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Migration and the next EU long-term budget: KEY CHOICES FOR EXTERNAL ACTION

MFF

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The rising number of asylum seekers and irregular migrants since 2015 has clearly influenced the European Commission proposal for the 2021-2027 budget. This paper explores the various positions and issues at stake in the ongoing negotiations, and provides an overview of the options and risks linked to the different possible decisions.

One of the priorities for the Commission and its member states is to assure adequate levels of flexible resources for the external dimension of the EU's migration policy in the future. The current Commission proposal broadens the possibilities for external action in some of the DG Home-administered funds while increasing funds and mainstreaming migration in the external instruments. The amounts of money, possible earmarking for migration as well as governance and coordination arrangements are sensitive elements in the negotiations. An important aspect is how the final budget will establish coherence and complementarity between internal and external funds.

Flexibility is another key priority in the Commission's proposal, building on the experience of a stretched budget in recent years. Yet, with migration being a long-term challenge, it will be essential for the EU to strike the right balance between long-term strategic focus of EU funds – with a focus on sustainable development – and a budget that is flexible in crisis situations and can pursue the EU's political priorities.

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Acronyms

AFET	European Parliament's Committee on Foreign Affairs
AMF	Asylum and Migration Fund
AMIF	Asylum, Migration and Integration Fund
BMVI	Border Management and Visa
CONCORD	European NGO Confederation for Relief and Development
DEVE	European Parliament's Committee on Development
DG DEVCO	Directorate-General for International Cooperation and Development
DG Home	Directorate-General for Migration and Home Affairs
DG NEAR	Directorate-General for Neighbourhood and Enlargement Negotiations
EC	European Commission
EDF	European Development Fund
EEAS	European External Action Service
EP	European Parliament
ETTG	European Think Tank Group
EU	European Union
EUTF	EU Trust Fund for Africa
IBMF	Integrated Border Management Fund
IDPs	Internally displaced people
IPA	Instrument for Pre-Accession Assistance
ISF	Internal Security Fund
JHA	Working Party on Justice and Home Affairs
JVAP	Joint Valletta Action Plan
LIBE	Committee on Civil Liberties, Justice and Home Affairs
MFF	Multiannual Financial Framework
MS	Member states
NDICI	Neighbourhood, Development and International Cooperation Instrument
NGO	Non-Governmental Organisation
ODA	Official development assistance
OECD-DAC	Development Assistance Committee of the Organisation for Economic Cooperation and Development
SDGs	Sustainable Development Goals
UN	United Nations
US	United States

1. Introduction

With the proposed EU budget from 2021 to 2027, the EU Commission aims to address future challenges and incorporate lessons learned from the past few years. Addressing migration plays a large part in this endeavour. Since 2015, the EU has faced rising numbers of asylum seekers and other irregular migrants. A key response has been to increase funding in support of EU member states (MS) and to address migration situations in third countries. Both internal as well as external funding have come under significant pressure. Available instruments and the level of funding in the existing 2014-2020 budget were inadequate, leading to ad-hoc solutions, reshuffling of funds and the exhaustive use of margins and other flexibility instruments.¹

The way migration is integrated in the proposed next Multiannual Financial Framework (MFF), presented by the EU Commission (EC) in May and June 2018, is based on these lessons. Assuring adequate levels of flexible resources for the external dimension² of the EU's migration policy is one of the priorities for the EC and its member states. It is however also one of the politically sensitive elements in the ongoing negotiations.³ Integrating external migration priorities within the next MFF⁴ brings to the fore the divergences among EU member states on how to best address the issue. The stakes are high due to strong interests and the request of MS for the Commission to “deliver adequately on leaders' priorities in the area of migration” (Council of the European Union 2018a: 6) – yet with little clarity on how these interests interact with partner countries' development priorities

Within an overall limited budget, negotiated also in the context of Brexit, including certain funding priorities leads to tradeoffs and comes at the cost of other issues. The discussions and position-finding to date have been revolving around the priority given to funding for the external dimension of migration and the scope of activities under each of the relevant instruments.

This discussion paper will explore the current discussions around the EU Commission MFF proposal specifically concerning the external dimension of the EU's migration policy⁵ under the proposed funds administered by the Directorate-General for Migration and Home Affairs (DG Home) and those administered by the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), the Directorate-General for International Cooperation and Development (DG DEVCO) and the

¹ The budgetary response to the 2015-16 refugee and irregular migration situation resulted in a reconfiguration of the EU funding landscape, including the establishment of new funding solutions and tools, such as Trust Funds, the Facility for Refugees in Turkey or the External Investment Plan, to leverage funding beyond the limits of the budget. Externally, the EU has made available a total of € 6.2 billion to address the ‘refugee crisis’ in 2015 and 2016 (Knoll and Sherriff 2017: 224). Moreover, the Asylum, Migration and Integration Fund was more than doubled (+123%), funding for decentralised agencies increased by 86% and Emergency Assistance increased by almost 500% (European Commission 2018a: 4). For further reading see den Hertog 2016; Knoll and Sherriff 2017; Rasche 2018.

² The EC proposals for instance increase funds for external action by 13% in the context of migration and instability (Sherriff et al. 2018).

³ However it is important to note that at the time of writing, there are other key issues, such as the overall budget headings, the funding for the Neighbourhood or the budgetisation of the European Development Fund (EDF) that have to be resolved and could significantly change the external action instrument landscape, including available funding for migration-related activities.

⁴ Based on the EU Council priorities identified amongst at the Summits in Bratislava, Rome or Salzburg during 2016 and 2017.

⁵ While this short discussion paper focuses on financing the external dimension of the EU's migration policy, the issue of migration is not limited to the discussion around activities in third countries. Dissatisfaction of some EU member states about the lack of European internal solidarity in the context of migrant arrivals has already led to attempted hijacking of the overall budget process: Italy's deputy prime Minister Di Maio for instance, “threatened to veto the EU's seven-year budget plan if the bloc did not do more to share the burden of migrant arrivals” (Zalan 2018). Questions around migration, in various ways, are thus part of the possible difficult elements in the MFF negotiations. The funding for asylum and migration within the EU is however outside the scope of this paper.

European External Action Service (EEAS). It is based on a desk study of positions and available EU documents and research papers relevant to the MFF discussions. The desk work has been complemented by 9 interviews with EU and EU MS officials and Members of the European Parliament. The note will analyse various positions and discuss the issues to be resolved in the way forward. First, we will give an overview over how the external migration dimension features in the proposals by the European Commission and provide a background on the state of play of the MFF process (section 2). It will then, in section 3, explore the various issues that will be part of the negotiations and where different points of view exist and where choices will have to be made. These relate to flexibility, delineation and complementarity as well as conditionality, which will be negotiated during the coming months. The note will provide an overview of the different options and risks that are inherent in the decisions to be taken. It will conclude with the message that much is at stake to ensure that the EU will adopt the right balance between long-term strategy and flexibility, as well as coherence and complementarity when it comes to its external migration spending. While much will depend on the choices made as part of the MFF, establishing the right mechanisms during the implementation phase will equally be crucial.

2. Background: The external dimension of migration in current proposals and state of play of negotiations

Reserving more funding to address irregular migration emerged as a clear priority from the 2017 Rome and Bratislava EU Council summits of European Heads of Government. In the early discussions on the next long-term EU budget, suggestions were made for establishing a dedicated financial instrument or funding stream⁶ to address migration and combine internal and external dimensions more closely (see Box 1). While showing a strong political signal, this would entail a larger restructuring between internal and external funds and the institutions linked to their administration. The current Commission proposal does not follow this path but instead views migration as an issue to be mainstreamed throughout different financial instruments internally and externally. The proposal aims to balance the wish of EU member states for strongly prioritising migration in budgetary terms, while ensuring complementarity between different headings and instruments.

Key resources for the **external dimension** of migration feature under three different headings:

- **Heading IV on migration and border management** (2.7% of the overall MFF), which includes the proposals for the Asylum and Migration Fund and the Integrated Border Management Fund;
- **Heading V on security and defence** (2.1% of the overall MFF), which includes the proposal for the Internal Security Fund;
- **Heading VI Neighbourhood and the world** (9.6% of the overall MFF), which notably includes the new Neighbourhood, Development and International Cooperation Instrument (NDICI) in which migration is mainstreamed.

Both Heading IV and Heading V are administered by the Directorate-General for Migration and Home Affairs (DG Home), while the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), the Directorate-General for International Cooperation and Development (DG DEVCO) and the European External Action Service (EEAS) administer Heading VI.

⁶ This was mentioned for example in a 2017 letter of the President of the European Council Tusk to EU leaders.

Box 1: Positions on a dedicated fund for migration vs. a mainstreaming approach

Most countries seem to agree with the current proposals in which the external dimension of migration is mainstreamed through the Neighbourhood Development and International Cooperation Instrument (NDICI) (including by drawing on unallocated funds) and is included in DG Home-administered instruments. Yet, some other EU member states offer alternative approaches (Castillejo et al. 2018). Proponents of a specific migration instrument combining internal and external spending argue that it would show commitment to make the necessary resources available for the EU's priorities and provide a coherent, stable and long-term financing mechanism. The Netherlands and Denmark have voiced a preference for a dedicated migration fund or instrument. Similarly, Belgium initially preferred to have a specific migration instrument or heading (bringing together the internal and the external dimensions), yet with the motivation to protect development spending, as well as to bring coherence between internal and external EU policies. On the contrary, Sweden may not be in favour of an instrument for migration without also establishing separate instruments for human rights or gender equality for instance. (Council of the European Union 2018b: 118; Interviews 2019).

The remainder of this section provides an overview over the proposed overall increases and flexibility provisions that built on lessons learned in recent years from addressing the migration situation. Section III will further explore the scope of the external migration dimension within these funds and the tradeoffs to be considered.

2.1. Overview: The European Commission's DG Home-administered funds

Following the experience of the 'migration crisis', the EC has proposed a **considerable increase in overall resources for migration, border management (Heading IV) and security (Heading V)** in the next financial period. Under all these funds spending for migration externally is possible – yet the scope and level is to be defined as further explained in Section III.

The proposed overall amount for Heading IV is €34.9 billion⁷, compared to €13 billion for the period 2014-2020. This is a response to “increased migratory, mobility and security challenges, with more flexible funding instruments to address unforeseen migratory events and border protection” (European Commission 2018b). It includes two components with dedicated instruments:

- **A comprehensive approach to managing migration** (“supporting a robust, realistic and fair policy” (European Commission 2018b)), with the **Asylum and Migration Fund (AMF)**, which is allocated €10.4 billion. As a comparison, the previous Asylum, Migration and Integration Fund was allocated €3.1 billion. From the proposed AMF, each Member State will receive a fixed sum of €5 million with the remainder distributed based on an assessment of the pressures faced and taking into account proportions in the area of asylum (30%), legal migration and integration (30%) and countering irregular migration and return (40%) (European Commission 2018b) – however, no specific justification is provided for the higher weighting for 'countering irregular migration' priority (Westerby 2018: 9).⁸ Some feel that the current allocation rules may create incentives to enforce return decisions to the detriment of actions in the field of asylum, legal migration and integration (Westerby 2018).
- **Strengthening the management of external borders (€21.3 billion)**, with the **Integrated Border Management Fund (IBMF)** allocated €9.3 billion and covering border management,

⁷ All the figures in this discussion paper are in current prices.

⁸ It was however noted in our interviews that a bilateral programming exercise will determine where the funding goes, and member states do not necessarily have to spend 40% of the resources on returns for instance (Interviews 2019).

visas and customs control equipment. As a comparison, for the period 2014-2020, the Internal Security Fund was allocated €3.8 billion, of which €2.8 billion went to its Borders and Visas instrument. In addition, the European Border and Coast Guard Agency (FRONTEX) and EU-LISA are strengthened and allocated a proposed €12 billion. The Commission envisages creating a standing corps of around 10,000 border guards by the end of the financial period.⁹ Border management, and especially the European Border and Coast Guard, are clearly the winners in this proposal, having the single biggest increase in funding. Moreover, the agency is envisaged to receive a wider mandate with scope for action in third countries beyond the Neighbourhood. The Council agreed its negotiating position on a regulation on the European Border and Coast Guard on 20 February 2019.

The **Internal Security Fund (ISF)**, as part of Heading V, supports police and judicial cooperation against and amongst other the exploitation of illegal immigration. The EU Commission proposed to more than double the amount compared to the current ISF, from €1.18 billion to €2.5 billion.

Flexibility is built into the structure of the home affairs funds.¹⁰ Each of three funds [AMF, IBMF, ISF] is composed of national programmes – financing which is allocated to actions planned by EU member states¹¹ – as well as a thematic facility, which is meant to provide flexible funding in urgent cases, either to support national programs but also to finance third countries and other entities directly (both shared and direct management are possible under the thematic facility). The European Commission proposal allocates 60% to national programmes and 40% to the thematic facility – increasing available emergency funding as compared to the current budgetary framework. The external dimension of migration can be covered under both the national programmes and the thematic facility. The proposed AMF for example allows for third countries to be direct beneficiaries of Member State national programmes.

2.2. Overview: Migration in the EU's external financing for the Neighbourhood and the world

The Commission proposes to increase the overall funding for external action to €123 billion. The newly proposed NDICI (allocated €89.2 billion)¹² follows a **strategy of mainstreaming migration** throughout the instrument's pillars. The proposal also sets a **horizontal spending target of 10%** “dedicated to addressing the root causes of irregular migration and forced displacement and to supporting migration management and governance including the protection of refugees and migrants' rights within the objectives of this Regulation.” (European Commission 2018: 22). Migration is mainstreamed in the following way:

- ‘Mobility and migration management’ is one of the priorities of the major **geographic pillar**¹³ and will likely influence allocations geographically. The impact assessment accompanying the proposal states that “on migration, while numerous instruments and ad hoc tools, such [as] the creation of the EU emergency trust funds for Africa have helped the EU support this issue, the

⁹ There is currently a pool of 1,500 national border guards activated for rapid border interventions. One interviewee however noted that the number of border guards proposed is very ambitious and unlikely to be reached, because of a lack of human resources in member states. Yet for some member states it is politically very important to live up to expectations (Interviews 2019).

¹⁰ Section III.1. analyses flexibility more in depth.

¹¹ This is partly allocated upfront and partly after a mid-term review taking into account needs and pressures.

¹² For a comprehensive analysis of the proposed NDICI overall (including an overview of proposed allocations), see Jones et al. 2018a.

¹³ The geographic pillar has a proposed allocation of €68 billion.

broad instrument would go further by ensuring full geographic coverage of support.” (European Commission 2018c: 19)

- ‘Migration and forced displacement’ is one of the global challenges addressed in the **thematic pillar**.¹⁴

Flexibility is also built into the structure of the NDICI through:

- The **rapid-response pillar** (€4 billion) is designed to “mobilise short-term assistance in a swift and effective manner - for example to react to critical situations of refugee waves in conflict-ridden areas or of migrant influx” (European Commission 2018d: 5).
- The **emerging challenges and priorities cushion** (€10.2 billion which represents about 11% of the instrument (Jones et al. 2018a: 5)), which is unallocated money designed to “enable the EU to react swiftly to emerging challenges, for example those linked to migratory pressures” (European Commission 2018d: 6), while leaving flexibility also to address unforeseen events, stability needs and new international initiatives and priorities.

Migration also features strongly in the proposal for a **new Instrument for Pre-Accession Assistance (IPA III)**. Indeed, it is one of the key challenges that are taken on board more visibly in the proposal and improving migration management, including border management, is one of the specific objectives of IPA III. The proposal also mentions that a share of the total budget (e.g. 10%) could be kept unallocated to cater for unforeseen needs (e.g. migration).

There is no clear definition of what counts as migration-related spending¹⁵ (e.g. under the 10% proposed earmarking) beyond the vague notion of addressing ‘root causes’ of irregular migration and forced displacement. Because of this and the fact that migration-related programmes are mainstreamed in various budget lines, it is difficult to compare how much more focus the proposal gives to migration in monetary terms compared to the current budgetary cycle.

However, with this caveat in mind, a comparison of the existing dedicated budget lines and funds targeting migration with the proposed future budget shows that a **considerable increase in dedicated funding for migration under the NDICI is possible**.¹⁶

Dedicated funding for migration in the NDICI could amount to €23.1 billion:

- The 10% spending target represents €8.9 billion in the current proposal. This amount reserved for tackling the root causes of irregular migration and forced displacement however depends on whether the 10% target is a minimum or a maximum. If the former, it could be higher.
- In a scenario in which the rapid-response pillar and the ‘emerging challenges and priorities cushion’ would entirely be used for ‘migratory pressures’, the overall available funding would add up to €14.2 billion. This however depends on the governance arrangements made for this flexible funding.

By comparison, in the current MFF 2014-2020, specifically large dedicated funds and budget lines for addressing migration externally were approximately €8.6 billion:

¹⁴ The thematic pillar overall has a proposed allocation of €7 billion. According to one interviewee, it is difficult to programme migration-related projects at the global level. Given that migration governance needs to be tailored to the national context, it seems more important to mainstream it through the geographic windows (Interview 2019).

¹⁵ The recently introduced OECD-DAC code for migration governance remedies this to some extent.

¹⁶ This is an imperfect and rough comparison as the geographic instruments are not taken into account and because possible dedicated spending in the NDICI depends on choices still to be made in the programming phase. Yet, it does show the increase of emphasis on dedicated migration spending.

- The thematic line 'Migration and asylum' as part of the Global Public Goods and Challenges programme of the Development Cooperation Instrument for 2014-2020 was allocated €703 million (European Commission 2018: 78).
- Resources allocated to the EU Trust Fund for Africa (EUTF) from the European Development Fund (EDF) and EU financial instruments amount to 3.7 billion (European Commission 2019a). They largely came from tapping into flexibility provisions and unallocated resources.
- As of March 2019, the EU Commission noted it had mobilised over €4.2 billion in non-humanitarian aid for the Syrian crisis, which largely addressed refugee situations and thus migration dynamics (European External Action Service 2019: 6).

If one assumes that in addition migration has been mainstreamed in the geographic funds (11th European Development Fund with €30.5 bn and the current European Neighbourhood Instrument with €15.4bn under the current budgetary cycle) with also 10%¹⁷, it adds approximately another 3.5 billion and 1.5 billion respectively.

However, **much still depends on the negotiations and choices made on the scope and level of overall funding**. Box 3 highlights the state of and way forward for the negotiations in relation to migration. The following section will analyse what is at stake.

Box 2: State of play of the MFF negotiations on migration as of mid-March 2019

The various Commission proposals relevant for migration are discussed in the Ad Hoc Working Party on the NDICI, the Ad hoc Working Party on Justice and Home Affairs (JHA) Financial Instruments and the Ad Hoc Working Party on the MFF. These bodies are composed of experts from each member state and chaired by the EU Presidency of the Council (Romania for the first half of 2019, Finland for the second half), examining the Commission proposals. After examination, the proposals will be forwarded to the Foreign Affairs Council, the JHA Council and the General Affairs Council respectively. At the time of writing, discussions on external migration dimensions as part of the internal instruments (JHA) were more advanced than discussions on migration in external action (NDICI) (Interviews 2019).

The Council Working Groups discuss details of the proposed regulations for the different funds under Heading IV, V and VI - yet more political or sensitive issues where divergences exist or have implications for other budget areas are discussed as part of the Negotiating Box. This Negotiation Box "brings together those elements which are most likely to require political guidance from the EU leaders with a view to the Council reaching its position. It is a tool for structuring and facilitating the negotiations on the overall MFF" (Council of the European Union 2019), which is updated as negotiations progress.

Next to the overall amounts for each heading, instrument, flexibility instrument and ratios for margins, the Negotiating Box includes questions related to a dedicated external migration component for Heading IV and Heading V. At the time of writing, the overall amounts were not yet discussed. Technical discussions thus take place in the context of an overall uncertainty of the level of available funding.

The General Affairs Council on 19 February 2019 agreed that "[t]he shared objective is to provide the June European Council with a streamlined draft Negotiating Box, with a view to achieving an agreement in the European Council in autumn 2019." (Council of the European Union 2019).

The Council is planning to reach a 'partial general approach' in June (Interviews 2019). On the European Parliament (EP) side, the European Parliament's Committee on Foreign Affairs (AFET) and European Parliament's Committee on Development (DEVE) voted on their joint report on the NDICI on 4 March 2019, while

¹⁷ This is not an empirical share and is just used as comparison to the 10% target proposed in the new external action fund, the NDICI.

the LIBE committee voted on its reports on the AMF and the instrument for financial support for border management and visa (as part of the IBMF) on 19 February 2019. The trilogue (negotiations between the EP, the Commission and the Council) will only start after the EP elections in May 2019.

3. Negotiating the external dimension of migration - Key issues and tradeoffs

This section explores the various issues related to the external dimension of migration on which different point of views exist and which will have to be resolved during the negotiations: complementarity and coherence between internal and external funds; increased flexibility and governance, predictability and strategic direction; conditionality and incentives. All of these issues raise concerns related to the development focus of the EU's external action and to the **balance between the EU's short-term interests and an overarching longer-term strategy regarding the external dimension on migration** that the next MFF will strike. They very much depend on crucial decisions related to the overall architecture, the amounts of money involved, the level of earmarking as well as governance which will be taken in the next few months.

3.1. Complementarity and coherence

With a **possible substantial increase in the overall proposed resources for external action on migration**, questions about complementarity, overlaps and gaps as well as division of labour between Heading IV and Heading VI emerged. Especially because there remains room for interpretation in the delineation of the scope of activities in each.

3.1.1. The size and scope of the external dimension of migration in home affairs' instruments

Financing the external dimension as part of the instruments administered by DG Home (e.g. on legal migration, pre-departure, return etc.) is not new. Experiences in the past budget cycle have however shown that a number of funding gaps for "accompanying measures in third countries which support the Union's efforts to protect its borders and enhance sustainable returns" existed (European Commission 2018e: 17). Specifically in the areas of border protection, pre-integration, return and reintegration as well as protection systems in third countries, not all support actions could be covered by the existing funding instruments, which were limited in size and scope. At the same time external instruments were not always prepared to cover these either.¹⁸ One of the lessons agreed by stakeholders during EC consultations on the EU's internal funds was thus the "need for a wider scope of action for EU funding, including as regards its external dimension" as part of the home affairs funds (European Commission 2018f: 11).

With the current negotiations on an expanded role of the European Border and Coast Guard (Frontex), it is likely that international engagement and cooperation with third countries on return and migration management increases. Beyond this, the EU Commission proposal includes the **possibility for spending DG Home funds in third countries** (and **expands the scope** to do so), yet does not

¹⁸ This had several reasons. Partly this was due to geographic restrictions (e.g. the EUTF for Africa only covers the main origin and transit countries in Africa), partly this was due to the requirement for implementers of EU funds to undergo a prior pillar assessment, which entities working on issues relevant to the DG Home agenda did not necessarily have (e.g. in the area of return) (European Commission 2018e: 17). Moreover, external action instruments are meant to largely focus on sustainable development aspects.

put a specific figure on it. This seemed not sufficient for some EU member states which want to ensure the availability of dedicated funding as part of the home affairs instrument in order to stem irregular migration to the EU. Accordingly, the EU Council concluded that the internal funds should “include **dedicated, significant components for external migration management**” (European Council 2018).¹⁹ This wording was included in the MFF Negotiating Box in autumn 2018, but it is still bracketed and has not been allocated a specific share (Council of the European Union 2018c: 38-39). The specific earmarking and the possible links to policy concepts for external migration management championed by some politicians²⁰ are part of political signalling that money is being put behind certain priorities.

Most EU member states are generally not against earmarking a specific share for external action. The discussion for such earmarking focuses on the thematic facilities part of each instrument as this would provide enough flexibility to channel funds either as emergency assistance, Union actions or through national programmes top-up.²¹ This could also ensure that the flexible funds allocated by the EC are to some extent defined ex-ante, which may defeat the purpose of the flexibility provision. It is thus not an approach favoured by the EC (Interviews 2019). For EU member states, it could however mean a possibility to use parts of their national programmes for the external dimension and ensure that the thematic facility does the same. Yet there is no final agreement among member states where such earmarking should be placed (Council of the European Union 2018e: 4). Moreover, in the context of a limited budget, any specific earmarking will lead to tradeoffs with important internal actions in the area of asylum and migration. The LIBE committee of the European Parliament in its draft reports on the AMF and the instrument for financial support for border management and visa (as part of the Integrated Border Management Fund) adopted on 19 February 2019, thus recommended to cap the external dimension of these funds (5% for the AMF and 2% for IBMF), with the understanding that the primary focus of these funds should be actions within the Union.²²

The proposed regulations introduce some modifications compared to what DG Home was able to fund in the current budget cycle. The EU Commission and EEAS however stress that funding administered by DG Home externally concerns only the **immediate “extension of the internal policy”** (Interviews 2019): “In relation to the external dimension, the [Asylum and Migration] Fund should target support to enhance cooperation with third countries and to reinforce key aspects of migration management in areas of interest to the Union's migration policy” (European Commission 2018f: 5). The NDICI remains the main instrument for external action on migration. Next to already existing possibilities for external spending (see Figure 1), two **new possibilities** for actions are included: (i) the development of mobility schemes to the EU in the area of legal migration and (ii) a possibility of providing incentives and support to (and in) third countries to accept and reintegrate returnees from the EU in the area of return (European Commission 2018f: 48). Overall, stronger focus is put on return and reintegration compared to the previous cycle (Interviews, 2019).

¹⁹ “In the context of the next Multiannual Financial Framework, the European Council underlines the need for flexible instruments, allowing for fast disbursement, to combat illegal migration.” (European Council 2018).

²⁰ Austria, under its EU presidency in 2018, suggested to include in the text related to possible actions of the instruments, specific references to policy concepts such as ‘disembarkation platforms’ in third countries (Council of the European Union 2018d: 5) – a concept strongly promoted by Chancellor Kurtz in the second half of 2018.

²¹ The national programmes of EU MS could of course in addition use their allocated funds for actions with an external dimension, e.g. for migration management and incentives to third countries in the area of return and reintegration.

²² In this context, MEPs note that “it is essential to limit cooperation with third countries under this Fund [AMF] to the domain of internal affairs and specifically to legal migration, return and readmission; avoiding to destabilize third countries with a narrow approach based on EU interests and priorities on migration management.” (European Parliament 2018).

The AMF furthermore provides the possibility for **third countries to be direct beneficiaries** of EU member states national programmes (Westerby 2018: 14). For some EU member states, the new possibility to provide incentives to third countries to accept and reintegrate returnees, and resource infrastructure, equipment and 'other measures' in third countries to counter irregular migration (including policy ideas such as the discussed 'disembarkation platforms'), seems particularly important.²³ As per the regulations, AMF-funded actions in this area will have to be coherent with external actions and the underlying principles and objectives of the EU's foreign policy. Yet, the scope is not further defined and how coherence will be established in practice (both in shared management and Union actions) will have to be clarified. As partner countries where EU member states have migration-related interests include those with mixed human rights track records, it would be important to clarify management arrangements and transparency provisions to ensure that policy coherence with the EU's foreign and development policy in these countries is upheld.

The scope for both the Integrated Border Management Fund as well as the Internal Security Fund remains as it currently is (see Figure 1). The proposed regulation for the **Integrated Border Management Fund** states that "in relation to the external dimension, the instrument for border management and visa will target support to enhance cooperation with third countries and to reinforce key aspects of their border surveillance and border management capabilities in areas of interest to the Union's migration policy and Union's security objectives" (European Commission 2018h: 6).

²³ EU member states will need to consult with the European Commission prior to associating third countries.

Figure 1: Existing and new elements under proposed Heading IV instruments (external action on migration)

AMF		
Resettlement		
Capacity building to support migration management and protection		
Pre-departure measures for third-country nationals		
Return, Readmission and Reintegration	IBMF	
Actions preventing irregular migration (information campaigns, tracking of flows etc.)	Sharing of information and best practices with third countries	ISF
Mobility schemes/legal migration	Improve operational cooperation (incl. through joint operations)	Cooperation with third countries on anti-terrorism and anti-radicalisation
Incentives for accepting and reintegrating returnees	Capacity building of third countries to protect borders (training/purchase of equipment/operational necessities)	Cooperation of law enforcement authorities in fight against terrorism, smuggling and trafficking (joint investigation teams)

Source: ECDPM based on European Commission proposal for AMF, IBMF and ISF; new elements in bold.

3.1.2. Identifying the scope of the external action on migration in the NDICI

The proposed NDICI, as main external action instrument (including on migration), would fund actions “addressing the root causes of irregular migration and forced displacement and supporting migration management and governance including the protection of refugees and migrants’ rights” (European Commission 2018g: 22). It would be able to support cooperation with third countries on migration management and security, thus contributing to the implementation of the EU Partnership Framework on Migration (see European Commission 2016).

The scope of the external action on migration in the NDICI will depend on crucial choices made in the negotiations. First of all, while the current proposal for the NDICI regulation sets a **horizontal spending target of 10%** for migration-related activities, which, as noted above, could be a significant portion, it **remains to be determined whether this is a minimum or a maximum target**. If it is a minimum target, it prioritises migration over other aspects and may work against flexibility and a

needs-based allocation. Nevertheless, some EU member states would like to increase this percentage to reach up to 20 or 30% (Interviews 2019).²⁴

Another important question to be resolved in the negotiations is **what type of activities the 10% spending target to tackle the ‘root causes’²⁵ will entail** – also vis-a-vis those in Heading IV. While some member states want a clear definition of what the 10% will cover before discussing the target, others point to the fact that from a negotiation point of view, it might be easier to reach an agreement with more vagueness on what it entails.²⁶

Currently there is “variety in terms of the types of responses to migration that MS would like to see incorporated in the NDICI. Italy, Germany and Finland stress a long-term focus on ‘root causes’ and a strengthening of relationships with countries of origin and transit. [...] Spain stresses the importance of equal partnership and development orientation in migration programming.” (Castillejo et al. 2018: 7). France seems to have argued for restricting the 10% earmarked migration funding under the NDICI to domains 2, 3, 4 and 5 of the Joint Valletta Action Plan²⁷ focusing on activities related to legal migration and mobility; protection and asylum; prevention of and fight against irregular migration, migrant smuggling and trafficking in human beings; return, readmission and reintegration (Interviews 2019). This would be a more narrow interpretation focused on migration governance than the wider area of addressing root causes. Following this interpretation, it could mean that 10% of the instrument (almost €9 billion, with the current proposal) could be available for migration-related projects that are potentially overlapping with Heading IV. As a comparison, domains 2, 3, 4 and 5 of the Joint Valletta Action Plan had received €5.3 billion as of October 2018 (JVAP database 2018). This is thus a very strong increase for such projects (given that the current €5.3 billion are already part of the strong raise in funding for migration). On the other hand, it would provide a clearer concept of what should be funded through the earmarked target. Another question is whether the earmarked funding will fulfill OECD-DAC criteria on migration (see Box 3).

In case the notion of ‘root causes’ continues to prevail, the **absence of a clear definition** means that monitoring and evaluation of effectiveness in the area of migration will be very difficult (Keijzer 2018). It is **not clear what type of projects would count as addressing ‘root causes’** and thus fall under the 10% in the current proposal – given that arguably most of the instruments’ activities to foster sustainable development could be connected to a ‘root cause’ argument. An emerging delineation²⁸ in EC circles is to ask whether a thematic project (e.g. private sector development) would be there if it was not for migration-related objectives. If it would not happen other than for migration, it could fall

²⁴ The joint report of the EP AFET and DEVE committees on the NDICI however sets the 10% target as a maximum.

²⁵ The current wording of ‘root causes of irregular migration and forced displacement’ is carefully chosen. It ensures that there is no funding for general actions against migration per se. The reduction of migration is not supported from a development or human rights point of view. This wording is however not accepted by all EU member states, especially those who view any type of migration as negative. Member states’ positions overall are very polarized at the moment (in favour or against migration). Some member states have successfully pushed for stronger language on ‘root causes’, stemming (irregular) migration or conditionality into the text of the MFF in many areas - as has been the case in other EU documents and agreements with third parties. One interviewee noted that this pressure for stronger language tends to be increasingly accepted by other member states, while another pointed out that it is not so much about having migration in or out per se, but about using the right words when talking about migration (‘irregular’, ‘forced’...).

²⁶ Given that the European Consensus on Development, the EU Partnership Framework for Migration (European Commission 2016) and various other EU Council documents note that development cooperation should address the root causes of irregular migration and displacement, it may be difficult to remove this notion from the 10% allocation.

²⁷ The Valletta Action Plan in November 2015 identified five priority domains (or ‘pillars’) – the first one being “development benefits of migration and addressing root causes of irregular migration and forced displacement”(Valletta summit 2015).

²⁸ As part of the considerations in the EU Commission to find a practical definition.

under the possible target of addressing root causes of irregular migration. A similar private sector support project in a different context where no migration interests prevail would not fall under it (Interviews 2019).²⁹

There is a tradeoff between what some see as ‘*constructive ambiguity*’ in the definition that provides flexibility to respond to EU priorities on migration, on the one hand³⁰, and wording that would push sizeable components of the NDICI to become less focused on sustainable development aspects of migration, on the other hand. Overall, the amendments of the co-rapporteurs and shadow rapporteurs of the EU Parliament attempted to make the contribution of migration to development more prominent in the regulation and in line with the Sustainable Development Goals (SDGs) (although the European People’s Party, who reportedly found the NDICI text too ‘developmental’, had very different views from the Socialists and Democrats and the Liberals and Democrats) (Interviews 2019).

Box 3: Which influence for the 92% ‘DAC-ability rule’?

The NDICI will to a large extent have to follow the rules of the Organisation for Economic Cooperation and Development’s Development Assistance Committee (OECD-DAC) to determine what activities are eligible as official development assistance (ODA). According to the EC proposal, 92% of the NDICI should be spent on activities that fall under the OECD-DAC ODA definition. The fact that the 92% rule features in an article (article 3) makes it legally binding. Some EU member states view this as a positive political commitment. The European Parliament, however, would like to see this requirement increased to 95% of the NDICI.

The EU finances a number of activities through its external action instruments that are not classified as ODA. For the next budget cycle, the remaining 8% (or 5% if EP proposal is followed) still represent a considerable amount of money available for activities primarily based on EU interests – outside the scope of actions supporting sustainable development as per the OECD-DAC definition. Some activities on migration that emerge predominantly from the EU’s own migration interests and do not fit the DAC criteria could fall under these 8%.

At the same time, since the 2017 reporting period, a specific OECD-DAC code has been introduced for migration governance.³¹ This means that activities supporting well-managed migration governance are seen as contributing to sustainable development in line with the migration-related targets of the Sustainable Development Goals. The following activities can thus be reported as ODA and are in line with the 92% requirement:

- capacity building in migration and mobility policy, analysis, planning and management,
- measures to improve migrant labour recruitment systems in developing countries,
- capacity building for strategy and policy development as well as legal and judicial development (including border management) in developing countries,
- support to effective strategies to ensure international protection and the right to asylum,
- support to effective strategies to ensure access to justice and assistance for displaced persons,
- assistance to migrants for their safe, dignified, informed and voluntary return to their country of origin (covering only returns from another developing country, excluding forced migration),
- assistance to migrants for sustainable reintegration.

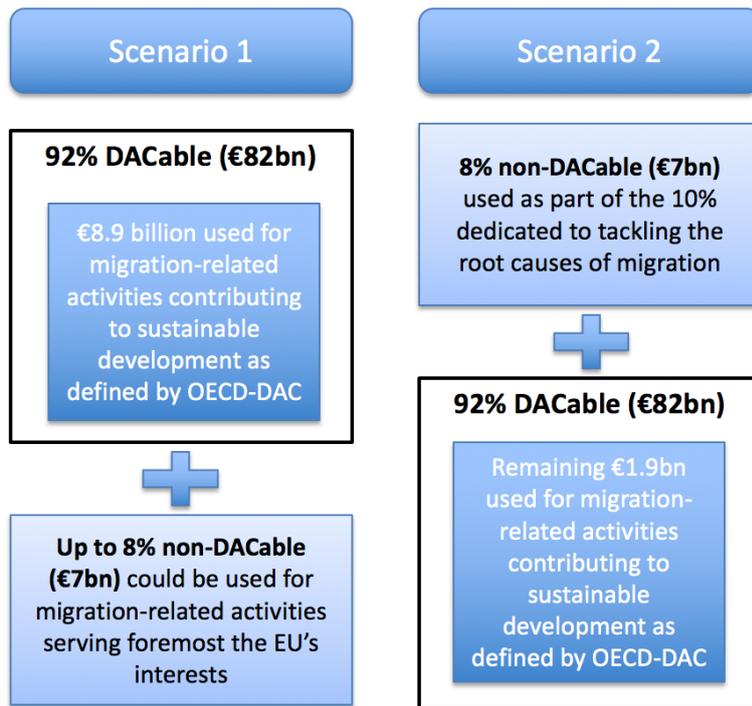
Moreover, a number of other OECD-DAC codes exist, that can be used for other specific migration-related activities, such as support to authorities for immigration affairs, remittances, humanitarian assistance to refugees and internally displaced people (IDPs) etc. Activities that may fall under ‘root causes of irregular migration and forced displacement’ would be put under relevant thematic codes. While activities that pursue first and foremost providers’ own migration related interests are excluded from ODA, the distinction is not always clear cut.

²⁹ Concerning tracking such spending on ‘root causes’, the OECD DAC has been deliberating the introduction of a policy marker for projects that address the ‘root causes’ similar to the gender equality marker. As of 2019 it is however not included in the list of policy markers. If introduced, it could be used for monitoring and reporting on migration-related spending beyond the existing purpose code focusing on migration governance projects.

³⁰ Depending on the choices made for migration spending in the NDICI and Heading VI, there is a concern that certain actions on migration, border management and security could not be covered and rapid action may be compromised if Heading IV cannot fill gaps.

³¹ The OECD-DAC established a purpose code 15190 to track donors’ assistance to developing countries that facilitates the orderly, safe, regular and responsible migration and mobility of people.

Figure 2: How to use the €8.9 billion (10%) dedicated to addressing the root causes of irregular migration and forced displacement?



Source: ECDPM based on the premise that the amount allocated to the NDICI is indeed €89.2 billion.

There are several options for how the possible definitional scope of the 10% migration-related spending under the NDICI interacts with the 92% rule. These depend on different choices concerning what counts as migration-related spending under the NDICI.

Figure 2 shows a summary of two possible extreme scenarios.³²

- Under the first scenario, the scope of the 10% target for migration in the NDICI would be limited to activities that would fall under the OECD-DAC rule and would thus be within the 92% requirement. This scenario does however not exclude that 8% of non-DACable funds are also available and possibly used for migration-related activities serving EU interests. This would mean that a considerable amount is available for migration-related activities and overall spending on migration in the NDICI could be more than 10%.
- In scenario 2, the scope would entail any migration-related projects, including both development-oriented ones (fulfilling OECD-DAC criteria) and projects solely related to EU interests. In the presented scenario the EU would make full use of the 8% non-Dacable spending for migration related projects³³ and thus the contribution of the NDICI to respond to developing partners' development priorities in the area of migration would be limited (€1.9bn if the 10% are a maximum target).

The presented options are extremes but they illustrate that the choice of definition matters for how much funding is available for the external migration dimension under the NDICI. In addition, the proposed IPA III, worth €14.5 billion, does not have to follow the DAC-ability rule, but can also fund activities related to migration management (e.g. border management).

³² These are showing the extremes and making full use of possibilities for migration spending - in-betweens are of course possible.

³³ This in theory is possible but may be unlikely as some of the activities in the area of peace and security are also likely to fall outside the scope of the OECD-DAC criteria.

3.1.3. Defining the relationship between internal and external funds in addressing migration in third countries

Given the presence of the external dimension in several instruments, there is a **need to strive for “complementarity between the different actions that support different aspects of migration policies”** as well as to avoid overlaps (Council of the European Union 2018e: 4). Many EU member states have voiced concerns and demand a **further specification of the scope and delineation and linkages of the various funds** concerned with external migration management. As part of the discussions in both Heading IV and Heading VI, a working group has met to further discuss the delineation between internal and external instruments. However, one interviewees stated that many issues remain open: *“The EU Council is clear on the fact that it wants more money for the external dimension, but the where, how and which instruments are still left open”* (Interview 2019).

Complementarity and policy coherence can be supported by:

- establishing dividing lines and **delineation** between different funds and
- establishing effective **coordination and consultation mechanisms** as part of the working arrangements between the actors involved (DG DEVCO, DG Home, EEAS and DG NEAR) to ensure that there are no overlaps or gaps.

Delineation

A possible delineation can concern the motivation of action and its objective, the timespan, and the type of activities.³⁴

The **delineation in terms of objectives** as understood in the current proposal is that whatever is immediately emerging from the EU internal policies (asylum, return, border protection) that needs to be financed externally would be financed by DG Home. Beyond this, activities linked to partner priorities or with longer-term aspects are financed by the NDICI. The EU Commission and EEAS have maintained that the main instrument for financing the external dimension of migration remains the NDICI (Interview, 2019). The NDICI, which is still to a large extent a development instrument (although, as noted above, it has a sizeable component for non-ODA expenditure – see Box 3), follows a different logic and would be more detached from immediate priorities emerging from the DG Home agenda. The Asylum and Migration Fund on the other hand, “is not intended to support actions which are development oriented but to complement, when appropriate, the financial assistance provided through the external Instruments” (European Commission 2018e: 30). For instance, DG Home’s support to member states on return and reintegration can be useful to fill a gap when the International Organisation for Migration does not intervene or external instruments are not ready to do so.

Independent of the motivation or underlying objective, this can still lead to overlaps in the **type of activities** that are fundable: In the Commission’s proposal, the external instruments (not only the proposed NDICI but also IPA III) are expected to cover a range of actions including biometric databases (instrumental for readmission agreements but also vital for sustainable development objectives) as well as capacity-building of police and border authorities (which could be a priority of partner countries also) (European Commission 2018k: 9). These could also fall in the realm of the

³⁴ The mid-term evaluation of the AMIF notes that coherence and complementarity was established through difference in points at which [Funds] intervene, or the different angles taken relative to the implemented activities – short-term, medium- and long-term support, reception phase or long-term integration (European Commission 2018j: 46).

immediate external projection of the EU's asylum and migration policies. Clearly demarcating the types of activities seems impractical given the amount of possible support in this area, which could come both from an internal migration as well as a sustainable development interest. In practice and in terms of the type of activities there is thus overlap, yet the NDICI may be restricted in terms of modalities and which type of actors can be supported.

A third delineation could be temporal in a number of areas. For instance activities on return and reintegration can be financed as an immediate priority emerging from the DG Home agenda, while longer-term and more systemic aspects of reintegration support could be financed by the NDICI in a complementary way. The NDICI could in such cases provide continuity for certain activities (Interview, 2019).

Because of the complexities and the possibility to look at similar migration-related aspects and activities from different angles (type of action, objective of the action, context of the action), **finding a clear-cut delineation that avoids the emergence of overlaps is a dilemma.** Clarity and precision in the definitions also means losing flexibility. In the current setup of interest constellations, the risk of emerging gaps between the fund seems lower than the challenge of avoiding overlaps, which could run counter to lessons of good donorship. In countries where the EU and its member states have a strong migration-related interest, e.g. in the Neighbourhood, the challenge of ensuring complementarity seems larger than where this interest is lower. In most developing countries, where DG DEVCO is in the lead, a delineation between activities financed by the different funds may be easier than in those where DG NEAR is in the lead (Interviews 2019).

Complementarity through coordination and consultation in practice?

Since different funds can in principle fund similar activities and, according to some member states, also support the same objectives in relation to migration, there is an **increased need for coordination between interventions under the various instruments to ensure complementarity** and avoid overlaps in practice (Council of the European Union 2018e: 4). This is essentially a **governance issue** and concerns various levels (e.g. the coordination between the relevant EU Council Working Groups, management of funds between DG Home, DG DEVCO, DG NEAR, EEAS and good communication between EU Delegations and headquarters).

Some member states are reportedly in favour of having a horizontal discussion on the external dimension of all relevant funds (internal and external) during the MFF negotiations in order to clarify some of the above questions together. This seems however unlikely. Others propose setting up specific EU Council working groups to ensure coordination during the implementation of the next MFF (Interviews 2019). The Ad Hoc Working Party on JHA Financial Instruments discussed the possibility of establishing a body that would have the overview of the different possibilities of funding on the external migration dimension and which would coordinate actions. The setup of a specific governance structure could also ensure more visibility, transparency, better communication and involvement of EU member states (Council of the European Union 2018e: 4). Other suggested options include carrying out regular thematic meetings of the NDICI Committee on migration and the association of actors responsible for external migration cooperation under the new Heading 6. Enhanced governance mechanisms that can facilitate strategic links, complementarity and coherence is an important element for the MFF during its implementation.

At the level of the Commission, there is usually a **wide consultation across relevant DGs**. DG Home and DG DEVCO seem to be more coordinated on the external migration dimension today than

they were in the past. The EUTF has reportedly enhanced complementarities between the two directorates (Interview, 2019). The mutual understanding of their positions has improved, leading to agreement and a common language – though not without limits. Return and reintegration was cited as an area in which joint DG Home-DG DEVCO meetings are much more common than they used to be. Yet, although cooperation has improved, there is a recognition within DG Home that it will have to be stepped up, as a result of the external dimension being in the spotlight and increased interest from member states (Interviews 2019). This is also to ensure that external action on migration is part of an overall comprehensive partnership approach and in line with diplomatic relations. At the level of the EU Delegations, this may mean equipping them with sufficient expertise on the internal and external dimensions of migration if external action funding is to be stepped up under the DG Home funds.

With shared management as part of Heading IV activities³⁵, member states may also implement their own programmes externally. This means that stronger coherence and complementarity through working arrangements will also have to be established between development or external affairs ministries and interior ministries in EU member states in order to avoid double funding and ensure that there are no gaps.

3.2. Increased flexibility: tradeoffs related to governance, predictability and strategic direction

Resources for migration (both internal and external) contain a considerable amount of flexible money in order to be able to provide fast responses and channel emergency funding to member states when needed in the next financial period. This potentially makes them more politically driven and geared towards the short-term, raising concerns about oversight, safeguards and management.

3.2.1. Flexibility in Heading IV

The Thematic Facilities as part of DG Home funds described in Section II.1 provides flexibility. Member states overall support the division of resources between national programmes (60%) and the thematic facility (40%) in the JHA funds as they recognise this need for flexible resources.³⁶ The **thematic facility** is meant to ensure sufficient flexibility for channeling emergency funding to member states and to address new and critical priorities as they emerge. In the AMF, it represents around €4.2 billion and can support: specific actions; Union actions; emergency assistance; resettlement; support to MS contributing to solidarity and responsibility efforts; support to the European Migration Network. In the Instrument covering Border Management and Visa (BMVI) (€3.2 billion) and the Internal Security Fund (€1 billion), it can also support: specific actions; Union actions; emergency assistance.

All three proposed regulations state that the thematic facility is “a way to balance the predictability of multiannual allocation of funding to the national programmes with flexibility in disbursing funding periodically to actions with a high level of added value to the Union.” Despite the fact that the thematic facility shall respond to urgent needs in line with agreed Union priorities, **there is a risk, as with any flexible and emergency funding, that it is mostly used for short-term migration management measures externally**. The note from the Austrian presidency on “reinforcing the external dimension of migration in home affairs funds” for instance states that “[t]he thematic facility could be mobilised for

³⁵ It has yet to be decided how the external dimension of Heading IV would be implemented (shared management, Union action etc.).

³⁶ Some EU MS would like to increase the percentage for national programmes. This ratio is ‘bracketed’ in the Negotiating Box.

any actions considered necessary to meet the objectives defined at EU level, including actions in third countries such as actions with the **purpose of stemming illegal migration.**" (Council of the European Union 2018e: 3). It should however be ensured that the flexibility and assistance to MS brought by the thematic facilities of the home affairs funds do not serve the sole purpose of stemming irregular migration, which risks narrowing the EU's approach to migration management and could run counter to the links between development and migration made in the NDICI.

Moreover, while the AMIF regulation required at least 20% of funds to be allocated to asylum and another 20% to integration in the current MFF³⁷, the proposed AMF does not have such requirements for flexibility and efficiency reasons. This "creates a risk that EU funding will be implemented according to the political priorities of individual Member States rather than Union priorities" (Westerby 2018: 13). Without initial minimum allocations that ensure a balanced approach, there may be a higher risk that particular policy areas will be prioritised and others neglected.

Increased flexibility thus raises issues related to **governance and oversight**. According to one of our interviewees, member states are likely to demand sufficient transparency and input in the decision-making when it comes to flexibility. The EC has proposed new oversight roles for the European Union Agency for Asylum and the European Border and Coast Guard Agency. It further aims to ensure coherence with Union Policies through a Partnership agreement for EU-funded programmes implemented by member states, in which member states need to motivate priority choices. Yet, it does not require these to be discussed through a formal policy dialogue process or based on structured needs assessments. The EP is also likely to seek more oversight. **Issues related to the strategic direction of the funds** (flexibility at the cost of long-term objectives for migration?) **and governance** (flexibility at the cost of member states' oversight and democratic scrutiny?) will have to be resolved in the negotiations between the three institutions (EP, Council, EC) over the next few months. They also raise broader questions on what the EU seeks to achieve in its migration policies and how the three funds can coherently support that vision.

3.2.2. Flexibility in Heading VI

The NDICI includes an **emerging challenges and priorities cushion**, providing flexibility for unforeseen events, including an increase in irregular migration and displacement.

Such flexibility can come **at the cost of predictability and possibly at the support of longer-term development in partner countries**. There exists a fear in the development and NGO community that a significant amount of unallocated development funding will be instrumentalised for EU short-term external migration or other political objectives. As Concord Board Member Bruno Rivalan stated: "Aid diversion is the biggest risk of the Commission's proposal." (Concord 2018). According to one of our interviewees, it will be important to ensure the cushion "does not give *'carte blanche'* to the Commission and the EEAS to do whatever they want" (Interview 2019).

The question about **governance and oversight of the use of the cushion and other flexibility instruments is thus also important here**. Yet, the implementation, governance and accountability of this substantial reserve remain ambiguous. In order to calm critics, there will need to be clearer criteria for when tapping into cushions or margins is adequate as well as safeguards ensuring that funding foreseen for sustainable development is not used for more narrow EU interests and where a link to sustainable development outcomes may be less clear.³⁸

³⁷ However actual spending could differ from this allocation.

³⁸ We could for instance imagine a cap on migration spending for the use of resources coming from the cushion.

Another issue related to flexibility is the extent of **democratic scrutiny**. The European Parliament and the member states have expressed concerns over their oversight over this unallocated funding (Interview 2019; Jones et al. 2018b: 11). The AFET and DEVE co-rapporteurs for the NDICI believe that the scope of the cushion as currently proposed is unjustified and therefore they would like to reduce it (a compromise position was reached with the shadow rapporteurs with €7.5 billion). A shadow rapporteur also pointed to the fact that with €11 billion for humanitarian aid in the current proposal, there is no need for additional flexibility since potential ‘migratory pressures’ in the future could be addressed with this humanitarian funding (Interview 2019). The EP and a number of EU member states feel that with increased flexibility, there is also a stronger need to be able to hold the Commission to account. In this context, there is a demand that the EU Commission would track its spending (including the implementation of the spending targets³⁹) as one interviewee noted. ETG researchers similarly suggested that in exchange for flexibility, the EC “must get better at documenting, communicating and evaluating its programming and providing a convincing development narrative”, which will require clear spending criteria linked to SDGs, unambiguous objectives and a detailed results framework (Keijzer et al. 2018; see also Jones et al. 2018b).

Finally, a pending question when it comes to flexibility concerns the **continuation of the EU Emergency Trust Fund for Africa (EUTF) as a modality**, which in the past years has provided flexible working methods, joined up and coherent approaches, as well as additional funding (including contributions from member states) in the MFF 2014-2020 at a time when resources were stretched. A number of actors, including from Belgium and Germany, believe that the proposed NDICI provides enough flexibility and that the EUTF as a specific modality is thus not needed anymore (which is why the European Commission initially wanted a flexible instrument), while for countries like Italy, the EUTF is a way to tackle their agenda of addressing root causes visibly (Interview 2019). Sweden does not support the EUTF either, as it believes they do not follow the right approach (i.e. “a quick fix for something that is long-term”) (Interview 2019). Besides, some MS seem to find it problematic that the EUTF bypasses member states’ control.⁴⁰ One interviewee also pointed to the fact that the EUTF was meant to be an emergency mechanism, it has an end date and should not be endlessly prolonged. On the contrary, countries like Italy are in favour of keeping the EU Trust Fund for Africa, as it helps them tackle their agenda of addressing root causes visibly. If the trust funds are maintained however, several additional questions arise: Where (i.e. which part of the NDICI) will the money come from? In the countries covered by the EUTF, how much will migration represent compared to other thematic areas?

3.3. Conditionality and incentives

The way that the external dimension of migration is included in the MFF proposal and the issues that are yet to be resolved show that there has been a **move towards a more interest-driven approach in relation to migration**. This clearly follows requests from the EU Council throughout 2018.

Clear references to the Partnership Framework on migration are made to guide the NDICI. After the EU Trust Fund for Africa has introduced this link, **development aid is now more broadly considered a tool to leverage third countries’ cooperation on EU migration interests** (see

³⁹ Apart from the 10% for migration, the Commission proposed targets for other thematic areas: 20% for social inclusion and human development, including gender equality and women’s empowerment; 25% for climate change.

⁴⁰ The EUTF is a flexible tool meant to speed up procedures, which sometimes leaves limited time for the Member States’ representatives to scrutinise project documents properly. A number of them have also regretted the absence of clear project selection criteria (European Court of Auditors 2019).

European Commission 2018g: 22). An important element of the instrument is the promotion of third countries' effective cooperation with the Union in the area of migration.⁴¹

Some of the included objectives for which such leverage can be used may well serve global development objectives (such as the protection of refugees in partner countries, more effective migration governance in support of the SDGs), others may be legitimate goals of EU member states yet with little connection to sustainable development, such as enforcing readmission agreements or encouraging large-scale involuntary return.

The NDICI also includes a number of specific provisions for the Neighbourhood, including the **'performance-based approach' or 'more-for-more principle'**, according to which indicatively 10% of the funds shall be allocated to partner countries on the basis of their annual progress towards democracy, human rights, rule of law, **cooperation on migration** and economic governance and reforms (European Commission 2018g: 37). As ETTG colleagues point out, "[i]t is not yet clear [...] what this might mean for regions that are not involved in migratory routes to Europe" (Keijzer et al. 2018).

Moreover, as part of the programming principles features "the partner's capacity and commitment to promote shared interests and values, and to support common goals and multilateral alliances, as well as the advancement of Union priorities." (European Commission 2018g: 34). However the EP position is that the allocation of development aid to third countries should not be conditioned on migration management (Interviews 2019).

The pressure from some EU MS to include conditionalities (including negative conditionalities) has increased. For others the 'more-for-more' approach and other conditionalities are acceptable for the Neighbourhood but not for the rest of the world, as there is not proven that it contributes to sustainable development. Experiences of EU MS have led to questions about the practicability and viability of migration-related aid conditionality. Examples where negative aid conditionality has been applied in the past, have shown that such approaches are not effective in achieving better cooperation on return and readmission. Besides, it risks subjecting aid objectives to those of migration control which in turn could make aid less effective in what it is set out to achieve (Knoll & Sherriff 2017).

4. Conclusion

The Commission's proposal for the next MFF has clearly been influenced by the need to show migration as a priority of the EU budget to domestic constituencies. It has not only increased the possible available funding for spending related to the external dimension of migration but also broadened the scope for external action in some of the DG Home-administered funds.

The **strong emphasis on flexibility** – largely motivated by the experience of responding to large-scale migration flows – shows that the EU Commission seems to prepare for a crisis-driven next budgetary cycle. While the EC recognises that "migration will continue to remain a long-term challenge for the Union" (European Commission 2018i: 14) and that "[l]ong term policies continue to

⁴¹ The proposal states that "[s]uch cooperation should contribute to ensuring access to international protection, addressing the root causes of irregular migration, enhancing border management and pursuing efforts in the fight against irregular migration, trafficking in human beings and migrant smuggling, and working on returns, readmission and reintegration where relevant, on the basis of mutual accountability and full respect of humanitarian and human rights obligations." (European Commission 2018g: 22).

be essential to address its root causes” (European Commission 2018d: 5), it puts a strong focus on preserving capacities for responding to crisis situations. This of course comes at the request of a number of EU member states, that aim to use the next MFF for political statements and want to ensure that short-term measures based on migration interests can be funded in the future. At this stage, there is not much clarity about the objectives and vision the ‘mainstreaming’ of migration in the proposal will serve. It seems that it responds to pressures more than it offers a longer-term migration and mobility framing. There is for instance very little reference to global frameworks and agreements in the area of migration and mobility. This is not surprising given the divisions within Europe on the adoption of the UN Global Compact for Migration at the end of 2018.⁴²

While migration concerns loom large, another concern is about how to preserve the **sustainable development and long-term focus of EU external action**. The strong pressure of the past years has influenced the development agenda and pushed migration spending into grey zones between migration interests of the EU and partner countries. The narrative has been strongly influenced by EU concerns and does not always follow migration realities and priorities in developing partner countries. The NDICI as a broad instrument is visibly more interest-driven and not comparable to development-focused instruments of the past. Some feel that the proposed instrument with a strong focus on migration is going too far: One Member of the European Parliament noted that the problem with merging the instruments into one is that it mixes geopolitics, which is short-term, day-to-day politics, with development cooperation, which is a generational process (Interview 2019).

In the next few months, important decisions will have to be taken as part of the negotiations, for instance on the **overarching architecture** proposed by the EC as well as on the **amounts of money** involved. Experience shows that the heading for external action tends to be the first one to be cut in the negotiations (Mayer and Sherriff 2012). But also in the DG Home Funds, the overall amounts and allocations between national and thematic programmes are not set. These decisions have significant implications for the amounts available for the external dimension of migration.

Second, important decisions concerning the external action on migration include the **level of earmarking** in both DG Home-administered funds as well as the NDICI and the scope defined for any earmarked funds. As this Discussion Paper has shown, there are various options and combinations, each of them bearing advantages and its own risks. Decisions on earmarking should be taken with awareness of the possible tradeoffs with other thematic areas and an understanding of the needs of partner countries in this area. From a sustainable development perspective, there is a risk that EU development cooperation is further instrumentalised for migration priorities. At best, the MFF will however provide flexible and sufficient funding that can support EU partner countries in the migration-related SDG targets and to implement the development-oriented provisions of the Global Compact for Migration.

A third important area is about **ensuring complementarity and coherence**. It seems unlikely that a perfect delineation can be found between internal and external instruments, even if some boundaries are put in place. Some actors also favour the flexibility offered by grey zones. There is however a risk of adopting a possible uncoordinated approach whereby many different actors address migration in third countries without much interaction and conciliation. This would depart from a strategic approach and would not be depicted as good donor practice in developing countries. Coherence and complementarity on the ground thus seem key and possible additional mechanisms for exchange and

⁴² In December 2018, 152 countries voted in favour of the Global Compact for Safe, Orderly and Regular Migration at the UN General Assembly in New York, while 5 nations voted against it (the US, Hungary, the Czech Republic, Poland and Israel). Among the 12 abstaining countries are EU members: Austria, Bulgaria, Italy, Latvia and Romania.

joint decisions will have to be established both at the level of the EU as well as in EU member states, e.g. in the form of Expert Working Groups across strategic headings and regular meetings. The programming process will further determine how migration considerations influence priorities at country level and how complementarity can be found between funds.⁴³

As with past MFF negotiations, the overall process seems like a giant multi-dimensional chess board which can in addition change its pattern. Each decision does not only interact with others but also influences the scope for future options. This discussion paper – while not providing full answers – has attempted to outline some of these interactions and issues at stake, as well as how the EC, some EU MS and the EP are currently positioning themselves. Much of it is still in flux. The MFF may not be adopted before the EP elections in May 2019 which means that the negotiations could be finalised in an even less favourable political context, pushing shorter-term and less balanced agendas on migration. Those aiming for a balanced approach to migration in the next EU budget – one that provides flexibility, yet equally leaves scope for a joint strategic direction and which acknowledges that migration narratives in the world go beyond the EU's crisis experience – will have to team up, exchange information and choose their moves wisely, both during the negotiations and afterwards, when actors move to implementation.

List of interviews

Belgian Ministry for Foreign Affairs, Coordination Unit European Development Cooperation

DG DEVCO, Unit B3, Migration and Employment

DG Home, Unit A1, Inter-Institutional Relations and Citizenship

DG Home, Unit E3, National programmes for North and West Europe; Evaluations; MFF

EEAS, Global 5, Development Cooperation Coordination

EEAS, MENA 5, Strategy and Instruments of the ENP

Swedish Permanent Representation, Aid and Development and Justice and Home Affairs

Member of the European Parliament, ALDE group

Member of the European Parliament, Green group

⁴³ There are concerns that the EU's short-term self-interests rub off on its strategic frameworks and programming choices and that the NDICI will be a 'piggy bank for migration and security' (Herrero et al. 2018).

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