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MIGRAZIONE E DELL'ASILO**

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THE 'INWARD-LOOKING' SECURITIZATION OF THE EU EXTERNAL  
MIGRATION POLICY IN THE *NEW PACT ON MIGRATION AND ASYLUM*: A  
CRITICAL APPRAISAL FROM A PERSPECTIVE OF INTERNATIONAL LAW  
WITH REFERENCE TO MIGRATION FROM AFRICA.

Pierluigi Salvati\*

SUMMARY: 1. Introduction. – 2. Characters of the migration to Europe from African countries. – 3. The security-oriented approach of the EU external migration policy and its effects on migration from Africa. – 4. The prevailing 'hard security' profiles of the New Pact vs. the 'human security' dimension of the security concept. – 5. Forward-looking considerations.

## 1. Introduction

The European Union (EU) has shifted, at least since the Tampere European Council of 1999<sup>1</sup>, its policies on migration from a mainly security-oriented approach focused on reducing migratory pressures to a more balanced and comprehensive approach grounded on a broader understanding of all relevant aspects of the phenomenon as well as its root causes<sup>2</sup>.

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<sup>1</sup> See Tampere European Council of 15 and 16 October 1999, Presidency Conclusions, para. 11: "*The European Union needs a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit. This requires combating poverty, improving living conditions and job opportunities, preventing conflicts and consolidating democratic states and ensuring respect for human rights, in particular rights of minorities, women and children*".

<sup>2</sup> The European Union's competences in the field of immigration policy are based on Article 79 of the Treaty on the Functioning of the European Union, paragraph 1 of which provides that "*The Union shall develop a common immigration policy aimed at ensuring, at all stages, the efficient management of migration flows, fair treatment of third-country nationals residing legally in Member States, and the prevention of, and enhanced measures to combat, illegal immigration and trafficking in human beings*". On the securitization of the EU policy on migration see J. HUYSMAN, *The European Union and the Securitization of Migration*, in *Journal of Common Market Studies*, 2000, vol. 38, n. 5, p. 751 stressing that "*The Third Pillar on Justice and Home Affairs, the Schengen Agreements, and the Dublin Convention most visibly indicate that the European integration process is implicated in the development of a restrictive migration policy and the social construction of migration into a security question*". See also B. BUZAN ET AL., *Security: A New Framework for Analysis*, Boulder, 1998.

Such wider perspective has been developed by the Union in the 2015 *European Agenda on Migration*<sup>3</sup> outlining a link between migration, security and development as a key to address the issue<sup>4</sup>.

Nevertheless, following the migration crisis of 2015 - when, according to the International Organization for Migration (IOM), one million refugees and migrants arrived in Europe<sup>5</sup> - the EU seems to have re-shifted its policies on migration towards increasingly security-centered measures<sup>6</sup> and this approach is substantially endorsed in the '*New Pact on Migration and Asylum*' (hereafter 'the New Pact') presented by the European Commission in September 2020<sup>7</sup> where migration is largely envisaged as a security threat both under an internal perspective bringing to prioritize border security<sup>8</sup> and, more latently, in the development of the external migration policy<sup>9</sup>.

In particular, as regards this last aspect, since the above-mentioned Tampere European Council<sup>10</sup>, migration has been progressively integrated into the EU external

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<sup>3</sup> See e.g. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *A European Agenda on Migration*, COM(2015) 240 final. The development-security nexus was further developed in the EU global strategy on foreign and security policy presented in June 2016 by the EU High Representative for Foreign Affairs and Security Policy, Federica Mogherini; see Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy; June 2016, available at [https://eeas.europa.eu/sites/eeas/files/eugs\\_review\\_web\\_0.pdf](https://eeas.europa.eu/sites/eeas/files/eugs_review_web_0.pdf).

<sup>4</sup> See e.g. *A European Agenda on Migration*, cit., in particular points III.1, III.2 and III.4, as well as Communication from the Commission to the European Parliament, the European Council and the Council - Managing Migration in All its Aspects: Progress Under the European Agenda on Migration, COM(2018) 798 final.

<sup>5</sup> IOM, *Mixed Migration Flows in the Mediterranean and Beyond*, 2015, available at [www.iom.int/sites/default/files/situation\\_reports/file/Mixed-Flows-Mediterranean-and-Beyond-Compilation-Overview-2015.pdf](http://www.iom.int/sites/default/files/situation_reports/file/Mixed-Flows-Mediterranean-and-Beyond-Compilation-Overview-2015.pdf).

<sup>6</sup> The security dimension of the migration management was implemented through measures aimed to better control external borders and migration flows: see e.g. the EU-Turkey deal of 2016 aimed at stopping the flows from Turkey and the New Partnership Framework of 2016 prioritizing securitization and identifying as priorities returns, border controls and the containment of migrants in the area of origin and transit. Moreover, in December 2015 the European Commission put forward a proposal for a new European Border and Coast Guard in order to reinforce the management and security of the EU's external borders: the new agency was then launched in late 2016 (Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard) with enhanced tasks of organization, coordination and return operations and interventions as well as promoting operational cooperation between Member States and third countries on border management. Other security-oriented measures established following the migration crisis comprehend the provisional establishment of a EU Passenger Name Record directive in April 2016 and the simultaneous creation in January 2016 of a European Counter Terrorism Centre and a European Migrant Smuggling Centre. On the matter see also A. PALM, *Did 2016 Mark a New Start for EU External Migration Policy, or Was It Business as Usual?*, IAI Working Paper, November 2016, vol. 16, n. 33; E. COLLET, C. LE COZ, *After the storm. Learning from the response to the migration crisis*, Migration Policy Institute Europe, June 2018.

<sup>7</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on a New Pact on Migration and Asylum, COM/2020/609 final.

<sup>8</sup> *New Pact on Migration and Asylum*, cit., in particular paras. 2.2, 2.5, 4.2, 4.4.

<sup>9</sup> *Ibidem*, Section 6 and in particular para. 6.3. Generally, see T.T. ABEBE, *New Pact's focus on migrant returns threatens Africa-EU partnership*, ASILE, 11 December 2020.

<sup>10</sup> See Tampere European Council of 1999, Presidency Conclusions, cit.; see also the Hague Programme 'strengthening freedom, security and justice in the European Union' of 2004 (considered as the follow-up of the Tampere Agenda, which called for the continued integration of migration into the EU's external

policies by a strategy hindering illegal flows through a strengthened developing cooperation with the countries of origin in order to disincentivize departures as well as through an increasing securitization of migration by implementing a gradual externalization of the EU borders<sup>11</sup>.

This direction is followed by the New Pact which acknowledges the importance of the EU relationships with third countries “as the internal and external dimensions of migration are inextricably linked ... [and] ... working closely with partners has a direct impact on the effectiveness of policies inside the EU”<sup>12</sup>: in particular Section 6 entitled ‘Working with our International Partners’ reaffirms the path of promoting reinforcement of cooperation between the European Union and its foreign partners in order to address “the root causes of irregular migration”<sup>13</sup> and build stabler societies and opportunities in migrants’ countries of departure<sup>14</sup>.

In this respect, the New Pact puts an emphasis on conflict prevention and resolution, as well as peace, security and governance, which are considered “the cornerstone of [the Union’s] efforts” to promote stability and prosperity in partner countries<sup>15</sup>; hence the EU’s attempts to reduce departures by strengthening the security conditions of foreign countries, also by putting in place a significant number of military and civilian operations as part of its Common Security and Defence Policy<sup>16</sup>. However, this strategy as proved not to be sufficient to the extent that it has failed to act on the very root causes of migratory flows: in fact, with specific reference to the African countries, those suffering most from security problems and terrorism are, with some notable exceptions (*e.g.* Somalia), transit countries (*e.g.* Mali, Niger and Libya) whereas most of the countries of origin are stable States within the context of the African continent that do not need cooperation on this point, but mostly suffer from other critical issues that fuel migration.

Under a perspective of international law, the present paper intends to assess the effectiveness of the approach followed by the EU with particular reference to the migration from Africa both because a large part of the migratory phenomenon affecting Europe concerns these countries as States of origin or transit of migratory flows and in consideration of its particular and complex intertwined dynamics.

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relations), in particular para. 1.6. See also the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, *Strengthening the global approach to migration: increasing coordination, coherence and synergies*, COM/2008/0611 final, point 2. On the matter C. BOSWELL, *The ‘external dimension’ of EU immigration and asylum policy*, in *International Affairs*, May 2003, vol. 79, n. 3.

<sup>11</sup> On both aspects see *infra* para. 3.

<sup>12</sup> New Pact on Migration and Asylum, *cit.*, Section 1.

<sup>13</sup> *Ibidem*, para. 6.3.

<sup>14</sup> *Ibidem*.

<sup>15</sup> *Ibidem*.

<sup>16</sup> The EU leads a number of missions in Africa to assist some States’ internal security forces also with a view to support the improvement of border management structures in the fight against traffickers and smugglers, among which: EUTM Mali since 2013, EUCAP SHAEL Mali since 2014, EUCAP SAHEL Niger since 2012, EURM RCA Central African Republic since 2016, EUAM RCA Central African Republic since 2020, EUBAM Libya since 2013. See *amplius* at [https://eeas.europa.eu/headquarters/headquarters-homepage/430/military-and-civilian-missions-and-operations\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/430/military-and-civilian-missions-and-operations_en).



Actually, the approach of the New Pact, still inspired to an inward-looking securitization which reflects the Eurocentric need of protecting the 'fortress Europe', does not respond to the instances coming from the African stakeholders involved (States, international organizations, civil society) aimed at a greater freedom of movement and is more oriented towards reducing or reversing migratory flows than eradicating their root causes. Therefore, this approach 'betrays' the broad consolidated contemporary dimension of the concept of security which no longer encompasses only 'hard' security, *i.e.* its traditional connotation of freedom from military-related threats and dangers, but includes the multidimensional concept of 'human security'<sup>17</sup> called to meet in this context the needs of the States of departure and transit of migrants, just as the migration flows from Africa show.

## 2. Characters of the migration to Europe from African countries

The migration phenomenon to Europe is often accompanied by false myths that may feed an incorrect narrative thereof with the risk of making migration management policy not entirely effective: for example, (a) people from poor countries mainly migrate to wealthy ones, which is contradicted by the assessment of the global migration flows showing a larger migration between developing countries<sup>18</sup>; (b) aiding developing countries can prevent migration, which is contradicted by the analysis of the effects, at least in the short to medium term, of development aid on migration flows<sup>19</sup>; (c) Europe is experiencing exceptional migratory crises, which is contradicted by the steady decline of such migratory flows assessed in recent years<sup>20</sup>, without considering the further reduction of irregular arrivals due to the Covid-19 pandemic.

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<sup>17</sup> The 'human security' concept has been first clearly defined in the 1994 United Nations Development Program (UNDP) Human Development Report reading that "*Job security, income security, health security, environmental security, security from crime-these are the emerging concerns of human security all over the world*" See UNDP, Human Development Report 1994, p. 3, available at [http://hdr.undp.org/sites/default/files/reports/255/hdr\\_1994\\_en\\_complete\\_nostats.pdf](http://hdr.undp.org/sites/default/files/reports/255/hdr_1994_en_complete_nostats.pdf).

<sup>18</sup> On the global migration flows, see World Bank, *South-South Migration versus South-North Migration*, in Migration and Remittances Factbook 2016: Third Edition, April 2016, p. 11: "*South-South migration (migration between developing countries) remains larger than migration from the South to high-income countries*".

<sup>19</sup> On the 'inverted U-shaped relationship' between migration and development whereby "emigration first increases and then decreases as a country experiences economic development", see T.H DAO, F. DOCQUIER, CH. PARSONS, G. PERIE, *Migration and development: Dissecting the anatomy of the mobility transition*, in *Journal of Development Economics*, May 2018, vol. 132.

<sup>20</sup> According to the IOM, in the second quarter of 2020, a total of 8,567 migrants and refugees were registered arriving to Europe through the Mediterranean, which is 62% less than the 22,626 arrivals registered in the same period in 2019 and 79% less than the 39,855 registered in 2018; see IOM, *Quarterly Regional Report*, DTM Europe, April-June 2020. In addition, it is worth noting that public opinion has a much higher perception of the migration phenomenon than its actual figure: according to the Eurobarometer survey 469/2017 published in 2018, European citizens overestimate the incidence of foreigners in the EU assuming it was 16.7% *i.e.* more than double the actual figure at that time (7.2%); reported in <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveyky/2169>.

Such false myths involve in particular the flows coming from African countries, what can be misleading in building efficient responses.

In fact, and firstly, African migration is primarily a regional phenomenon: most African migrants do not move to Europe but ‘intra Africa’<sup>21</sup>. Although some of them flee from wars or insecurity in their countries of origin, such migrants do mainly move to neighboring countries, while those who land in Europe often come from areas of relative stability: according to the United Nations High Commissioner for Refugees (UNHCR) and the European Border and Coast Guard Agency (Frontex), the top countries of origin of African arrivals in Europe via the Mediterranean include Morocco, Algeria, Guinea, Cote d’Ivoire and Tunisia, countries not affected by particular critical conflict-related issues<sup>22</sup>.

Secondly, data show that these countries of origin are not in extreme poverty<sup>23</sup>: indeed, it is the prospect of better living conditions which induces part of the population to undertake the path of migration and, as already observed, the development of these countries thanks to cooperation contributions leads to an increase in migration flows in the short and medium term, which decrease only in the long term<sup>24</sup>. Accordingly, most long-haul migrants are not the poorest but the unemployed middle class<sup>25</sup> or those who, despite having a job, aspire to look for better prospects by fleeing *e.g.* food insecurity<sup>26</sup>, climate and environmental insecurity<sup>27</sup> or social insecurity in different forms as poor governance or ramified corruption, etc. which do not allow for the full development of their personalities in their home States.

Therefore, the narrative of Africa as a migrant-sending continent – especially to Europe – “is misleading and underestimates how critical intracontinental migration flows are to African countries, in terms of economic development, social dynamics, and security

<sup>21</sup> *E.g.* in West Africa, 70% of all migration takes place within the region. See *amplius* UNCTAD, Economic Development in Africa Report 2018, Migration for Structural Transformation; Chapter 6, p. 147 available at [https://unctad.org/system/files/official-document/edar2018\\_ch6\\_en.pdf](https://unctad.org/system/files/official-document/edar2018_ch6_en.pdf). Moreover, as recognized on the New Pact on Migration and Asylum, cit. para. 1, most migrants arrive in the EU through legal channels.

<sup>22</sup> Data reported in *African Migrant Flows Reshaping Security Challenges in Africa*, Africa Center for Strategic Studies, December 18, 2019 available at <https://africacenter.org/spotlight/african-migrant-flows-reshaping-security-challenges-in-africa/>.

<sup>23</sup> See the data provided by the UNHCR available at <https://data2.unhcr.org/en/situations/mediterranean>.

<sup>24</sup> See M. CLEMENS, *Does development reduce migration?*, in R. LUCAS (ed.), *International handbook on migration and economic development*, London, 2014 pp. 152-185; see also HEIN DE HAAS, *Migration Transitions. A Theoretical and Empirical Inquiry into the Developmental Drivers of International Migration*, in *iMi Working Papers*, 2010, n. 24, in <https://www.imi.ox.ac.uk/publications/wp-24-10>.

<sup>25</sup> L. RAINERI, A. ROSSI, *The Security–Migration–Development nexus in The Sahel: a reality check*, in B. VENTURI (ed.), *The Security–Migration–Development nexus revised: a perspective from the Sahel*, 2017, p. 19.

<sup>26</sup> See A. SADIDDIN, A. CATTANEO, M. CIRILLO, ET AL., *Food insecurity as a determinant of international migration: evidence from Sub-Saharan Africa*, Food Sec. 11, 2019; J. CRUSH, *Linking Food Security, Migration and Development*, in *International Migration*, 2013, vol. 51, n. 5; A. KNOLL, F. RAMPA, C. TORRES, P. BIZZOTTO MOLINA, N. CASONE, *The nexus between food and nutrition security, and migration*, ECDPM Discussion Paper, May 2017.

<sup>27</sup> J. MCGREGOR, *Climate change and involuntary migration: implications for food security*, Food Policy, 1994, vol. 19, issue 2; A. QAISRANI, K. MAJEED SALIK, *The road to climate resilience: migration as an adaptation strategy*, PRISE (Pathways to resilience in semi-arid economies), 2018.

trends”<sup>28</sup>. Most African countries indeed consider the migration phenomenon as a means of opportunity to cope with many different types of insecurity<sup>29</sup> and as a ‘safety valve’ to absorb the labour demand of many young people and thus a viable alternative to crime and violence, thus contributing *de facto* to regional stability.

Such a view is reflected in the ‘Migration Policy Framework for Africa’ adopted by the African Union (AU)<sup>30</sup> stressing that well-managed migration has the potential to yield significant benefits to origin and destination States while mismanaged or unmanaged migration can have serious negative consequences for States’ and migrants’ well-being, including potential destabilizing effects on national and regional security<sup>31</sup>. And it is worth noting that a similar view significantly pervades the EU New Pact which affirms that “well-managed migration, based on partnership and responsibility-sharing, can have positive impacts for countries of origin, transit and destination alike”<sup>32</sup>: however, this view is differently translated into practice on both sides of the Mediterranean, showing a rhetorical lexical similarity but a divergence of purpose, *i.e.* defensive for Europe and expansive for African countries.

With reference to the latter, a follow-up Protocol to the Treaty Establishing the African Economic Community relating to the free movement of persons, right of residence and right of establishment (the ‘Continental Free Movement Protocol’) adopted in 2018<sup>33</sup> outlined a set of general rules to facilitate migration between the AU member States, stressing the fundamental role played by the free movement of persons in promoting integration, enhancing science, technology, education and research, and fostering intra-African trade and investment, also with a view to reaffirming a “common destiny, shared values and the affirmation of the African identity”<sup>34</sup>. Moreover, although there are as many as eight Regional Economic Communities (RECs)<sup>35</sup> in Africa, with

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<sup>28</sup> C. LE COZ, A. PIETROPOLLI, *Africa Deepens its Approach to Migration Governance, But Are Policies Translating to Action?*, Migration Policy Institute, 2 April 2020.

<sup>29</sup> FAO, IFAD, UNICEF, WFP and WHO, *The state of food security and nutrition in the world 2018. Building climate resilience for food security and nutrition*, FAO, 2018; see A. KNOLL, F. DE WEIJER, *Understanding African and European Perspectives on Migration. Towards a Better Partnership for Regional Migration governance?*, in ECdPM discussion Papers, n. 203 (November 2016), <http://ecdpm.org/?p=25035>; on human insecurity as a reason for migration see A. MAWADZA, *The nexus between migration and human security. Zimbabwean migrants in South Africa*, ISS Paper 162, may 2008; also K. WARNER, T. AFIFI, *Where the rain falls: Evidence from 8 countries on how vulnerable households use migration to manage the risk of rainfall variability and food insecurity*, Climate and Development, 2014, vol. 6, n. 1.

<sup>30</sup> The Migration Policy Framework for Africa, EX.CL/276 (IX) of 2006 is not legally binding; available at <https://www.unhcr.org/protection/migration/4d5258ab9/african-union-migration-policy-framework-africa.html>.

<sup>31</sup> *Ibidem*, p. 3.

<sup>32</sup> New Pact on Migration and Asylum, cit., para. 6.

<sup>33</sup> In [https://au.int/sites/default/files/treaties/36403-treaty-protocol\\_on\\_free\\_movement\\_of\\_persons\\_in\\_africa\\_e.pdf](https://au.int/sites/default/files/treaties/36403-treaty-protocol_on_free_movement_of_persons_in_africa_e.pdf).

<sup>34</sup> *Ibidem*, preamble.

<sup>35</sup> Namely: the Community of Sahel-Saharan States (CEN-SAD), the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Intergovernmental Authority for Development (IGAD), the Southern African Development Community (SADC), and the Union de Maghreb Arabe (UMA).

some States being part of more than one REC with the result of a “confusing array of overlapping regional economic communities”<sup>36</sup>, also at regional level a number of instruments have promoted a larger freedom of movement<sup>37</sup>.

Migration is therefore considered by African States as a highly positive phenomenon and an essential path for African development: the United Nations Conference on Trade and Development (UNCTAD) in its 2018 Report on Economic Development in Africa<sup>38</sup> pointed out that intra-continental migration benefits both origin and destination countries and can play a key role in the structural transformation of the continent’s economies, being a crucial ingredient for deeper regional and continental integration<sup>39</sup>.

### **3. The security-oriented approach of the EU external migration policy and its effects on migration from Africa**

The EU acknowledged the positive aspects of intra-African migration but the migration crisis of 2015, with its implications on the flows towards Europe, has been a major concern for the Union in directing its policies towards reducing or reversing migration<sup>40</sup>.

If the EU has traditionally governed the phenomenon mainly “from a distance”<sup>41</sup> by emphasizing securitization of the migration policies<sup>42</sup> and counterbalancing the extensive freedom of movement granted within the Union with a stronger control system of its external borders<sup>43</sup>, since 2015 it has further implemented the external dimension of its

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<sup>36</sup> R.E.B. LUCAS, *African migration*, in B.R. CHISWICK, P.W. MILLER (eds.), *The Handbook on the Economics of International Migration*, 2015, p. 1475.

<sup>37</sup> See e.g. the ECOWAS Protocol Relating to Free Movement of Persons, Residence and Establishment of 1979, A/P 1/5/79, available at: <https://www.refworld.org/docid/492187502.htm> or the SADC Protocol on Facilitation of the Movement of Persons of 2005, available at [https://www.sadc.int/documents-publications/show/Protocol\\_on\\_Facilitation\\_of\\_Movement\\_of\\_Persons2005.pdf](https://www.sadc.int/documents-publications/show/Protocol_on_Facilitation_of_Movement_of_Persons2005.pdf); see also the COMESA Protocol of the Free Movement of Persons, Labour, Services and Right of Establishment and Residence of 2004 available at <https://www.iom.int/fr/iscm/protocol-free-movement-persons-labour-services-and-right-establishment-and-residence>.

<sup>38</sup> UNCTAD, *Economic Development in Africa Report 2018, Migration for Structural Transformation*; see in particular ‘Chapter 4 Intra-African migration and structural transformation’, available at [https://unctad.org/system/files/official-document/edar2018\\_ch4\\_en.pdf](https://unctad.org/system/files/official-document/edar2018_ch4_en.pdf).

<sup>39</sup> *Ibidem*, p. 95 et seq.

<sup>40</sup> European Parliament, Policy Department for External Relations, *Intra-African Migration*, PE 603.514 - October 2020, p. 30.

<sup>41</sup> A. GEDDES, *Governing Migration from a Distance: Interactions between Climate, Migration, and Security in the South Mediterranean*, in *European Security*, 2015, vol. 24, n. 3, p. 473. A similar approach is put on the ground of the US-sponsored Pan-Sahelian Initiative and the Trans-Sahara Counterterrorism Partnership programmes aimed at promoting security in the Sahel.

<sup>42</sup> R. MAVROULI, *The challenge of today’s Area of Freedom, Security and Justice: a re-appropriation of the balance between claims of national security and fundamental rights*, in this *Journal*, 2019, n. 2, p. 118.

<sup>43</sup> Emblematic is the Proposal for a Regulation of the European Parliament and the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, COM/2020/612 final.

migration policy by fulfilling strategies aimed to prevent the causes of migration flows through development and, chiefly, security assistance<sup>44</sup>.

Many instruments implemented have involved *inter alia* the externalization of migration controls<sup>45</sup> under a policy of conditionalities promoting a “trade-off logic” with non-EU States which have been driven to cooperate in order to receive aid related to migration management or other benefits<sup>46</sup>.

The securitarian approach carried out so far resulted in a number of initiatives where a more or less strong emphasis was put on security aspects while cooperation programs with partner countries remained largely focused on the implementation of migrant return projects as the main goal of migration management, a strategy that remains one of the focal points of the New Pact as well<sup>47</sup>.

Apart from the deployment of European troops in African countries with its intrinsic security features<sup>48</sup>, many initiatives include a strong correlation between migration policies and security needs: among the most significant, the European Neighborhood Policy linking migration and security as one of the main areas of cooperation with third States<sup>49</sup>, the Joint Valletta Action Plan of 2015<sup>50</sup> establishing specific measures to

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<sup>44</sup> C. BOSWELL, cit.; on the see migration-development nexus see in particular M. LATEK, *Interlinks between migration and development*, EPRS | European Parliamentary Research Service, January 2019.

<sup>45</sup> See *amplius* R. ANDERSSON, *Europe's failed 'fight' against irregular migration: Ethnographic notes on a counterproductive industry*, in *Journal of Ethnic and Migration Studies*, 2016, vol. 42, n. 7, pp. 1055 et seq.

<sup>46</sup> E.g. in relation to the implementation of the Visa Code (Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas), the European Commission assesses the cooperation of third countries on the readmission of irregular migrants, taking into account border management and the prevention and control of smuggling of migrants as well as the transit of irregular migrants: if a third country does not cooperate, the Commission may submit a proposal for a Council decision to temporarily apply certain rules in a restrictive manner; conversely, if a country cooperates, certain rules may be applied more generously. On this point, the Commission's position is that visa facilitation agreements can provide the necessary incentive for readmission negotiations without increasing irregular migration: see *amplius*, Communication from the Commission to the European Parliament and the Council, Evaluation of EU Readmission Agreements, COM(2011) 76 final. The EU Global Approach to Migration and Mobility also provides for a number of links between development aid, mobility and curbing irregular migration; see *amplius*, Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - The Global Approach to Migration and Mobility, COM(2011) 743 final. On the matter, see also T. FAKHOURY, *Tangled Connections between Migration and Security in the Wake of the Arab Uprisings: A European Perspective*, in *IAI Working Paper*, 2016, vol. 16, n. 6, p. 4.

<sup>47</sup> See New Pact on Migration and Asylum, cit., in particular para. 2.5 and para. 6.5 on promoting cooperation on readmission and reintegration with countries of origin, also stressing the relevance of the introduction of a link between cooperation on readmission and visa issuance in the Visa Code (Regulation (EC) No 810/2009 as amended).

<sup>48</sup> See note 16.

<sup>49</sup> See Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Review of the European Neighborhood Policy, Brussels, 18.11.2015, JOIN(2015) 50 final, in particular paras. V.2 and V.3; see also M. FURNESS, I. SCHÄFER, *The 2015 European Neighborhood Policy Review: More Realism, Less Ambition*, German Development Institute, 2015, in [www.die-gdi.de/die-aktuelle-kolumne/article/the-2015-european-neighbourhood-policy-review-more-realism-less-ambition/](http://www.die-gdi.de/die-aktuelle-kolumne/article/the-2015-european-neighbourhood-policy-review-more-realism-less-ambition/).

<sup>50</sup> The Action Plan is in [https://www.consilium.europa.eu/media/21839/action\\_plan\\_en.pdf](https://www.consilium.europa.eu/media/21839/action_plan_en.pdf); see M. AKKERMAN, *Expanding the Fortress: The policies, the profiteers and the people shaped by EU's border*

strengthen military and security cooperation to improve the management of migration flows between Africa and Europe, and the following Emergency Trust Fund for Africa channeling development aid through bilateral agreements with African States<sup>51</sup>, this resulting in fact in more border controls as “part of an emerging era of containment in which the movements of Africans - not only to Europe but also across the continent - are becoming pathological and criminalized”<sup>52</sup>. In the EU Partnership Framework on Migration of 2016, set out under the previous European Agenda on Migration with five priority countries (Ethiopia, Mali, Niger, Nigeria and Senegal), the Union has then in fact linked development cooperation to migration objectives with the goal of decreasing irregular arrivals and increasing returns of migrants.<sup>53</sup>

The security-oriented strategies implemented by the Union have had also a knock-on effect in several African middle-income countries (*e.g.* Morocco, Egypt, South Africa, Botswana) which have *e.g.* begun to follow stricter visa rules towards African travelers coming from low-income countries<sup>54</sup> and often consider refugees as a national security threat<sup>55</sup>. In the meantime, policies of increasing criminalization of migration by some States (Central African Republic, Ethiopia, Niger, and Sudan)<sup>56</sup>, partly due to EU pressure to regulate migratory flows, have turned into enhanced border management strategies that

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*externalisation programme*, Transnational Institute, 2018, available at [www.tni.org/files/publication-downloads/expanding\\_the\\_fortress\\_-\\_1.6\\_may\\_11.pdf](http://www.tni.org/files/publication-downloads/expanding_the_fortress_-_1.6_may_11.pdf).

<sup>51</sup> *E.g.* since 2017 the EU is providing support to increase the operational capacity of the Libyan Coast Guard and Navy and the General Administration for Coastal Security; in July 2020 the EU Emergency Trust Fund for Africa announced delivery of 30 vehicles by the Italian Ministry of Interior for use by the Libyan authorities as part of the EU border management programmes in Libya. See *amplius* at [https://ec.europa.eu/trustfundforafrica/index\\_en](https://ec.europa.eu/trustfundforafrica/index_en).

<sup>52</sup> L. LANDAU, C. KIHATO, *Securitisating Africa's borders is bad for migrants, democracy, and development*, in *The New Humanitarian*, 2017.

<sup>53</sup> See Communication from the Commission on establishing a new Partnership Framework with third countries under the European Agenda on Migration, Strasbourg, 7.6.2016 COM(2016) 385 final. In this context, a number of initiatives should be read including, *e.g.* in relation to Nigeria, the negotiations on an Readmission Agreement and the EU-Nigeria cooperation platform on migrant smuggling both implemented in 2016 or, in relation to Niger, the finalization of an Action Plan to fight against smuggling, decrease irregular migration, and provide alternative economic opportunities as well as the deployment of capacity in the north of the country and the EU Trust Fund for Africa projects on Migrant Resource and Response Mechanism, capacity building, and support to the economy of Agadez. See also M. TARDIS, *European Union Partnerships with African Countries on Migration: A Common Issue with Conflicting Interests*, Notes de l'Ifri, OCP Policy Center and Center for Migration and Citizenship, 2018. However, there are also a number of ‘pilot projects’ on legal migration being implemented in parallel by Member States together with key partner countries of origin and transit and supported by the Commission, which aim to match the skills of third-country nationals with the needs of the EU labour market. Five EU-funded pilot projects on legal migration are currently being implemented, aiming at circular and long-term mobility schemes for young graduates and workers from selected partner countries (Egypt, Morocco, Nigeria and Tunisia). As noted by the Commission, “beyond the benefits they can bring directly to third countries and migrants themselves, these pilot projects can also further stimulate partner countries' participation in effective migration management”; see Communication from the Commission, *Progress report on the Implementation of the European Agenda on Migration*, COM(2019) 481 final, p. 21.

<sup>54</sup> T.T. ABEBE, *Securitisating migration in Africa. The case of Agadez in Niger*, Institute for Security Studies, African Report 20, December 2019, p. 4.

<sup>55</sup> S. VAN HOYWEGHEN, *Mobility, territoriality and sovereignty in post-colonial Tanzania*, in *New Issues in Refugee Research*, Working Paper, 2001, n. 49.

<sup>56</sup> L. LANDAU, C. KIHATO, *cit.*

have undermined their liberal migration traditions and negatively affect the human rights security of migrants as well as cross-border economic activities<sup>57</sup>.

A report produced in 2020 by the Institute for Security Studies on the effects of EU migration security policies in Agadez, Niger, acknowledges that instead of undermining the root causes of migration, such policies were chiefly focused in decreasing the numbers of migrants resulting in unintended, even though foreseeable consequences such as increased insecurity among residents as EU's interventions dismantled the local 'migration industry' without putting in place alternative means of income generation for residents; the human smuggling industry has continued in the absence of effective measures to address the causes of migration, exposing migrants to greater risks insofar as journeys have not stopped and have been made even more dangerous; the securitarian policies implemented by the EU also resulted in risks of destabilization of the region pushing young people to engage in banditry or radicalization to respond to their immediate economic needs, this confirming that enhancing security to stem migration can result in fertile recruitment ground for extremist groups; finally, such policies led to an erosion of the citizen-government relations as national and local governments were perceived by the population as the Union's *longa manus*<sup>58</sup>.

Moreover, in addition to exercising limited action on the root causes of migration, EU policies also risk being counterproductive for the same Union: *e.g.* the implementation of the new anti-trafficking legislation in Niger called for by the EU could lead to greater impoverishment and unemployment, providing paramilitary forces with more recruits and thus upsetting regional balances and leading to greater movements of migrants<sup>59</sup>; similarly, the EU's cooperation with Sudan and its funding in the field of migration control also fostered the strengthening of a paramilitary units which act harshly to curb smugglers and migrants but also against anti-government protesters, contributing to civil instability which could lead to significant migration flows as well<sup>60</sup>. Furthermore, mere policies of border externalization and containment are likely to result in "heightened inequality within and between countries, along with increased poverty and likelihood of conflict [that] will create precisely the pressures to migrate that Europe hopes to contain"<sup>61</sup>. Finally, the push for increased freedom of movement across Africa promoted at continental and regional level seems unlikely to have, on its own, any significant downward effects on migration to Europe<sup>62</sup>, but rather could increase migration from

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<sup>57</sup> M. LATEK, *cit.*, p. 10; see also A. BISONG, *EU External Migration Management Policies in West Africa: How Migration Policies and Practices in Nigeria Are Changing*, in S. CARRERA, A. GEDDES, *The EU Pact on Migration and Asylum in light of the United Nations Global Compact on Refugees*, European University Institute, 2021, p. 267.

<sup>58</sup> For a more detailed analysis see *amplius* T.T. ABEBE, *Securitisation of migration in Africa*, *cit.*, p. 8 et seq.

<sup>59</sup> H. LUCHT, *European anti-migration agenda could challenge stability in Niger*, Danish Institute for International Development, 2017.

<sup>60</sup> J. TUBIANA, C. WARIN, G.M. SAENEEN, *Multilateral Damage. The impact of EU migration policies on central Saharan routes*, CRU Report, Clingendael, 2018, p. 36 et seq.

<sup>61</sup> L. LANDAU, C. KIHATO, *cit.*

<sup>62</sup> R. PARKES, M. MCQUAY, *Ending the EU's Ambivalence to Free Movement in Africa*, IAI Commentaries, 13 November 2020, issue 20, p. 2 et seq.

Africa if not accompanied by a strengthening of broader security conditions on the continent.

Therefore, the EU strategies in several African countries turned out to be a “spiraling phenomenon”<sup>63</sup> and ended up in an increasing securitization also of intra-African migration in so far as the Union’s policies complicate and ultimately limit the implementation of continental and regional free movement measures such as the ones promoted by the aforementioned AU-sponsored Continental Free Movement Protocol<sup>64</sup>. This piecemeal approach is thus not adequate for tackling the complexity of the substantive reasons of irregular migration<sup>65</sup> and, behind the rhetoric of addressing them, the line followed by the Union continues to be mainly security-oriented, so much so that aid flows are mainly allocated to States which strengthened border controls and increased security measures to counter migratory flows<sup>66</sup>.

In this context, the securitarian approach which creepingly but substantially pervades the New Pact<sup>67</sup> runs the risk of continuing to be partial, unbalanced toward security instruments and thus not completely effective; the EU itself is aware of this jeopardy although limits itself to acknowledging that some issues, such as border management or more effective implementation of return and readmission, are politically sensitive for the African partners<sup>68</sup>.

#### **4. The prevailing ‘hard security’ profiles of the New Pact vs. the ‘human security’ dimension of the security concept**

Starting from the assumption that “*both the EU and its partners have their own interests*”, the Commission insists in the New Pact on the need for partnerships that must be “mutually beneficial” in order to maximize their impact<sup>69</sup>. Nevertheless, it then recognizes priorities – held “in line with partners’ needs” – mainly identified in “managing irregular migration [...] strengthening border management, facilitating voluntary returns to third countries”<sup>70</sup> and “promoting cooperation on readmission”<sup>71</sup>, all issues which do raise doubts whether and to what extent they are indeed “partners’ needs” since they clearly reflect a Eurocentric view and solution of the migration phenomenon.

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<sup>63</sup> V. BELLO, *The spiralling of the securitisation of migration in the EU: from the management of a ‘crisis’ to a governance of human mobility?*, in *Journal of Ethnic and Migration Studies*, 2020.

<sup>64</sup> A. BISONG, *How migration policies and practices in Nigeria are changing*, ASILE, 3 February 2021; see also, F. ZANKER, L. JEGEN, K. ARHIN-SAM, A. BISONG, *Free movement in West Africa: Juxtapositions and Divergent Interests*, MEDAM Policy Brief 2020/1, ABI, Freiburg, June 2020.

<sup>65</sup> UNCTAD, *Economic Development in Africa Report 2018, Migration for Structural Transformation - Chapter 6* cit., p. 160.

<sup>66</sup> See *amplius* L. RAINERI, A. ROSSI, cit.

<sup>67</sup> E.g. the New Pact provides for the creation of the role of EU Return coordinator to streamline return processes in countries of origin, see para. 2.5.

<sup>68</sup> New Pact on Migration and Asylum, cit., para. 6.1.

<sup>69</sup> *Ibidem*.

<sup>70</sup> *Ibidem*, para. 6.4.

<sup>71</sup> *Ibidem*, para. 6.5.



In some cases, the lack of security in parts of Africa can be of course a driving force behind migration towards Europe: *e.g.* Islamism movements affect the Niger-Mali border, Boko Haram terrorists' activities involve other areas on the Niger-Nigeria border, while armed groups are also active on the Niger-Chad-Libya border<sup>72</sup>, with the result that forms of security support from the EU are absolutely relevant for the stabilization of these regions<sup>73</sup>.

Nevertheless, although hard security issues are undoubtedly relevant, migration is largely due to other forms of insecurity: as already observed, migrants most often move to escape threats of food and nutrition insecurity, environmental degradation and climate change as well as social insecurity linked to high levels of corruption or restrictions on individual freedoms resulting in limitation of their economic and social rights<sup>74</sup>.

The EU seems to have adopted a more comprehensive approach to migration management by attempting to address its root causes, but while the New Pact formally claims to take up this line, it mainly embraces development aspects and, above all, security profiles.

However, considering the "polysemy of the concept"<sup>75</sup>, different and divergent security models may evidently clash.

As already mentioned, the approach on the migration issue followed by the EU and its member States is broadly declined as 'hard' security in order to protect their borders by holding back flows and returning migrants<sup>76</sup> through an externalization of their boundaries and a securitization of the Union's external migration policies: this approach ends up being in fact prevailing over other profiles also pursued by the New Pact such as the attraction of talent or integration for the construction of more inclusive societies.

EU Member States<sup>77</sup> are moreover committed - also at the request and with the endorsement of the United Nations<sup>78</sup> - to implementing security and peace in the countries

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<sup>72</sup> M. DANDA, *The Security–Migration–Development nexus in the Sahel: a view from Niger*, in Venturi (Ed.), *The Security–Migration–Development nexus revised*, cit., p. 46; see also J. TUBIANA, C. GRAMIZZI, *Lost in Trans-nation. Tubu and Other Armed Groups and Smugglers along Libya's Southern Border*, Graduate Institute of International and Development Studies, Geneva, 2018.

<sup>73</sup> As noted by K.M. OSLAND, H.U. ERSTAD, "*the central areas of the Sahel region have gained prominence as 'producers' of transnational security threats, such as violent extremism, "irregular" migration and human trafficking*"; see K.M. OSLAND, H.U. ERSTAD, "*Irregular" Migration and Divergent Understandings of Security in the Sahel*, Rome, IAI, October 2020.

<sup>74</sup> See also S. SAGNA, *The Security–Migration–Development nexus in the Sahel region: a view from Senegal*, in B. VENTURI (ed.), *The Security–Migration–Development nexus revised*, cit., p. 78.

<sup>75</sup> L. RAINERI, A. ROSSI, cit., p. 25.

<sup>76</sup> A. BISONG, *How migration policies and practices in Nigeria are changing*, cit. Such profiles have been taken up in the New Pact, *e.g.* in paras. 2.1 on new procedures to establish status swiftly on arrival, 2.3 on mutual trust through robust governance and implementation monitoring, 2.5 on an effective and common EU system for returns, 2.6 on a new common asylum and migration database, 4 on an integrated border management, 6.4 on partnerships to strengthen migration governance and management, 6.5 on fostering cooperation on readmission and reintegration.

<sup>77</sup> *E.g.* France is committed to supporting the efforts of the Sahel States to prevent the area from becoming a hotbed of instability for terrorist groups or a favourable area for trafficking in drugs, arms or people, or smuggling of migrants.

<sup>78</sup> See *e.g.* S/RES/2085 (2012) para. 9(a) where the Security Council decided to authorize the deployment of an African-led International Support Mission in Mali (AFISMA) "*to contribute to the rebuilding of the*

of origin and transit of migrants by strengthening their political systems, what do reflect a western-oriented narrative of an instrumental concept of security and also translates *de facto* into policies aimed at preventing migration flows.

Differently, African States are more interested in strengthening a “multidimensional understanding of security”<sup>79</sup> what is not necessarily in contrast with the migration phenomenon but rather a tool to promote development. The AU has in fact adopted a broader approach that encompasses not only the traditional state-centric notion of hard security but extends to the notion of ‘human security’ defined as “*the security of the individual in terms of satisfaction of his/her basic needs. It also includes the creation of social, economic, political, environmental and cultural conditions necessary for the survival and dignity of the individual, the protection of and respect for human rights, good governance and the guarantee for each individual of opportunities and choices for his/her full development*”<sup>80</sup>, which is a relevant facet of the African peace and security agenda.

This definition is consistent with the one provided by the UN General Assembly which defines human security as “*the right of people to live in freedom and dignity, free from poverty and despair ... [that] recognizes the interlinkages between peace, development and human rights, and equally considers civil, political, economic, social and cultural rights*”<sup>81</sup>.

Human security is traditionally understood as composed of three complementary aspects: freedom from fear, freedom from want, and freedom from indignity<sup>82</sup>; the UNDP, in its 1994 Report first addressing the concept, proposed seven interconnected components thereof: economic security (freedom from poverty), food security (access to food), health security (access to health care and protection from diseases), environmental security (protection from the danger of environmental pollution), personal security (physical protection against torture, war, criminal attacks, domestic violence, etc.),

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*capacity of the Malian Defence and Security Forces, in close coordination with other international partners involved in this process, including the European Union [...]”.*

<sup>79</sup> See F. VIETTI, T. SCRIBNER, *Human Insecurity: Understanding International Migration from a Human Security Perspective*, in *Journal on Migrations and Human Security*, 2013, vol. 1, n. 1, p. 18.

<sup>80</sup> Article 1(k), African Union Non-Aggression and Common Defence Pact, Abuja, 2005.

<sup>81</sup> A/RES/66/290, para. 3(a) and (c); on the concept of human security see R. PISILLO MAZZESCHI, *Sicurezza umana e diritto internazionale*, in E. TRIGGIANI, F. CHERUBINI, I. INGRAVALLO, E. NALIN, R. VIRZO (eds.), *Dialoghi con Ugo Villani*, vol. I, Bari, 2017, p. 352 et seq.; G. OBERLEITNER, *Human Security: A Challenge to International Law?*, in *Global Governance*, Apr.-June 2005, vol. 11, n. 2; B. VON TIGERSTROM, *Human Security and International Law. Prospects and Problems*, Oxford, 2007; D. ESTRADA-TANCK, *Human security and human rights under international law: the protections offered to persons confronting structural vulnerability*, Portland, 2016; C. CHINKIN, M. KALDOR, *What Does Human Security Require of International Law?* in *International Law and New Wars*, Cambridge University Press, 2017; S. DRAFT, *The relationship between human security discourse and international law*, London, New York, 2018; A. DI STASI, *Diritti umani e sicurezza regionale. Il “Sistema” europeo*, Napoli, 2011.

<sup>82</sup> See also UN, Follow-up to General Assembly resolution 64/291 on human security. Report of the Secretary-General. A/66/763 of 5 April 2012, para. 3.

community security (survival of traditional cultures and ethnic groups), political security (civil and political rights, freedom from political oppression)<sup>83</sup>.

Therefore, under a human security-oriented approach to migration, if development cooperation and hard security assistance remain fundamental to cope with the phenomenon, it is also necessary to address a number of other threats on critical issues (health, climate, environment, etc.) through instruments helping to build the capacity of States and population to deal with them and be better prepared for future risks<sup>84</sup>. But if the New Pact does emphasize the need to strengthen hard security as well as development, including human development (which is expressly named therein)<sup>85</sup> in order to build stable and cohesive societies and help ensure that “all citizens feel that their future is at home”, however it does not stress the need for action on human security, which is not even mentioned<sup>86</sup>.

Yet, as observed by the Commission on Human Security<sup>87</sup> “human security complements state security, strengthens human development and enhances human rights”<sup>88</sup>: although human security is strictly linked to human development, ‘human security’ emphasizes the aspect of protection while ‘human development’ emphasizes the fulfilment of more opportunities improving the lives of people<sup>89</sup>. Human security thus shares the same ‘conceptual space’ of human development<sup>90</sup>, both being people-centered and multidimensional, but human security is a prerequisite for human development, this meaning that the human development-oriented strategies, even prefigured in the New Pact, risk being ineffective without preliminary human security-focused interventions<sup>91</sup>.

Many of the profiles of human insecurity are often underestimated, but it is clear that development policies cannot disregard policies aimed at removing or at least dampening these critical issues.

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<sup>83</sup> UNDP Report of 1994, cit., p. 24. The Commission on Human Security, in its final report *Human Security Now*, defines human security as: “[...] to protect the vital core of all human lives in ways that enhance human freedoms and human fulfillment. Human security means protecting fundamental freedoms – freedoms that are the essence of life. It means protecting people from critical (severe) and pervasive (widespread) threats and situations. It means using processes that build on people’s strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity”; see Commission on Human Security, *Human Security Now*, 2003, p. 4.

<sup>84</sup> A. GILDER, *International law and human security in a kaleidoscopic world*, Indian Journal of International Law, 2020.

<sup>85</sup> New Pact on Migration and Asylum, cit., para. 6.3.

<sup>86</sup> *Ibidem*, Section 6.

<sup>87</sup> The Commission on Human Security was established in January 2001 in response to the UN Secretary-General’s call at the 2000 Millennium Summit for a world “free from want” and “free from fear”.

<sup>88</sup> Commission on Human Security, *Human Security Now*, cit., p. 2.

<sup>89</sup> A distinction between human security and the human development can be found in S. ALKIRE, *A Conceptual Framework for Human Security*, CRISE Working Paper n. 2, Center for Research on Inequality, Human Security and Ethnicity (CRISE), Queen Elizabeth House: University of Oxford, 2003, p. 35 et seq.

<sup>90</sup> C. CHURRUCA MUGURUZA, *Human Security as a policy framework: Critics and Challenges*, in *Yearbook on Humanitarian Action and Human Rights*, 2007, n. 4, p. 22.

<sup>91</sup> To achieve human security, two key strategies should be put forward: preventive protection and empowerment: see A/RES/66/290, para. 3(b).

Just to name a few, an often-little considered profile of human insecurity that has a direct impact on migratory flows is the one related to the sustainability of cities. Urbanization processes influencing migration dynamics are increasingly relevant: some African metropolises like Lagos or Kinshasa are experiencing exponential growth in population, much of which is not native to those cities, and social marginalization combined with widespread poverty and limited access to health care are major factors of instability<sup>92</sup> which can lead to further migratory flows.

Other critical aspects that represent significant elements of destabilization with respect to the human security of migrants' countries of origin are *e.g.* those related to misinformation that can create or aggravate crisis situations<sup>93</sup> with reference to a multitude of factors (political, health, etc.) especially in times of pandemic, or the precariousness of the education system, including for security reasons, that *e.g.* forced many areas in northern Nigeria to close their schools for a long time because of the dramatic increase in the kidnapping of students<sup>94</sup>.

These examples, along with many other critical issues related to different forms of insecurity, are all elements that represent further, and perhaps even more entrenched causes of migration and can quickly degenerate into crises to which the New Pact, in the absence of a broader vision that takes due account of human security profiles, does not seem to provide answers.

In this context, it is not surprising that there is no recall in the New Pact of any reference to the Global Compact for Safe, Orderly and Regular Migration (GCM)<sup>95</sup> whose very first guiding principle focuses on 'people centeredness'<sup>96</sup> significantly considered separately from other also relevant principles such as sustainable development and respect for human rights<sup>97</sup>. The GCM thus places individuals at its core and promotes the well-being of migrants and the members of communities during the whole migration process, and even earlier in their home State, expressly recognizing that migrants' vulnerabilities can arise as a result of conditions in their countries of origin<sup>98</sup>. The document is thus pervaded by the concept of human security as a "diplomatic paradigm"<sup>99</sup>

<sup>92</sup> N. ADGER, R. SAFRA DE CAMPOS, T. SIDDIQUI, *The Human Security of Migrants is Key to Sustainability for Growing Cities*, PRIO, 29 March 2019.

<sup>93</sup> Countering disinformation is cited in the New Pact as a tool to strengthen migration governance and management at para. 6.4

<sup>94</sup> *Amplius* T. TAYO, P. OBISESAN, *Nigeria's kidnapping crisis unites the north and south*, Institute for Security Strategy, 6 April 2021, available at <https://issafrica.org/iss-today/nigerias-kidnapping-crisis-unites-the-north-and-south>.

<sup>95</sup> The GCM has been adopted by the Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration held in Marrakech, Morocco, on 10 and 11 December 2018 by a vast majority of UN Member States and endorsed by the UN General Assembly Resolution A/RES/73/195 of 19 December 2018. On the GCM see A. SPAGNOLO, *Il Patto globale per le migrazioni alla luce del diritto internazionale*, in *Rivista di Diritto Internazionale*, 2019.

<sup>96</sup> Global Compact on Migration, *cit.*, para. 15 lett. (a).

<sup>97</sup> *Ibidem*, para. 15 lett. (e) and (f).

<sup>98</sup> *Ibidem*, para. 27.

<sup>99</sup> For a detailed analysis of human security profiles in the GCM see, F. DE LA MORA SALCEDO, *Construyendo el Pacto Mundial para la Migración: la seguridad humana como paradigma diplomático*, in *Relaciones Internacionales*, 2020, n. 43.

taken into account, implicitly or explicitly, for its development<sup>100</sup>: it is sufficient to consider, for example, that the goal to curb the number of departures is sought through policies including “*food security, health and sanitation, education, [...] infrastructure, urban and rural development, [...] gender equality and empowerment of women [...], resilience and disaster risk reduction, climate change mitigation and adaptation, addressing the socioeconomic effects of all forms of violence, non-discrimination, the rule of law and good governance, access to justice and protection of human rights, as well as creating and maintaining peaceful and inclusive societies with effective, accountable and transparent institutions*”<sup>101</sup>, all issues related to strengthening not only the human development but also the human security of migrants’ countries of origin.

Although the GCM is a non-binding instrument calling for voluntary implementation<sup>102</sup>, its development was strongly promoted by the European Union as well as its member States as largely reflecting the European approach to the matter. Nevertheless, during its negotiation, the migrant crisis strongly affected the national policies transforming this process into a failure of the “attempt to de-politicize migration” as it became the object of disagreements within the Union<sup>103</sup>.

This fragmentation of positions is therefore reflected in the different stances held by the EU member States: while most of them have adhered to the principles expressed in the CGM, others have strongly criticized it<sup>104</sup>. Consequently, the lack of reference to the CGM in the New Pact is evidently linked to the contrasting evolving positions of the EU member States on the issue.

More surprising instead is the lack in the New Pact of any call for the implementation of policies, although indicated in the previous Agenda on Migration<sup>105</sup>, coming from the ‘2030 UN Agenda for Sustainable Development’<sup>106</sup> and its 17 Sustainable Development Goals (SDGs) adopted by the UN in 2015 as a universal call to action to end poverty and ensure that all people enjoy peace and prosperity by 2030. In particular, most of them echoes human security principles emphasizing the triangular relationship between peace and security, development and human rights, highlighting their indispensable interconnection<sup>107</sup>. Moreover, as stressed by the UNDP in the occasion of 25th Anniversary of the Human Security concept, SDG 16 «Peace, Justice and Strong Institutions» “*is one of the key SDGs to promote human security [as] promot[ing] peaceful*

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<sup>100</sup> *Ibidem*, p. 105.

<sup>101</sup> Global Compact on Migration, cit., Objective 2, para. 18 lett. (b).

<sup>102</sup> The GCM affirms at para. 15 lett. (c) “*the sovereign right of States to determine their national migration policy and their prerogative to govern migration within their jurisdiction, in conformity with international law*”.

<sup>103</sup> D. BADELL, *The EU, migration and contestation: the UN Global Compact for migration, from consensus to dissensus*, in *Global Affairs*, 2021, p. 2.

<sup>104</sup> With regards to the European Union Member States, 19 Member States voted in favor, three of them voted against (Czech Republic, Hungary and Poland), five others (Austria, Bulgaria, Italy, Latvia and Romania) abstained, and Slovakia did not participate in the vote.

<sup>105</sup> A European Agenda on Migration, cit., p. 16.

<sup>106</sup> A/RES/70/1 of 21 October 2015.

<sup>107</sup> United Nations Trust fund for Human Security, *Human Security and Agenda 2030*, 2017.

*and inclusive societies for sustainable development, provid[ing] access to justice for all and build effective, accountable and inclusive institutions at all levels*<sup>108</sup>.

## 5. Forward-looking considerations

Although the EU Commission acknowledges that stability and prosperity in partner countries can be achieved by applying many different policies<sup>109</sup>, it still emphasizes conflict prevention, conflict resolution and peace as the main cornerstone of these efforts: nevertheless, the securitization of migration may obscure its effective management by providing short-term strategies to stem departures from Africa but without significantly affecting the threats to the human security of migrants which “far outweigh the national security threats they may create”<sup>110</sup>.

Therefore, the New Pact seems to confirm the asymmetrical connection between the Union and its African partners on the implementation of the migration-security nexus which is brought to a level described as even “coercive”<sup>111</sup>, through *e.g.* the application of restrictive measures in case of non-cooperation<sup>112</sup>.

This limit could be partially overcome in the light of the 2020 EU Comprehensive Strategy with Africa, expressly referred to in the New Pact<sup>113</sup>, which makes reference, although in a limited manner – and without naming the concept of ‘human security’ – to ‘other’ forms of security (food security, energy security, cyber security, climate security) that should be ensured to deepen economic and political ties “in a mature and wide-ranging relationship”.

Hence, while maintaining important hard security components, the EU should place “more emphasis on a human security approach to the multidimensional crises” still existing in some areas of Africa<sup>114</sup> better identifying their vulnerabilities and thus address the root causes thereof to help build resilience<sup>115</sup>.

In fact, by working on the very flexibility that the Commission itself has identified as the key to the application of the proposed instruments in the New Pact, the Union should flank its security-related measures with new and more incisive policies focusing on the broader concept of human security for the countries of origin and transit of migrants,

<sup>108</sup> UNDP, Keynote Speech: Reflections on the past 25 years since the Human Development Report of 1994 and discuss the contribution the Human Security approach has made to the achievement of the SDGs, 28 February 2019, available at <https://www.undp.org/content/undp/en/home/news-centre/speeches/2019/25th-anniversary-of-the-human-security-concept.html>.

<sup>109</sup> New Pact on Migration and Asylum, *cit.*, para. 6.3.

<sup>110</sup> M. WOHLFELD, *Is Migration a Security Issue?*, in O. GRECH, M. WOHLFELD (eds.), *Migration in the Mediterranean: human rights, security and development perspectives* (first edition), Malta: MEDAC, 2014.

<sup>111</sup> K. KIRIŞCI, M. MURAT ERDOĞAN, N. EMINOĞLU, *The EU’s “New Pact on Migration and Asylum” is missing a true foundation*, Brookings, 2020, November 6.

<sup>112</sup> New Pact on Migration and Asylum, *cit.*, para. 6.5.

<sup>113</sup> *Ibidem*, Section 6.

<sup>114</sup> European Parliament, Policy Department for External Relations, *A Comprehensive EU Strategy for Africa*, EP/EXPO/AFET/FWC/2019-01/Lot3/1/C/04 EN, PE603.506, June 2020, p. 12.

<sup>115</sup> A. GILDER, *cit.*

which are more in tune with their real needs and with the strategies of greater freedom of movement and exchange pursued at continental level.

Although identified in the New Pact where reference is made to various areas such as digital, energy or transport, these policies will be used “wherever relevant”<sup>116</sup>: an approach that is perhaps still too vague and limited and does not fully meet the real necessities of the third countries in question.

Moreover, a human-security oriented approach in the implementation of the EU external migration policy would be in line, under an international law perspective, with the principle of solidarity<sup>117</sup> which is having an increasing impact in changing the structure of the international system by transforming it into a global legal order based on values<sup>118</sup> and is called to function in different areas of international relations, including global migration<sup>119</sup>: as asserted by the United Nations General Assembly, solidarity is “*a fundamental value, by virtue of which global challenges must be managed in a way that distributes costs and burdens fairly in accordance with basic principles of equity and social justice and ensures that those who suffer or who benefit the least receive help from those who benefit the most*”<sup>120</sup>.

In this context, a significant test bench could be the implementation of the new Comprehensive Strategy with Africa and the following steps in the bilateral relations with African States as well as the *ad hoc* dialogues and frameworks through partnership with organizations such as the African Union, even referred to in the New Pact<sup>121</sup>, where the aspect of migration cannot be ignored: in the implementation of this partnership, the inward-looking security profiles of the New Pact could be overcome in order to go

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<sup>116</sup> New Pact on Migration and Asylum, cit., para. 6.3.

<sup>117</sup> *Amplius* K. WELLENS, *Solidarity as a Constitutional Principle: Its Expanding Role and Inherent Limitations*, in R. ST. J. MACDONALD, D. M. JOHNSTON (eds.), *Towards world constitutionalism: Issues in the Legal Ordering of the World Community*, Leiden, 2005; R. WOLFRUM, *Solidarity amongst states: An emerging structural principle of public international law*, in P.M. DUPUY (ed.), *Völkerrecht als Weltordnung. Festschrift für Christian Tomuschat*, Kehl, 2006; C. KOJIMA, K. MENZEL, *Symposium on Solidarity as a Structural Principle of International Law*, Max Planck Institute for Comparative Public Law and International Law, 29 October 2008, *Verfassung Und Recht in Übersee/Law and Politics in Africa, Asia and Latin America*, 2009, vol. 42, n. 4; K. WELLENS, *Revisiting solidarity as a (re-)emerging constitutional principle: Some further reflections*, in R. WOLFRUM, C. KOJIMA (eds.), *Solidarity: A structural principle of international law*, Berlin, 2010; A.G. KOROMA, *Solidarity: Evidence of an Emerging International Legal Principle*, in H.P. HESTERMEYER, D. KÖNIG, N. MATZ-LÜCK, V. RÖBEN, A. SEIBERT-FOHR, P. T. STOLL, S. VÖNEKY (eds.), *Coexistence, Cooperation and Solidarity* (2 vols.) *Liber Amicorum Rüdiger Wolfrum*, Leiden, 2012; T. TZIMAS, *Solidarity as a Principle of International Law: Its Application in Consensual Intervention*, in *Groningen Journal of International Law*, 2019, n. 6.

<sup>118</sup> See N. FRACCAROLI, *Il Principio della Solidarietà Internazionale*, in *Per i diritti umani*, 16 April 2020; also K. GOROBETS, *Solidarity as a Practical Reason: Grounding Authority of International Law*, 1 March 2020.

<sup>119</sup> See e.g. L. MARIN, S. PENASA, G. ROMEO, *Migration Crises and the Principle of Solidarity in Times of Sovereignism: Challenges for EU Law and Polity*, in *European Journal of Migration and Law*, 2020; with reference to refugee protection, see O.C. OKAFOR, *The Future of International Solidarity in Global Refugee Protection*, in *Human Rights Review*, 2021, n. 22.

<sup>120</sup> A/RES/56/151 of 8 February 2002, para. 3(f); see also A/RES/57/213 of 25 February 2003, para. 4(f)

<sup>121</sup> New Pact on Migration and Asylum, cit., para. 6.1.

“beyond functional cooperation to a deeper commitment to human security” as long advocated<sup>122</sup>.

**ABSTRACT:** The *New Pact on Migration and Asylum* presented by the European Commission in September 2020 largely outlines migration as a security threat both under an internal perspective and – although more latently – in the development of the external migration policy. In fact, it puts an emphasis on conflict prevention and resolution, as well as peace, security and governance strategies to be implemented in migrants’ countries of origin through ‘hard security’ policies aimed at *de facto* externalizing migration controls which resulted to be more instrumental in interdicting migratory flows than in eradicating their root causes. Such ‘securitarian’ approach does not seem to take full account of the broader consolidated contemporary dimension of the concept of security, which encompasses the protection of ‘human security’ which complements state security, strengthens human development and enhances human rights. The need to implement more human-security oriented strategies in order to manage the migration phenomenon more effectively seems to emerge clearly in relation to migration flows from the African continent.

**KEYWORDS:** External migration policy – securitization – externalization – human security – human development.

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<sup>122</sup> K. MPYISI, *How EU Support of the African Peace and Security Architecture Impacts Democracy Building*, IDEA, 2009, p. 12.