibid.*

²⁹Martin, *Managing Labor Migration*.

led to a process of market deregulation.³⁰ In an apparent paradox, this went hand in hand with the reinforcement of the regulation and control of migration flows, including restrictive entry and selective recruitment measures addressed to foreigners.

However, this was not paradoxical at all if we consider that reinforced migration controls represented, as they still represent today, the most explicit way of visibly reifying the centrality of the sovereign, in a context marked by industrial delocalisation, state divestiture, subcontracting, outsourcing, off-shoring, privatisation, occupational risks, weakened social dialogue and, last but not least, the protracted crisis of European political integration.

There seems to be a troubling continuum between the temporariness of migrant labour and the temporariness of labour *tout court*. The exploration of this possible continuum calls for a new analytical perspective. What makes current temporary labour migration programmes radically different from their past equivalents is their more general regulatory and disciplinary effects on a broader segment of society. Today, these forms of policy discretion not only impact on migrant workers' opportunities for advancement, labour rights, and socialisation in destination countries; they also convey a more general, if subtle, message addressed to a growing cohort of short-term employees, part-timers, interns and trainees, in other words, the European "precariat",³¹ comprehensively analysed by Guy Standing in his book on the drive for flexibility. Temporary foreign and native workers alike face similar forms of social and economic exclusion,³² including uncertainty, growing instability, low levels of protection, and enhanced exposure to vulnerability, if not submissiveness.³³

This point is essential for appreciating that the oft-cited reference to coercion can no longer conceal the fact that the readmission system and its current ethos are today inseparable from the gradual changes in the *meaning* of 'work', 'participation' and access to opportunities over the last few decades. Its contemporary correlates, namely precariousness, insecure career support and development in the firm, the porous frontier between leisure and working hours, and more worryingly, the idea that human skills and resources are interchangeable and disposable at will, have contributed to making the drive for temporariness a mainstay of contemporary labour market policies. To quote Richard Sennett, this reflects a "system [which] radiates indifference in the organization of absence of trust, where there is

³⁰Crouch, "The Governance of Labour Market Uncertainty". See also Michie and Sheehan, "Labour Market Deregulation"; Letourneux, *Precarious Employment and Working Conditions*; Rodgers and Rodgers, *Precarious Jobs in Labour Market Regulation*; and Thornley et al., *Globalization and Precarious Production and Employment*.

³¹Standing, *The Precariat*.

³²Sassen, *Expulsions: Brutality and Complexity*, 76.

³³Schwartz, "Opportunity Costs".

no reason to be needed. And it does so through the reengineering of institutions in which people are treated as disposable.”³⁴

Conclusion

In sum, the above considerations underline the need to further explore the regulatory and disciplinary functions of the readmission system. This article set out to show that through a troubling continuum, there seems to be a shared destiny between the circumscribed rights of temporary migrant workers, and the equally circumscribed rights of a growing segment of the native labour force in Europe. This “shared narrative of difficulty”³⁵ between two groups that were traditionally considered distinct, if not actually opposed to one another in the rhetoric of policymakers can no longer be dismissed offhand. Today, it needs to be tackled and further analysed. Clearly, the sword of Damocles is not equally threatening for foreign and native workers. However, the hand that dangles it over their heads may be the same. The issue at stake is not that the “policies that regulate working conditions for citizens and permanent residents should apply”³⁶ to temporary migrant workers. Rather, the key issue is that the latter’s working conditions are permeating the former’s with the drive for temporariness cutting across the working conditions of *both* native and migrant workers.

Is not recognition of this shared destiny the key precondition for questioning, in a sincere and credible manner, the lingering acceptance and worrying banality of readmission as it currently stands? Is this uncomfortable awareness not the most daunting challenge to be faced when it comes to recognising the overarching neoliberal paradigm that sustains this system and instils in the minds of voters the illusion that the containment of foreign workers’ rights will protect them from the drive for temporariness and job precariousness?

It is time to readdress the readmission system, but not by focusing exclusively on its coercive nature or its implications for the safety of aliens in European democratic regimes. Rather it must be shown that its implications are part of a wider architecture shaping the destiny of an entire social collective, whether its members are foreigners or citizens.

References

- Anderson, B. “Migration, Immigration Controls and the Fashioning of Precarious Workers”. *Work Employment & Society* 24, no. 2 (2010): 300–17.
- Bouteillet-Paquet, D. “Passing the Buck: A Critical Analysis of the Readmission Policy Implemented by the European Union and Its Member States”. *European Journal of Migration and Law* 5, no. 3 (2003): 359–77.

³⁴Sennett, *The Corrosion of Character*, 146.

³⁵*Ibid.*, 147.

³⁶Carens, “Overview of Ethics of Immigration”, 549.

- Campesi, G. *The Arab Spring and the Crisis of the European Border Regime: Manufacturing Emergency in the Lampedusa Crisis*, EU Working Papers, RSCAS 2011/59. Florence: European University Institute, 2011.
- Carens, J. H. "An Overview of the Ethics of Immigration". *Critical Review of International Social and Political Philosophy* 17, no. 5 (2014): 538–59.
- Carrera, S., and R. Hernández i Sagrera. "Mobility Partnerships: 'Insecurity Partnerships' for Policy Coherence and Migrant Workers' Human Rights in the EU". In *Multilayered Migration Governance: The Promise of Partnership*, edited by R. Kunz, S. Lavenex and M. Panizzon: 97–115. London: Routledge, 2011.
- Cassarino, J.-P., ed. *Unbalanced Reciprocities: Cooperation on Readmission in the Euro-Mediterranean Area*. Washington, DC: The Middle East Institute, 2010.
- Cassarino, J.-P. *Readmission Policy in the European Union*. Brussels: European Parliament, 2010.
- Cassarino, J.-P. "Informalising Readmission Agreements in the EU Neighbourhood". *The International Spectator* 42, no. 2 (2007): 179–96.
- Castles, S. "Guestworkers in Europe: A Resurrection?" *International Migration Review* 40, no. 4 (2006): 741–66.
- Charles, C. *Accords de réadmission et respect des droits de l'homme dans les pays tiers Bilan et perspectives pour le Parlement Européen*. Brussels: European Parliament, 2007.
- Cholewinski, R. "International Labour Law and the Protection of Migrant Workers: Revitalizing the Agenda in the Era of Globalization". In *Globalization and the Future of Labour Law*, edited by J. D. R. Craig and S. M. Lynk: 409–44. Cambridge: Cambridge University Press, 2006.
- Coleman, N. *European Readmission Policy: Third Country Interests and Refugee Rights*. Leiden: Martinus Nijhoff Publishers, 2009.
- Crouch, C. *The Governance of Labour Market Uncertainty: Towards a New Research Agenda, Discussion Paper 2008–08*. Amsterdam: Hugo Sinzheimer Institute, 2008.
- De Genova, N. P. "Migrant 'Illegality' and Deportability in Everyday Life". *Annual Review of Anthropology* 31 (2002): 419–47.
- Dryzek, J. S., M. L. Clark and G. McKenzie. "Subject and System in International Interaction". *International Organization* 43, no. 3 (1989): 475–503.
- European Commission. *On Circular Migration and Mobility Partnerships between the European Union and Third Countries*, COM (2007) 248 final. Brussels, 16 May 2007.
- European Commission. *Community Return Policy on Illegal Residents*, COM (2002) 564 final. Brussels, 14 October 2002.
- European Migration Network. *Temporary and Circular Migration: Empirical Evidence, Current Policy Practice and Future Options in EU Member States*. Luxembourg: Publications Office of the European Union, 2011.
- Hailbronner, K. "Readmission Agreements and the Obligation of States under Public International Law to Readmit their Own and Foreign Nationals". *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 57, 1997.
- Keohane, R. O. "Reciprocity in International Relations". *International Organization* 40 (1986): 1–27.
- Lavenex, S., and R. Stucky. "Partnering for Migration in EU External Relations". In *Multilayered Migration Governance: The Promise of Partnership*, edited by R. Kunz, S. Lavenex and M. Panizzon: 116–42. London: Routledge, 2010.
- Lavenex, S., and F. Schimmelfennig. "EU Rules beyond EU Borders: Theorizing External Governance in European Politics". *Journal of European Public Policy* 16, no. 6 (2009): 791–812.
- Letourneux, V. *Precarious Employment and Working Conditions in Europe*. Dublin: European Foundation for the Improvement of Living and Working Conditions, 1998.
- Luhmann, N. "System as Difference". *Organization* 13, no. 1 (2006): 37–57.

- Martin, P. *Managing Labor Migration: Temporary Worker Programs for the 21st Century*. Geneva: International Institute for Labour Studies, 2003.
- Michie, J., and M. Sheehan. "Labour Market Deregulation, 'Flexibility' and Innovation". *Cambridge Journal of Economics* 27, no. 1 (2003): 123–43.
- Noll, G. "Readmission Agreements". In *Immigration and Asylum: From 1900 to present*, edited by M. J. Gibney, and R. Hansen: 495–97. Santa Barbara: ABC-CLIO, 2005.
- Observatoire Suisse du Droit d'Asile et des Etrangers. *Le Regroupement familial et les limitations au droit à la vie familiale*. Bern: ODAE, 2012.
- Panizzon, M. "Readmission Agreements of EU Member States: A Case for EU Subsidiarity or Dualism?" *Refugee Survey Quarterly* 31, no. 4 (2012): 101–33.
- Peers, S., E. Guild, D. Acosta Arcarazo, K. Groenendijk and V. Moreno-Lax, eds. *EU Immigration and Asylum Law (Text and Commentary): Second Revised Edition, Vol. 2: EU Immigration and Law*. Leiden: Martinus Nijhoff Publishers, 2012.
- Rodgers, G., and J. Rodgers. *Precarious Jobs in Labour Market Regulation: The Growth of Atypical Employment in Western Europe*. Geneva: International Labour Organisation, 1989.
- Sassen, S. *Expulsions: Brutality and Complexity in the Global Economy*. Cambridge, MA: Belknap Press of Harvard University Press, 2014.
- Schwartz, M. "Opportunity Costs: The True Price of Internships". *Dissent* (Winter 2013): 41–5.
- Sennett, R. *The Corrosion of Character: The Personal Consequences of Work in the New Capitalism*. New York: W. W. Norton & Company, 1998.
- Snidal, D. "Relative Gains and the Pattern of International Cooperation". *American Political Science Review* 85, no. 3 (1991): 701–26.
- Standing, G. *The Precariat: The New Dangerous Class*. London: Bloomsbury Academic, 2011.
- Thornley, C., S. Jefferys, and B. Appay, eds. *Globalization and Precarious Forms of Production and Employment*. Cheltenham: Edward Elgar, 2010.
- Trauner, F., and I. Kruse. *EC Visa Facilitation and Readmission Agreements: Implementing a New EU Security Approach in the Neighbourhood*, CEPS Working Document no. 290. Brussels: Centre for European Policy Studies, 2008.
- Triandafyllidou, A., ed. *Circular Migration between Europe and its Neighbourhood: Choice or Necessity?* Oxford: Oxford University Press, 2013.
- Walters, W. "Deportation, Expulsion, and the International Police of Aliens". *Citizenship Studies* 6, no. 3 (2002): 265–92.
- Wickramasekara, P. *Circular Migration: A Triple Win or a Dead End?* Geneva: International Labour Organisation, 2011.
- Wihtol de Wenden, C. *La question migratoire au XXIe siècle : Migrants, réfugiés et relations internationales*. Paris: Les Presses de Sciences Po, 2013.
- Wolff, S. "The Politics of Negotiating EU Readmission Agreements: Insights from Morocco and Turkey". *European Journal of Migration and Law* 16, no. 1 (2014): 69–95.