Crisis, Change and Continuity: The Role of the European Parliament in EU External Migration Policy

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Abstract

This paper examines the role of the European Parliament in the governance of EU external migration policy, and in particular in the new instruments developed in the aftermath of the 2015-2016 ‘migration crisis’. The ‘crisis’ can be seen as a type of critical juncture, and new tools for cooperating with non-EU countries have emerged as a result; e.g. the European Commission has described the EU-Turkey deal as “unprecedented”. The paper questions the extent to which these new instruments represent a shift in the institutional dynamics of EU external migration policy; it thereby seeks to contribute to the nascent literature on the effects of the ‘migration crisis’ on EU governance. Previous literature has shown that the European Parliament has only been able to play a very limited role in EU external migration policy, being limited by the treaties to approving readmission and visa facilitation agreements. The role of the European Parliament is important in terms of both policy process and policy content. In terms of policy process, it raises questions about the democratic legitimacy and accountability of EU external migration policy, a policy area that connects two sensitive and salient policies: migration policy and foreign policy. In terms of policy content, NGOs have long criticised the human rights implications of EU external migration policy (predating the ‘migration crisis’). The European Parliament is presumed in the literature to be a promotor of human rights, although some authors point out that the real picture is more nuanced (e.g. Lopatin, 2013, shows that the European Parliament has increasingly voted with the member states in the Council in favour of more restrictive measures on irregular migration and asylum). Variance in the role of the European Parliament in the policy-making process might therefore be linked to different types of policy content. The paper maps the role of the European Parliament in the main externalised policy responses to the ‘migration crisis’: the EU-Turkey deal; the Migration Partnership Framework; and the Valletta summit. It compares this to the past role of the European Parliament in EU external migration policy – particularly in readmission agreements, visa facilitation agreements, and Mobility Partnerships – in order to show whether institutional dynamics are changing or stagnant.

1. Introduction

In 2015-2016 Europe was stunned by what has been termed a ‘migration crisis’. This was a crisis of three dimensions: a crisis of numbers; a crisis of EU governance; and a crisis of bureaucracy. In both 2015 and 2016 there were over 1.2 million asylum application in the EU 28 member states (Eurostat, 2016; 2017), and the International Organisation for Migration recorded an unprecedented number of deaths in the Mediterranean – over 3,700 in 2015 and over 5,000 in 2016 (IOM, 2016a; 2017). EU governance in the area of migration and asylum was called into question by the responses of some member states, such as the unilateral decision by the German government to suspend the Dublin system for Syrians (Deutsche Welle, 2015) and the reintroduction of temporary border controls within the Schengen borderless area (see European Commission, 2018). Finally, this was a crisis of bureaucracy
because the large numbers led to a huge backlog in evaluating asylum applications (Pew Research Center, 2017).

The ‘migration crisis’ can therefore be seen as a type of ‘critical juncture’. A critical juncture is a change point in politics caused by an exogenous shock or triggering event (Pierson, 2000). At critical junctures, “the ordinary incrementalism of politics is temporarily replaced by uncertainty and the possibility of significant change” (Greer, 2008, p.221). In the aftermath of the ‘migration crisis’ new policy tools and institutional arrangements have emerged, such as the EU-Turkey statement and the upgrading of the European Border and Coast Guard Service. This paper concerns a particular aspect of the response to the ‘crisis’, namely the continued externalisation of EU migration policy, and the institutional dynamics of that policy. At a special meeting of the European Council on 23 April 2015, the heads of state and government of EU member states emphasised the need to step up cooperation with a number of non-EU countries such as Turkey, in order to prevent illegal migration flows (European Council, 2015a); cooperation with countries of origin and transit was confirmed as one of the key dimensions of migration management at the June 2015 European Council summit (European Council, 2015b). In the European Agenda on Migration, published in May 2015, the European Commission also called for partnership with non-EU countries to prevent irregular migration (European Commission, 2015). In a resolution adopted in April 2016, the EP echoed the need for cooperation with non-EU countries, which should also be beneficial to the countries in question (European Parliament, 2016a). These three institutions thus all recommend the same action albeit at slightly different points in time; however the literature on EU external migration policy tells us that institutional preferences and roles differ (e.g. Boswell, 2008; Chou, 2009). A recent empirical example of such differences is provided by the Migration Partnership Framework: the Commission communication speaks of leveraging development policy for migration management purposes and warns of ‘consequences’ for non-EU countries that do not cooperate on readmission and return (European Commission, 2016a, p.9), whilst the EP has argued against the instrumentalisation of development policy for migration management purposes, when actually the main purpose of development cooperation should continue to be poverty alleviation (European Parliament, 2017a). It is therefore worthwhile unpacking ‘the EU’ in order to understand the various driving forces behind the externalisation of migration policy.

This paper asks whether the ‘migration crisis’ has led to a shift in the institutional dynamics of EU external migration policy, by analysing the role of the EP before and since the ‘crisis’. In this way, the paper seeks to contribute to the nascent literature on the effect of the ‘crisis’ on EU governance (e.g. Niemann and Zaun, 2017). Given the high political salience of the ‘migration crisis’ in EU member states, we can expect the EP to have sought an active role in the policy instruments emerging in the aftermath (Huff, 2015, p.408). As external migration policy sits at the intersection of external relations and a policy area with strong supranational competence – migration policy – this is a most likely case for EP influence (cf. Riddervold and Rosén, 2016, p.699).

2. The European Parliament: normative or strategic actor?
Arguably there is a lack of attention to the role of the EP in the existing academic literature on the external dimension of EU migration policy. For example, the EP is not even considered part of the EU’s ‘voice’ (Hampshire, 2016) or actorness in international migration governance (Reslow, 2015). In some cases, its role is not considered even for the negotiations and conclusion of instruments for which it has explicit competence, such as readmission agreements (Wolff, 2014). This blindness may be a theoretical shortcoming, for example due to the inability of traditional principal-agent explanations to account for the role of the EP (Menz, 2015). A growing body of literature shows that, contrary to traditional expectations,
parliaments are able to play a significant role in foreign policy (e.g. Mello and Peters, 2018; Rosén and Raube, 2018). The role of the EP is also central to debates on the democratic legitimacy and accountability of the EU: the arguments about the so-called ‘democratic deficit’ of the EU rest partly on the role and influence of the EP in the EU’s decision-making processes (see e.g. Schmidt, 2013). The EP has different avenues of influence in the EU governance system: influence over legislation through participation in the decision-making process; budgetary control through approval of the budget and control of its implementation; and supervisory influence by holding the appointment of EU officials (such as the Commissioners) and their actions to account (Raube, 2012). The EP makes use of these formal powers to push for the promotion of human rights; in 2017, for example, MEPs voted to reduce pre-accession funds to Turkey in response to the deteriorating human rights situation in the country (European Parliament, 2017b).

Two contrasting approaches can be identified in the literature for accounting for the EP’s influence: the ‘legalistic’ perspective, which emphasises the constitutional rules and decision-making procedures laid down in the treaties, and the ‘negotiation’ perspective which examines the actual (informal) practices and bargaining processes developed (Häge and Kaeding, 2007). As Rosén and Raube (2018, p.71) point out: “Exerting influence is not only limited to voting a proposal up or down, but also includes affecting what problems are seen as more important and the scope of alternative solutions”. Simply setting out the formal competences granted to the EP by the EU treaties in a given policy area will not be adequate to gain a complete picture of its influence; it is necessary to consider the whole ‘toolkit’ at the disposal of the EP. In addition, the willingness of MEPs to make use of such tools determines the influence that the EP as a whole will have (Huff, 2015).

Given that EU external migration policy brings together two policy areas – migration policy and external relations – it can be instructive to examine these two bodies of literature for clues regarding the role and preferences of the EU. The EP’s formal competences in the area of migration have been gradually extended, so that today it has co-legislative power with the Council in all aspects of migration policy except labour migration: article 79(5) TFEU states that member states retain the right 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”. The most important committee is the Civil Liberties, Justice and Home Affairs committee, known by its French acronym LIBE. The EP is often presumed to be a normative actor in the field of migration, favouring a ‘liberal’ approach and advocating for migrants’ rights (e.g. Lavenex, 2006). This suggests that the role of the EP in EU external migration policy will matter because it might be linked to qualitatively different policy content and outcomes than if policy is decided by the member states in the Council alone: whereas the EP’s narrative is based on human rights, the Council is led more by security concerns (Maricutt, 2017). Evidence of such an approach can for example be seen in the EP’s 2017 resolution on the role of EU external action in addressing migration: the resolution is strongly predicated on a human rights approach; already the first paragraph of the preamble states that “migration is a human right enshrined in Article 13 of the UN Declaration of Human Rights”, and it goes on to note that the EU’s external action should be guided by the principles upon which the EU itself is based, such as democracy and human rights (European Parliament, 2017c).

However, this view of the EP as a liberal actor advocating for migrants’ rights has also been challenged for being overly simplistic: Lopatin (2013), for example, shows that the European Parliament has increasingly voted with the member states in the Council in favour of more restrictive measures on irregular migration and asylum. Others have put this down to the introduction of co-decision for migration policy since the Amsterdam and Lisbon treaties: the EP is keen to ‘play by the rules’ and avoids adopting a confrontational stance on migrants’
rights and the protection of civil liberties (e.g. Ripoll Servent, 2012; Acosta, 2009). Ripoll Servent and MacKenzie (2011) show that the EP’s consent for the SWIFT agreement stemmed from a desire of MEPs to be seen as responsible partners in international negotiations and to take responsibility for member states’ security concerns. The position of the EP as a whole also depends on the political preferences of its MEPs and their individual stances towards a liberal/restrictive migration policy (Hix and Noury, 2007).

Foreign policy is a very different case, because “the character of foreign policy is structurally different from the management of the internal market: it is not primarily about law making, but about political positioning in favour or against something” (Thym, 2006, p.124). The role of the EP in EU external action is therefore more limited than in internal policy areas. Even since the Lisbon treaty, the EP is not involved in the negotiation of international agreements, but can only consent to the final outcome – a so-called ‘nuclear power’ (Ripoll Servent and MacKenzie, 2011, p.400). Nevertheless, the European Commission commits to providing information on international negotiations to the EP in a timely manner, in order that the view of the EP can, as far as possible, be taken into account (European Parliament and European Commission, 2010). The EP does not confirm senior EU diplomats – unlike the US Senate, which confirms US ambassadors (Raube, 2012). The budgetary powers of the EP are also circumscribed in respect of CFSP: only administrative expenditure is charged to the EU budget, whereas the Council can decide to finance operational expenditure through national contributions (article 41 TEU). The EP has no say over the appointment of the High Representative (article 18 TEU). However, the EP can make use of hearings or own-initiative reports to voice its position on aspects of EU external action and provide a forum for debate and discussion on the political alternatives in the CFSP (Diedrichs, 2004, p.37). It can also enter into an alliance with supportive member states, make threats or promises, or frame the issue at stake as relevant for policy areas in which it has competence (Riddervold and Rosén, 2016). Through its interparliamentary delegations (see European Parliament, 2015a) the EP can play a diplomatic role, bringing more weight with it than an NGO but at the same time not necessarily committing the EU to a particular course of action, thus being less constrained than national or EU diplomats (Weisglas and de Boer, 2007, p.96; ). This latter point is important because it implies that the EP can take a normative stance and promote human rights and the EU’s core values (Stavridis and Jančić, 2016, p.108; see Manners, 2002, p.247, for the example of the abolition of the death penalty).

This section has highlighted a number of factors which can account for the role that the EP plays in EU external migration policy, and has highlighted that both legal competences and decision-making rules as well as informal practices and bargaining outcomes are important. The empirical sections below will thus analyse both of these types of roles, in order to understand whether and how the EP plays a role in EU external migration policy.

3. The European Parliament in EU external migration policy pre-crisis
Commenting in 2012, Carrera et al. (p.21) note that “much of the decision-making on the external dimensions has been – and continues to be under the Lisbon Treaty – a highly intergovernmental process, driven by member states within the Council, often to the exclusion of European Parliament oversight”. This section examines the role of the EP in specific instruments of EU external migration policy prior to the ‘migration crisis’ of 2015-2016.

Readmission agreements have been one of the cornerstones of EU external migration policy. In the area of readmission, the EP gained explicit competence with the entry into force of the Lisbon Treaty. Article 218 TFEU states that the EP must give its consent to international agreements covering fields in which the ordinary legislative procedure applies, such as migration policy. However, even before gaining this explicit competence, the EP was active and vocal with regards to readmission. It complained that neither the Commission nor
the Council kept it informed during the negotiation of readmission agreements (Billet, 2010), nor did they take into account its opinion on procedure and content of previous readmission agreements in following negotiations (Kruse, 2006). Despite the formally limited competences of the EP in the area of readmission pre-Lisbon, Billet (2010, p.72) traces impact of pressure from the EP on the content of readmission agreements:

In the first three agreements [with Hong Kong, Macao and Sri Lanka], there was no explicit reference to specific convention and so these clauses were, according to the European Parliament, too weak. In its reports on these agreements the Parliament strongly criticised this fact... Since the agreement with Albania in 2005, all agreements negotiated mention explicitly several international conventions such as the 1951 Geneva Convention relating to the status of refugees and its 1967 Protocol, the European Convention of 4 November 1950 for the Protection of Human Rights and Fundamental Freedoms or the Convention of 10 December 1984 against torture and other cruel, inhuman or degrading treatment of punishment.

In 2005, the EP expressed its concerns that EU policy would create a ‘readmission trap’, whereby many migrants are sent back to the one transit country that agrees to sign an EU readmission agreement (Kruse, 2006, p.133); in other words, the EP’s concern is not only for migrants but also for the capacities of EU partner countries. Finally, the EP upholds its image as a normative actor by stressing that human rights should be central to readmission policy (European Parliament, 2015b).

Nevertheless, as with the EU’s role in internal migration policy (see section 2 above), it is simplistic to conclude that the EP will always push for the promotion of human rights in the framework of readmission agreements: for example, despite a plea by the Euro-Mediterranean Human Rights Network not to adopt the EU-Turkey readmission agreement until the rights of migrants could be guaranteed (Euro-Mediterranean Human Rights Network, 2014), the EP voted in favour of the readmission agreement the following day (European Parliament, 2014a). This shows, however, that because of its legal competences, NGOs assign a role to the EP on readmission and directly target it with their criticisms and concerns.

The link between readmission agreements and visa policy is the cornerstone of EU external migration policy: EU policy documents acknowledge that non-EU countries must be incentivised to cooperate with the EU on migration management, and so a link is created between the signature of readmission and visa facilitation agreements – although signing a readmission agreement is not an automatic guarantee that the non-EU country concerned will be offered a visa facilitation agreement (Council of the European Union, 2005). The EP has a similar role in visa facilitation agreements as readmission agreements: it must give its consent to the final agreements. In terms of the link between readmission and visa facilitation, the EP has been critical of an EU approach that appears above all to be concerned with preventing irregular migration at the expense of other concerns (Barbé and Johansson-Nogués, 2008, p.91). In a 2014 resolution on EU visa policy, the EP called for the conclusion of further visa facilitation agreements, whilst also advocating for a systematic evaluation of existing agreements in order to determine whether they are achieving the intended objectives (European Parliament 2014b). Just as with readmission, NGOs target the EP due to its powers over visa facilitation agreements: in 2013 ILGA-Europe called on the EP to postpone its vote on the EU-Ukraine visa facilitation agreement due to concern over discrimination based on sexual orientation in Ukraine (ILGA-Europe, 2013). The EP, however, went ahead and adopted the agreement (European Parliament, 2013).

In the Mobility Partnerships, the EP has been completely sidelined. The Mobility Partnerships offer a clear quid pro quo to non-EU countries: legal migration in return for
cooperation with the EU on irregular migration. They are non-legally binding instruments: they take the form of political declarations of ‘the European Union’, the participating member states, and the non-EU country. As a result, the EP was completely absent from the policy process, and the Mobility Partnerships were not debated by MEPs (Reslow, 2012). However, in the framework of each Mobility Partnership a readmission and visa facilitation agreement is foreseen, giving the EP a small role in the partnerships through its consent for readmission and visa facilitation agreements under article 218 TFEU (see above). The Mobility Partnerships were not, at the time this instrument was created, the subject of specific debate in the EP.

Finally, bilateral, regional and multilateral dialogues on migration have been a central political tool of EU external migration policy (see García Andrade et al., 2015, pp.23-30 for an overview). Dialogues aim to bring together the EU and non-EU countries to discuss issues related to migration and mobility, thereby identifying areas of common interest. Examples include the ACP-EU migration dialogue, the Rabat Process, and the Prague Process. For the EU side, the participants in such dialogues are usually the European Commission and the member states – in other words, the European Parliament is not formally included. MEPs have asked questions about these various dialogues, although the fact-finding nature of such questions implies that the EP is not even kept informed by the other EU institutions; e.g. in 2015 one MEP asked which progress had been made regarding the points agreed in the most recent meeting with ACP countries (European Parliament, 2015c) and another asked if the dialogue with Egypt was also addressing the situation of NGOs working on migration in the country (European Parliament, 2015d).

4. The European Parliament in EU external migration policy post-crisis

In general, it can be said that, at least on paper, the EP has upheld its image as a normative actor pushing for the protection of human rights in response to the ‘migration crisis’. For example, in a 2016 resolution it argues for the need to mainstream respect for human rights into the external dimension of EU migration policy (European Parliament, 2016b), and its 2017 resolution underscores in several places the need to respect human rights and international law (European Parliament, 2017c). This section will look at the EP response to a number of instruments specifically, in order to understand how it has represented its position.

The defining response to the ‘migration crisis’ was the so-called EU-Turkey statement. Under the terms of this deal, the Turkish government accepts the readmission of all irregular migrants who cross to Greece and who either do not apply for asylum or whose asylum application is rejected. In return, European politicians promised eventual visa-free travel for Turkish citizens to the EU, a reinvigoration of the Turkish accession process, the resettlement of Syrian refugees from Turkey to the EU, and €3 billion in funding to the Refugee Facility for Turkey (European Commission, 2016b; European Council, 2016). The legal status of this deal is unclear, after the European Court of Justice ruled in 2017 that it is not an EU agreement, but rather an international agreement between the governments of the EU member states and Turkey. The use of a ‘statement’ has been criticised for being a deliberate mechanism to circumvent parliamentary scrutiny and the involvement of the EP under article 218 TFEU, both by MEPs (EUObserver, 2016) and commentators (Carrera et al., 2017). MEPs raised concerns both before, during, and after the EU-Turkey deal was agreed. Before the deal was agreed, the EP used its 2015 report on Turkey to state that “outsourcing the refugee crisis to Turkey is not a credible long-term solution to the problem” (European Parliament, 2015e, p.11); in other words, the EP questioned the very rationale of the deal before it was finalised. During the negotiations, MEPs raised concerns about the form and content of the deal. For example, they objected to the linkage of accession talks and visa liberalisation for Turkish citizens with refugees (European Parliament, 2016c), although of
course ultimately this complaint was ignored by the Commission and the member states. They also warned that the deal might undermine the EU’s commitment to human rights (European Parliament, 2016d). After the deal had been reached, MEPs kept up the pressure by asking critical questions to the Commission regarding the conditions for refugees in Turkey (European Parliament, 2016e) and continuing to express concern over the human rights situation in Turkey (European Parliament, 2017c).

One aspect of the EU-Turkey deal deserves further scrutiny, namely funding. The funding made available in the Refugee Facility for Turkey is one of the pillars on which the deal rests. Within the EU framework, the EP has a strong role as one of the actors responsible for establishing, programming, managing and implementing EU external funding, except funding for the CFSP which is managed by the Council without EP involvement. However, the search for flexibility in response to the ‘migration crisis’ led to funding instruments being set up outside of the ordinary legislative procedure (den Hertog, 2016a). The Refugee Facility for Turkey, for instance, was adopted as a Commission decision. Trust funds, such as the EU Emergency Trust Fund for Africa launched at the Valletta summit, are set up by “adopting a constitutive agreement between the Commission and one or more member states, without it being subject to European Parliament consent” (den Hertog, 2016b, p.10). In terms of funding then, the role of the EP has arguably decreased in the aftermath of the ‘migration crisis’ from a previously strong position. The EP has been critical of the creation of such ad hoc financial instruments, which undermine its budgetary authority (European Parliament, 2017c).

In 2016, the European Commission presented the Migration Partnership Framework, which is intended to be “a coherent and tailored engagement where the Union and its Member States act in a coordinated manner putting together instruments, tools and leverage to reach comprehensive partnerships (compacts) with third countries to better manage migration in full respect of our humanitarian and human rights obligations” (European Commission, 2016a, p.6). The non-binding and informal nature of the compacts resulting from the Migration Partnership Framework means that this instrument has never been presented to, debated or endorsed by the EP, something which the EP itself was very critical about in its 2017 resolution due to the lack of scrutiny of the resulting migration compacts (European Parliament, 2017c). Nevertheless, MEPs have asked questions and raised concerns over the framework. Part of their objection is that the Migration Partnership Framework should not replicate the EU-Turkey deal (European Parliament, 2016f). Some MEPs accuse the Migration Partnership Framework of undermining EU values and potentially having a negative effect on aid levels in the long term: if using aid to achieve migration goals is unsuccessful, then this might be used as an excuse to cut levels of aid in general (Castillejo, 2017). MEPs have raised critical questions, for instance regarding how human rights can be protected and promoted when entering into migration agreements with authoritarian regimes (European Parliament, 2016g). Despite its limited formal role, the EP continues to be active, for instance holding a hearing on cooperation with third countries on migration management and return, including the Migration Partnership Framework, in November 2017 (European Parliament, 2017d).

Finally, one response to the ‘crisis’ was the introduction of another dialogue process, namely that initiated at the Valletta summit in November 2015, which brought together European and African leaders to discuss how to address current migration flows. The Valletta summit shares features with previous migration dialogues e.g. membership (being similar to the Rabat Process and the ACP-EU migration dialogue) and making use of some of the mechanisms of the Rabat and Khartoum processes to monitor implementation (Council of the European Union, 2015a). It also seems to share the non-participation of the European Parliament, although Martin Schulz – then the President of the EP – attended the summit.
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(Council of the European Union, 2015b). However, the EP is not formally involved in the follow-up processes to the Valletta summit (see IOM, 2016b).

5. Conclusion: changing institutional dynamics in EU external migration policy

This article has shown that the use of non-binding, soft law instruments (such as the Mobility Partnerships) or instruments whose legal status is unclear (such as the EU-Turkey statement) limit the formal role that the EP has in EU external migration policy. There is a trend towards an expanded use of these flexible, soft law instruments, with the introduction – in response to the ‘migration crisis’ – of the EU-Turkey ‘statement’, the Migration Partnership Framework, and the ‘Joint Way Forward’ with Afghanistan. The legal status of such instruments is unclear, as evidenced by the 2017 ruling of the ECJ on the EU-Turkey statement. Cassarino (2007) already argued ten years ago that EU member states, faced with difficulties to conclude and implement formal readmission agreements with non-EU countries, were choosing to ‘informalise’ readmission cooperation instead, by making use of administrative arrangements, deals, and memoranda of understanding. Cassarino concludes by pointing out that the ‘low level of public accountability of these informal arrangements raises serious concerns regarding the extent to which the removal procedures implemented by participating states can be monitored to ensure full compliance with European and international law on the rights of persons subject to a removal order’ (p.193), although he does not consider the role, influence or interests of parliaments – national parliaments of the member states or the European Parliament – in depth. We arguably see now at EU level a continuation or even intensification of this trend, which was already present in some of the instruments of the Global Approach to Migration and Mobility, notably the Mobility Partnerships. New instruments such as the use of press releases to formulate the EU-Turkey statement affect the legislative role of the EP in EU external migration policy. On top of this, the EP’s budgetary role has diminished: it has decreased influence over spending on external migration policy due to the creation of funding instruments outside the ordinary legislative procedure, as in the case of the Emergency Trust Fund for Africa. In its 2017 resolution, the EP “deeply regrets that in the EU migration policy framework and refugee movements response, the EU and its Member States have opted for the conclusion of agreements with third countries, which avoid the parliamentary scrutiny attached to the Community method” (European Parliament, 2017c).

However, despite its limited formal role, this article has uncovered evidence of many different informal actions, instruments and tools which the EP can and does employ to try to carve out a role for itself. These are: asking questions to Commissioners (e.g. about the EU-Turkey statement); requesting information from other EU institutions in order to monitor implementation; organizing hearings (e.g. on the Migration Partnership Framework); monitoring how budgets are spent on external migration policy; adopting resolutions (e.g. on the ‘migration crisis’); sending parliamentary delegations to non-EU countries (e.g. the 2017 visit of the LIBE committee to Tunisia on cooperation in migration management; European Parliament, 2017e); and organizing debates (e.g. with UNHCR on the treatment of migrants and refugees in Libya in March 2018; European Parliament, 2018). Although methodologically tricky, future research should establish how much impact such informal tools have on the content, shape and direction of EU external migration policy, based on clearly specified indicators (e.g. Rosén and Raube, 2018, p.72). This will require process-tracing of the selection, implementation and impact of selected tools.

Despite its use of such informal instruments, it could be argued that the EP is ‘all talk and no action’ when it comes to EU external migration policy: empirical examples show that even in policy fields where it does have competence, the EP will not automatically represent human rights concerns (e.g. its vote in favour of the visa facilitation agreement with Ukraine
Despite calls from civil society for it to vote against). It is therefore misleading to portray the EP as a passive actor which is wronged by the Commission and Council trying to exclude it from the policy-making process. This exclusion also partly represents an active choice, for example the failure of the EP to bring judicial proceedings against the EU-Turkey Statement, even though it has made use of judicial proceedings in the past in order to defend its prerogatives (Gatti, 2018). We can currently only speculate on the reasons for this passivity: perhaps the EP is wary of antagonising the Commission and the member states too often and thus tries to behave in a way that will enhance its credibility (e.g. Ripoll Servent, 2012; Acosta, 2009), or perhaps the EP is unwilling to act (Huff, 2015) and instead seeks to wash its hands of responsibility for EU external migration policy (Raunio and Wagner, 2017, p.7). Process-tracing and in-depth interviews can help to understand the role conception that MEPs have with regards to EU external migration policy and the processes within the EP which result in its policy actions or inactions.

Future research should also focus on perceptions of influence by others, and what impact this has on actual influence of the EP. This article has documented numerous examples of NGO lobbying activity in the area of external migration policy, directed towards the EP. This implies a perception of role for or impact of the EP, despite its limited formal role. For example the open letter to the EP from the European Council on Refugees and Exiles and other organisations outlines all the actions that the EP can take despite being bypassed during the negotiation of the Joint Way Forward agreement with Afghanistan (ECRE, 2016). The question then is: does the assignation of such a role to the EP by civil society affect the actual influence that the EP has? The literature on the interaction between civil society and the EU institutions claims that such interaction can strengthen the position of an EU institution vis-à-vis the other institutions, because it acquires through this process expertise and legitimacy (e.g. Bouwen, 2007). In reality, this can be broken down into two separate research questions: 1. Which impact does civil society have on the EP in the area of external migration policy? 2. Does the interaction with civil society bolster the role of the EP in the area of external migration policy? Both the role of the EP and the role of civil society are understudied in the literature on EU external migration policy to date; this proposed future research agenda addresses both these deficits.
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