

Human Migrations and International Cooperation Development (movements of people from Sub-Saharan Africa to Spain)

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I. Introduction

It is a well-known fact that human migrations are as ancient as human history itself, but there are always moments in time worth mentioning when migrations have worsened or intensified for a variety of reasons towards certain destinations whether in another country or other areas of a person's national territory¹. In the case of southern Africa, the origin of these migrations towards Europe can be traced back to the 1970s and 1980s, coinciding with the implementation of the Adjustment Policies required at that time by the World Bank and the International Monetary Fund².

The migrations originating from sub-Saharan Africa however cannot be characterized merely as migrations of people looking for the opportunity to find work and a better life. Rather, for an African, migrations stem from the need to be and to feel active, to preserve and maintain relations with the territories crossed, and finally to exchange, reflect on and transform living conditions³. The relationship between immigration and development cooperation is not too clear either (as we will see in detail further on in the study), as there is no proof as yet of the impact this has on the prevention of immigrations (in particular, but not exclusively, illegal immigrations) of young people, particularly those from sub-Saharan Africa heading towards Europe. Rather, as Official Development Assistance (ODA) has increased, immigrations towards developed countries have also increased.

Finally, there have been a number of return agreements drawn up in Spain recently, a competence which has also been taken on by the European Community institutions, through the elaboration of the "Common Immigration Policy". However, the readmission conventions signed by the European Union (EU) and by third countries are covered by a different legislation, namely Article 13 of the Association Agreement signed in Cotonou (Benin) on the 23rd June 2000, by 77 ACP States on one side and 15 Member States of the European Community (EC) on the other (The Cotonou Agreement). This agreement prevents the possibility of negotiating over the readmission of persons in an irregular situation. It has been noted that the EU Commission has demanded the implementation of this article in response to the pressure exerted by the Spanish government during recent years in the face of Community requests to establish a joint policy dealing with this issue⁴.

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¹ Cf., OECD, *Trends in international Migration*, SOPEMI 2004, OECD ed., USA, 2005; D.S. MASSEY/J. ARANGO/G. HUGO/A. KOUAOUICI/A. PELLEGRINO/J.E. TAYLOR, *Worlds in Motion. Understanding international migration at the end of the millennium*, Clarendon Press, Oxford, 2006.

² Cf., P. SOW, "Migraciones en África Subsahariana. Espacios transnacionales y nuevas territorialidades" en, F. CHECA Y OLMOS/A. ARJONA GARRIDO/J.C. CHECA OLMOS (eds.), *Globalización y movimientos transnacionales. Las migraciones y sus fronteras*, Serv. Pub. Univ. de Almería, Almería, 2009, p. 97.

³ *Ibid.*, p. 101.

⁴ The Communication from the Commission to the Council and the European Parliament of 30th November 2006 on "The Global Approach to Migration one Year on: Towards a Comprehensive European Migration Policy" (*COM2006 document 735final*), indicates that the readmission obligation contained in Article 13 Cotonou is crucial, and is an appropriate basis for supplementary bilateral readmission agreements between EU Member States and ACP countries. For the newly-coined "Mobility Associations", born from the adoption by the EU of the Global Approach to Immigration as referred to in the text, please refer to V. CUESTA LÓPEZ, "La gestión concertada de los flujos migratorios entre África occidental y la Unión Europea: una aproximación a las asociaciones de movilidad", *Revista de Derecho Migratorio y Extranjería*, 2011, no. 28, pp. 69 onwards.

II. Links between development cooperation and migrations in Community immigration policy

1. The origin of the Community immigration policy

Although the relationship between migratory movements and development cooperation (in its widest sense) may have existed right back when the first movements took place (in a spontaneous manner), it was not explored until recent times in the field of public policies. This could be because, for Community institutions, a holistic focus on the topic was not proposed until the adoption of the Commission Communication on Migration, published on the 4th May 2011. It is also a well-known fact that the Community institutions did not take on specific competences in the field of immigration until the Treaty of Amsterdam of 2nd October 1997 (TA from now on) came into effect on the 1st May 1999. It was thanks to this treaty that the “communitarization” of asylum and immigration issues occurred, through the incorporation into the Treaty of the European Community (Treaty of Rome of 25th March 1957) of a new Title IV, entitled: “*Visas, Asylum, Immigration and other Policies Related to Free Movement of Persons*”.

Once the TA came into effect, and in particular after the Tampere convention of 1999, the Community institutions elaborated papers for Member states which were non-binding in character, and which did not cover any of the better-known forms of intervention or legal action - such as the Regulation, Directive, Decision or Recommendation. The objective of these papers was to detect the situation in which EU Member states found themselves relating to immigration issues in their respective territories on the one hand and, on the other, to promote coordinated action between the States⁵.

The Community institutions opted for the “Open Method of Coordination” (OMC)⁶. That is to say the action strategy did not consist of unified legal intervention, nor of the approximation and harmonization of legislation, rather in the sharing of experiences of the Member States in those concrete areas which fall under the notion of immigration, with the objective being the coordination of national policies in the EU framework.

The OMC is a flexible legal-political tool proposed in the Lisbon Strategy (23rd -24th March 2000), whose aim is to reach a better convergence within the EU’s principle objectives. It is closely linked to the well-known “principle of subsidiarity” of Community actions, that is to say, it is only applied when absolutely necessary to enable interior markets to function properly. This subsidiary character will not mean that Member States lose legal capacity in the field of immigration, as long as the law of each State does not go against that proposed by the Community.

Subsequently, the Communication from the Commission to the European Parliament, the Council, the European Economic and Social committee and the Committee of the Regions, of 5th December 2007, on: “*A Common Immigration Policy*”⁷; and of 17th June 2008, on: “*A Common Immigration Policy for Europe: Principles, Actions and Tools*”⁸, attempted to reach the new objectives laid out in the Treaty of Lisbon, to progressively head towards the creation and practice of a common immigration policy, which the Commission will build up through the application of the three principles which preside over Community policies: prosperity, solidarity and security⁹.

⁵ Please refer to: Communication from the Commission to the Council and the European Parliament, of 22nd November 2000, on a Community immigration policy (COM 2000, 757 final), in which a complete analysis of the methods that the Community institutions must adopt in response to growing immigration is carried out. Also see the Communication from the Commission to the Council and the European Parliament, of 11th November 2001, on a common policy on illegal immigration (COM 2001, 672 final).

⁶ See, the Communication from the Commission to the Council and the European Parliament, of 22nd November 2000, on a Community immigration policy (COM 2000); and the Communication from the Commission to the Council and the European Parliament, of 11th July 2001, on an open method of coordination for the Community immigration policy (COM 2001, 387 final).

⁷ See, COM(2007) 780 final.

⁸ See, COM(2008) 359 final.

⁹ See, COM(2008) 359 final.

Furthermore, during the French presidency of the EU Council, a political agreement was reached by the Council of Ministers of Justice and Home Affairs of the European Community, known as the European Pact on Immigration and Asylum (PEMA), under French initiative and supported by Spain and Germany, which aims to be the draft to be used for drawing up a common European policy on immigration and asylum¹⁰. The pact was approved by the 27 Member States in the European Council (held in Brussels on the 15th and 16th), 16th October 2008¹¹.

However, until the Treaty of Lisbon, of 13th December 2007 (TL from now on)¹², a clear construction mandate for one (unique) policy or “common policy” had never existed in this field (articles 78 and 79 of the Treaty on the Functioning of the European Union, TFEU). Previously, attention had only been paid to adopting measures in concrete areas (articles 62 and 63 of the Treaty of the European Community/Treaty of Amsterdam TEC/TA)¹³. Along these lines, article 79 of the TFEU highlights clearly the will of the Community institutions to develop a common immigration policy, this being the first instance when a legislative Community text mentions expressly the idea of a “common” immigration policy¹⁴. In any case, one of the main issues outlined in the text concerns cooperation, in other words, the setting up of collaboration (and dialogue) networks with the countries of origin¹⁵.

Furthermore, this is the first occasion (not including the reference made in the ill-fated Treaty for which the European Constitution was drawn up) when a European text makes a precise reference to social integration¹⁶. Also, the regulation of the area of freedom, security and justice constitutes a shared competence (Article 4, 2, j) of the TFEU), meaning that the Member States may legislate and adopt legally binding acts in that area where the EU has not exercised its competence¹⁷.

¹⁰ Please see the draft of the European Pact on Immigration and Asylum, of 24th September 2008, sent by the Presidency of the Council to the national delegates (Document number 13189/08 ASIM 68) in Council Documents (13440/08).

¹¹ Five basic commitments are made: – to organise legal immigration to take account of the priorities, needs and reception capacities determined by each Member State, and to encourage integration; – to control illegal immigration by ensuring that illegal immigrants return to their countries of origin or to a country of transit; – to make border controls more effective; – to construct a Europe of asylum; and – to create a comprehensive partnership with the countries of origin and of transit in order to encourage the synergy between migration and development.

¹² The TL came into effect on 1st December 2009, amending the Treaty of the European Union and the Treaty establishing the European Community, signed in Lisbon on 13th December 2007. In the *BOE (Boletín Oficial del Estado, Spain)* number 184 of 31st July 2008, the Organic Law 1/2008 of 30th July was published, in which the Spanish government is granted authority to ratify the TL, which took place on 27th November 2009 (*BOE* number 286). The consolidated text of the TL is published in the *OJEU C* series number 306/57, of 17th December 2007. For more information on the changes the new Treaty on the Functioning of the European Union (TFEU) has made towards a progressive consolidation of a common immigration policy, please refer to J. MARTÍN Y PÉREZ DE NANCLARES, *La inmigración y el asilo en la Unión Europea. Hacia un nuevo espacio de libertad, seguridad y justicia*, Colex, Madrid, 2002.

¹³ It must be noted that said new immigration and asylum policy follows the objectives of expansion and consolidation of the area of freedom, security and justice laid out in article 3, paragraph 2 of the new TEU (“*The Union shall offer its citizens an area of freedom, security and justice without internal frontiers in which the free movement of persons is ensured in conjunction with appropriate measures with respect to external border controls, asylum, immigration and the combatting of crime*”). Furthermore: “*This Article [79, paragraph 5 of the TFEU] shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed*”, which can be translated – in the opinion of the Doctrine – as a lack of competences and methods to establish a common labour immigration policy. Cf., I. LIROLA DELGADO (2008), “¿Por fin una política de inmigración de la Unión Europea en el Tratado de Lisboa?” in J. MARTÍN Y PÉREZ DE NANCLARES (coord.), *El Tratado de Lisboa. La salida de la crisis constitucional*, AEPDIRI, Iustel, 2009, Madrid, p. 546.

¹⁴ In particular article 79 of the TFEU states that: “*The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings*”.

¹⁵ Please refer to the Conclusions of the Presidency of the European Council of Tampere, of 15th -16th October 1999 (www.europa.eu.int/council), marg. 11.

¹⁶ It must be noted that article 79, paragraph 4 of the TFEU makes it quite clear that support measures may be established by the Member States, among these especially the European Integration Fund.

¹⁷ And that “*the Member States shall again exercise their competence to the extent that the Union has decided to cease exercising its competence*” (article 2, paragraph 2, TFEU).

That said, it is arguable that at present in the EU a Community immigration policy actually exists. Here we understand as Community immigration policy a continuous action of government, carried out by the Community institutions, aiming towards a common goal which includes or covers all aspects relating to the management of this phenomenon. Rather, certain concrete measures referring to certain sectors exist, which attempt to respond to the questions raised by the growing presence of foreign persons (third country nationals) on EU territory, whose reasons or motivations for immigration are mainly, though not exclusively, socio-economic ones (see below)¹⁸.

Such measures are becoming wider, and for this reason are beginning to cover more and more areas relating to the generic area of immigration. Even so, it would be wrong to assume that a (single) common policy exists, as Member States still resist when pressed to hand over certain competences on issues which, without a doubt, constitute the core themes of such a common policy¹⁹, on the one hand; and, on the other, immigration is a transversal issue, meaning that it is related to other areas over which the EU does not hold legislative competences (at present). In any case, all of the measures have the main objective of preventing the illegal entry of persons into the Community space in order to develop the freedom of movement of persons – nationals of third countries – in the interior of EU Member States.²⁰

2. Development cooperation and control of migratory flows

If, as stated above, no clear-cut relationship between immigration and ODA can be proven, at least in so far as the second has not contributed (or, it cannot take credit for), the decrease in migratory flows proceeding from those countries which have received the aid; it is worth noting a link between international development cooperation (IDA) and the control of migratory flows. It is clear that we are not dealing here with exact synonymous word pairings, rather the opposite, as ODA and immigration on the one hand, and IDA and migratory flow control on the other, highlight the significant differences between the terms, until such a point as the relationship between both of the terms in the second case becomes a close one, especially at certain moments in history (as we will see in more detail below).

The Doctrine considers that the year 2005 and the beginning of 2006 are particularly relevant as moments of inflection, during which the pressure of illegal migratory flows on the borders of southern EU – Lampedusa, Malta, the eastern Greek Islands, or the Canary Islands – called for the necessity to establish a dialogue between the countries of origin of the people who were migrating, the transit countries and the recipient or destination countries of this emigration, and, especially, the EU and Spain, which – as is well-known – has gone from being a country of emigration to a country of immigration in a very short space of time, particularly from the 1990s of the last century onwards²¹.

During that time, the European Commission has presented various Communications, which highlight the importance of the exterior dimension of immigration policies. Especially noteworthy is the Communication of 12th October 2005 on “*A Strategy on the External Dimension of the Area of Freedom, Security and Justice*” which underlines the fact that Community institutions must collaborate with the countries of origin and open dialogues with them²².

¹⁸ Among others, Directive 2011/98/EU of the European Parliament and of the Council of 13th December 2011, on a Single Application Procedure for a Single Permit for Third-Country Nationals to Reside and Work in the Territory of a Member State and on a Common Set of Rights for Third-Country Workers Legally Residing in a Member State (DOUE L series number 343, of 23rd December, 2011), which came into power on the day following its publication in the BOUE and must be transposed before 25th December 2013.

¹⁹ Specifically, article 79, paragraph 5 of the TFEU states that: “*This Article shall not affect the right of Member States to determine volumes of admission of third-country nationals coming from third countries to their territory in order to seek work, whether employed or self-employed*”.

²⁰ Please refer to Regulation (EC) Number 562/2006 of the European Parliament and of the Council of 15th March 2006 establishing a Community Code on the Rules Governing the Movement of Persons across Borders (Schengen Borders Code), published in DOUE L series number 105 of 13th April 2006, whose objective is that of establishing common rules governing persons crossing the interior and external borders, which came into power on the 13th October 2006. Also see Council Regulation (EC) Number 2007/2004 of 26th October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (DOUE L series number 349, of 25th November 2004). This is the European Agency of External Borders, whose headquarters are in Poland.

²¹ Cf., G. PINYOL JIMÉNEZ, “La política árabe y mediterránea de España. España en la construcción del escenario euroafricano de migraciones”, *Revista CIDOB d’Afers internacionals*, numbers 79-80, December 2007, p. 90.

²² COM(2005) 491 final.

In this text the idea that regional cooperation should be fostered and particular solutions found was introduced, in other words, the establishment of geographical priorities; but it also refers to an important theme, linking the question of border management and migratory flows with the improvement or support of the operative capacities of border control by these third countries. This idea has become known as the “externalisation” of the immigration policy (see below)²³.

Also in 2005, the Spanish government began a series of actions relating to the Sub-Saharan African countries, boosting EU actions relating to the issue²⁴. In this way, a new line of cooperation was opened, which conditioned development aid made available to the African governments who agreed to the repatriation of those immigrants who managed to reach the Canary Islands. These initiatives were expressed in the European Council of Brussels (15th and 16th December 2005), where the EU recognised the need to provide a coherent external dimension to Community immigration policies. From this moment the notions of “foreign policy” and “immigration” begin to appear side by side (Global Approach)²⁵.

In July 2006, the Spanish government presented its Action Plan for Sub-Saharan Africa 2006-2008 (known as Plan África) as an emergency response by the Spanish government to the humanitarian crisis which was taking place on the Spanish border with Africa in 2006, calling for an increase in the ODA as of that moment. 40% of the ODA was sent to the African continent by the Spanish government in 2007. The first “Plan África” was drawn up around seven major objectives. The second “Plan África” by the Spanish government was put into practice for the period 2009-2012²⁶.

Furthermore, in the Communication from the Commission in which an evaluation is made of the first year of the Global Approach to migration, they offer as an objective that of “*agree[ing] Mobility Packages with a number of interested third countries which would enable their citizens to have better access to the EU*”, when and if cooperation in combatting illegal immigration has been previously guaranteed, and a readmission agreement exists.²⁷ Along these lines, the European Council of Brussels, of 14th and 15th December 2006, proposes: “*[the incorporation of] legal migration opportunities [] into the Union's external policies in order to develop a balanced partnership with third countries adapted to specific EU Member States' labour market needs*”²⁸.

The Commission’s response can be summed up in the Communication on Circular Migration and Mobility Partnerships between the European Union and Third Countries, of 16th May 2007²⁹. This Communication lays out the basic principles to be employed when establishing mobility partnerships with those third countries committed to cooperating actively with the EU in the fight against illegal immigration (please see below for more details on this matter). As stated in the Doctrine, these “mobility partnerships” are understood to be an instrument which favours, particularly, a circular model of migration, associated with temporary contracts and the voluntary return of these migrants to their countries of origin³⁰.

However, in this same year, a year which saw the arrival on the coasts of Spain of so many make-shift vessels carrying illegal Sub-Saharan African immigrants that it became known as a crisis year, the Spanish government applied for the intervention of FRONTEX (European Agency for the Management of the External Borders of the Member States of the EU) in managing the migratory flow of illegal immigrants arriving on the Canary Islands.

²³ Please refer to the contributions made on this particular issue in the collective work, A. BERRAMDANE/J. ROSSETTO, *La politique européenne d'immigration*, Karthala, Paris, 2009.

²⁴ Cf., G. PINYOL JIMÉNEZ, “La política árabe...”, *loc. cit.*, p. 95.

²⁵ The Communication from the Commission to the Council and the European Parliament, 30th November 2006, on “*The Global Approach to Migration One Year on: Towards a Comprehensive European Migration Policy*”, lays down the results of the actions put into place following the approval of the Plan in the European Council [COM(2006) 735 final]. The Council also agreed an allocation of up to 3% of the European Neighbourhood Policy Instrument to intensify financial assistance in areas concerning or relating to immigration.

²⁶ See, *Plan África 2009-2012*, Gobierno de España. Web address: <http://www.casafrika.es/casafrika/Inicio/PlanAfrica2009-2012.pdf> (15-04-2011).

²⁷ COM(2006) 735 final, p. 8.

²⁸ In the Presidency Conclusions the Commission is invited “*to present detailed proposals on how to better organize and inform about the various forms of legal movement between the EU and third countries*”.

²⁹ COM(2007) 248 final.

³⁰ Cf., V. CUESTA LÓPEZ, “La gestión concertada...”, *loc. cit.*, p. 77.

Following this application for help, the joint operations HERA I and HERA II were put into practice; the first dedicated to identifying those immigrants who managed to reach the Immigration Removal Centres; and the second dedicated to patrolling the coast and intercepting migrants at sea³¹. The patrols involved joint operations in the waters of Senegal and Mauritania based on bilateral agreements (*Memoranda of Understanding MOU*) signed by Spain on the one hand and by the countries in question on the other. Both are attempts at creating an integrated “Euro-African Border”, but the economic and political costs are very high³².

For all of the reasons stated above, we can see that the relationship between migrations and development, as seen both by the Spanish government and by the Community institutions, holds, to express it in some form, a certain amount of ambiguity. This ambiguity is not only linked to a certain “play on words”, concerning the expressions “development” or “development cooperation”, and their relationship with “migrations” or, more specifically, with “immigration”, rather it is, in addition, linked to the lack of clear ideas on what could be the limits of this relationship. That is to say, where is it headed, what will it contain, and what objectives will be reached by it? The lack of a comprehensive approach by the EU (and by its Member States) to understanding what relationship there should be between migrations and development means that the possibility of adopting concrete measures is nearly always subject to the ups and downs of the circumstances which arise on each individual occasion.

As we will see below, whilst the Commission, in its Communication of 2005, touched on the possibility of establishing a relationship between migrations, development and employment, this association soon gave way to another one, more justifiable, especially in these times of economic crisis. This second association concentrates on cooperation, border control and migrations. For this reason, we have already stated that up to the present time it has been impossible to prove the relationship between migrations and development cooperation, in particular, because the necessary measures to put such a project into place have not yet been established. Yet we believe that it is possible to establish a relationship between migrations and development, given that this relationship is formed spontaneously through the behaviour of the person who migrates, inevitably affecting (directly or indirectly), in the short, medium or long term, the development of the country of origin.

However, the direct effect of both these points has not been shown, on the one hand and, on the other, neither can we say that the initiatives being promoted at present, aimed at said cooperation development, by the EU or by each State or region – or, in particular, each Autonomous Community of Spain – are specifically related to the idea of preventing illegal immigration or of the readmission of persons in an irregular situation.

3. Readmission of ilegal immigrants

As we know, at present, in the Euro-Mediterranean zone, a series of measures aimed at the repatriation or readmission of persons in an irregular situation are being developed. These measures can be traced back to a particular moment in history, which authors place at the beginning of the 21st century, a time which has been named the moment of “the discovery of immigration”. This phenomenon had repercussions not only in Spain, but also on the Community as a whole given the particular situation of Spain as an exterior border of the European Union (EU) in relation to the countries of the Maghreb, especially Morocco, and also of the Sub-Saharan African countries.

The readmission policy of persons in an irregular situation is not independent, rather it crosses various material scopes, among others; policies of management and control of migratory flows; development cooperation policies; neighbourhood policies; third country nationals admission policies; employment policies; etc. Along these lines, the policy is of a transversal nature, meaning it is made up of elements of all the policies mentioned above.

³¹ Cf., S. CARRERA, “The EU border management strategy: Frontex and the challenges of irregular migration in the Canary Islands”, *CEPS working document*, number 261, 2007.

³² As we have mentioned, the economic incentives for the host States are also considerable at a bilateral level, although it is difficult to pinpoint exact figures from the informal arrangements, which exist under MOUs. Spain promised in 2006 to contribute a sum of 20 million Euros to the REVA Plan (*Retour vers l’Agriculture*), a development project put into place by the Senegalese president Aboulaye Wade and aimed, in part, at returning immigrants. Please refer to R. ANDERSSON, “Frontex y la creación de la frontera euroafricana: golpeando la valla ilusoria”, *Revista de Derecho Migratorio y Extranjería*, number 28, 2011, p. 183 (note 17).

These elements or aspects can be identified in the strategies being drawn up at present, both by the Spanish government and by the Community institutions, in so far as; for example, readmission clauses are included in the association and collaboration agreements signed by the EU, and also in the bilateral conventions on management of migratory flows negotiated by Spain.

It is clear that a policy for the readmission of persons in an irregular situation cannot be based solely on control. Rather it must be better coordinated, requiring a joint intervention on the part of those authorities who have competences in different areas; interrelation and coordination – at the same time – between measures applied within other areas of action and competence of the EU (among others; the European Employment Strategy and the European Neighbourhood Strategy); collaboration between EU States and the countries of origin of the migrants; and involvement of other parties, for example of NGOs or associations and civil society in general. In any case, we are dealing with a preventive policy.

For all of the reasons mentioned above, it is worth pointing out that the actions and measures in the area of immigration which are specifically aimed at the readmission of persons in an irregular situation are closely related to the foreign policies of the States and also of the EU on the one hand and on the other, with development cooperation policies. However, in the latter sense, the placement of immigration and, particularly, the management of migratory flows and the readmission of persons in an irregular situation, throws up certain doubts or, at least, calls for certain considerations or critical appraisals to be carried out – as has been done in the Doctrine.

Finally, the fact that at present no common Community policy neither in the general area of immigration nor in the more concrete sector of repatriation exists, means that the EU Member States find themselves negotiating bilateral agreements with the relevant countries of origin, either to put migratory flows in order or to assure the readmission of persons, third country nationals, who are residing illegally in the country. Spain has been carrying out an active conventional policy over recent years in the area – specifically – of the readmission of persons in an irregular situation. In principle, such agreements can be considered to be development agreements, or complementary to the actions of the EU, and must be compatible with the option outlined in the Convention signed by the EU.

III. The Global Approach to Migrations: migration, mobility and employment European Union-Africa

The first instance of a Community policy on immigration appears following the approval of the TA, which provokes the incorporation of a new Title IV in the TEC, which currently makes up the new Title V of the TFEU. One of the main questions raised recently in the EU relating to the management of immigration concentrates on precisely what the instruments necessary to respond to this social question are missing, as we are dealing with a situation which does not happen on the Member States' territories, therefore a change in strategy and intervention is necessary. Along these lines, after the Brussels European Council of 15th and 16th May 2005, which adopts for the first time the “*Global Approach to Migrations*”, a set of priority measures are proposed which concentrate on Africa and on the Mediterranean, and which must be developed following an authentic collaboration (Annex I of the Presidency Conclusions).

Among the list of immediate actions proposed by the Council was the celebration of the Euro-African Ministerial Conference on Migration and Development, held in Rabat in July 2006. Also, in the same year in which the Rabat Process was opened, dialogue on migrations on a continental scale was given a boost, between the EU and the African Union. To this end, on 22nd and 23rd November 2006 in Tripoli, the Ministerial Conference of the EU and Africa on Migration and Development was held, in which an attempt was made to establish an association between the countries of origin, of transit and of destination of the migratory flows to assure an integral, balanced management carried out with a “*spirit of shared responsibility and cooperation*”.

The process of dialogue which began in Rabat was reinforced in November 2008 during the II Euro-African Ministerial Conference on Migration and Development, held in Paris, in which a Triennial Cooperation Programme was adopted (2009-2011).

The programme invites the participants to develop a series of multilateral and bilateral agreements around the focal point of intervention: organization of legal migrations, fight against illegal immigration, and strengthening of the synergies between migration and development. This process was recently evaluated during the III Euro-African Ministerial Conference on Migration and Development held in Dakar on 22nd and 23rd November 2011, where the strategy for the next triennial 2012-2014 was adopted.

Parallel to the Rabat process, the EU continues to develop the idea expressed in the afore-mentioned Communication on Circular Migration and Mobility Partnerships between the European Union and Third Countries, of 16th May 2007, which was well received by the European Council of Brussels, 21st and 22nd June 2007. The Presidency Conclusions underline the importance of creating *“specific partnerships on migration with third countries could contribute to a coherent migration policy which combines measures aimed at facilitating well-managed legal migration opportunities and their benefits – while respecting Member States' competences and the specific needs of their labour markets – with those fighting illegal migration, protecting refugees and tackling the root causes of migration while at the same time impacting positively on development in countries of origin”*.

And, more recently, in the Communication of 18th November 2011, which updates the Global Approach to Migrations and Mobility, the Commission declares that mobility associations have already passed the pilot stage and that, in the future, they must be fomented as the main frame of cooperation in the area of migrations and mobility between the EU and its members³³. Finally, in response to the mobilisations which have occurred since March and April 2011 (better known as “Arabic Springtime”), the Commission has determined that, in relation to EU foreign policy on migration, priority must be given to the EU’s Neighbourhood Policy and, in particular, the Association with the Southern Mediterranean Region³⁴.

IV. Conclusions

To use a simile from the world of mathematics, without a doubt, “development” and “migrations” form a part of an equation, but of two unknown quantities. Although it is well known that these two terms are related, the meaning of this relationship is inextricable at present. Similarly, even though the analysis of the connection between “development cooperation” and “migrations” in principle seems more evident, a clear relationship between the two is still hard to establish. This is because, up until the present time, neither immigration policy has been designed thinking in development cooperation, nor has there been, inversely, a development cooperation policy aimed at the management of migratory flows and prevention of illegal immigration.

The link between “development cooperation” and “immigration management” however is crystal clear, given that the emergent European immigration policy, as well as the conventional Spanish policy, are oriented towards (at least at present) offering immigration management (in the immigrants’ countries of origin) as the bargaining chip of ODA.

³³ Cfr., Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: The Global Approach to Migration and Mobility, 18th November 2011 [COM(2011) 743 final].

³⁴ The Commission announces that it has launched dialogues on migration mobility and security with Tunisia and Morocco and that, as soon as the political situation permits, similar dialogues will follow with Egypt and Libya. In principle, *“the dialogues allow the EU and the partner countries to discuss in a comprehensive manner all aspects of their possible cooperation in managing migration flows and circulation of persons with a view to establishing Mobility Partnerships.”* [COM(2011) 743 final, p. 2].