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International Cooperation on Migration Between the EU and Third Countries: Governing EU Borders in Invisible Spaces

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ABSTRACT

The article addresses the consequences of the externalisation of EU border policies on the legal and institutional dynamics that govern those policies. Drawing on the analysis of legal and policy documents and interviews, which were conducted with expert public servants among EU institutions and in one EU member state (Belgium), the article argues that EU border policies are increasingly governed by ‘regimes of invisibility’—which mainly involve expert public servants who cooperate with their counterparts in informal settings and through informal agreements. The article shows how the emergence of those ‘regimes of invisibility’ is deeply connected with the mainstreaming of migration through all components of the EU foreign policy. This leads to broader use of the tools from the foreign policy toolbox, which often rely on informal forms of cooperation, as well as to greater involvement of institutional actors beyond officials within interior ministries, such as diplomats. The article further makes an initial attempt to unpack these ‘regimes of invisibility’ by showing their underlying institutional tensions and dynamics. Therefore, it discusses how public servants, with different institutional background and knowledge, conflict and cooperate in shaping EU relations with third countries in the field.

1 | Introduction

The externalisation of EU border policies is further accelerating in the wake of the implementation of the EU New Pact on Migration and Asylum (European Commission 2020) (‘the Pact’). Among other measures aimed at strengthening EU borders, the Pact lays the emphasis on the deepening of the cooperation with third countries in view of managing migration to Europe. New partnership agreements have been launched with Tunisia, Egypt, and Mauritania. Others are in the making. There is high political pressure from some EU member states on the EU Commission, which they expect to quickly deliver agreements with third countries to enhance the control of migration to Europe (EMN 2024; Joint Declaration at the Zugspitz

Summit 2025). Now that the required EU regulations have been adopted to reform procedures at the external borders of European territory,¹ further developments are expected in the cooperation with third countries to facilitate returns and prevent irregular migration (De Leo and Milazzo 2024).

These are but the latest developments of the long-standing trend of externalising EU borders, and which rests on a ‘global approach’ that establishes migration management as a key objective of the EU foreign policy in all its components, including development aid and trade and defence policies (European Commission 2011a). The Pact aims at further developing that global approach, and it states that topics ‘such as development cooperation, security, visa, trade, agriculture, investment and

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employment, energy, environment and climate change, and education, should not be dealt with in isolation' (European Commission 2020, pt. 6). A multi-level playing field, which involves numerous policy actors and sometimes conflicting policy objectives, has emerged as a result (Lavenex and Uçarer 2004; Siitonen 2022). Its development involves public servants with different expert backgrounds and knowledge, and who are used to evolve within different institutional traditions and networks, as well as to implement different policy tools.

This article delves into that multi-level playing field, with a specific focus on the practices of the public servants involved in negotiating international agreements with third countries. It thereby takes inspiration from anthropologies of bureaucracies and their bottom-up focus on the practices of the bureaucrats in charge of implementing laws and policies (Bierschenk and Olivier de Sardan 2021).²

Through the specific focus on the practices of the high-level public servants, the article aims to reach a deeper understanding of the underlying policy dynamics and tensions in the field. It thereby makes use of mixed methods, which combine the analysis of international agreements between the EU and third countries in view of managing migration to Europe, with semi-directed expert interviews that were conducted with high-level public servants, who are involved in the drafting, conclusion, and implementation of these agreements.

Section 1 shows how analysing the international cooperation between the EU and third countries on migration as 'regimes of invisibility' may offer new insights into legal and policy developments in the field, through a specific and additional focus on the relationships between the institutional actors involved. It also introduces the mixed research methods, which were mobilised to collect the data that are discussed in this article. Section 2 analyses how the 'regimes of invisibility' came into being in the cooperation between the EU and third country on migration, based on the analysis of the legal and soft law instruments that have been adopted since the EU first acquired the competence to conclude readmission agreements. It demonstrates how the emergence of such 'regimes of invisibility' is deeply connected with the mainstreaming of EU border policies through the CFSP. Section 3 delves into the 'regimes of invisibility' based on the interviews that were conducted with some key institutional actors. It makes a first attempt to unveil the main institutional logics of cooperation and conflict that underpin the field.

2 | Studying 'Regimes of Invisibility' With Attention to the Practices of Institutional Actors

2.1 | International Relations on Migration as 'Regimes of Invisibility'

International relations between the EU and third countries in view of managing migration to Europe have been consistently analysed as driven by security concerns mainly (Boswell 2003; Bigo and Guild 2010; Zaiotti 2016; Ovacik and Spijkerboer 2024), as the EU seeks to 'police its borders at a distance' (Bigo and Guild 2010). Numerous studies warn against human rights law and refugee law violations that are occurring. Through their

involvement in the control of migration to Europe, third countries are incentivised to enforce strict migration control policies, which may not always abide with international legal standards on migrant and refugee protection, and which may have the overall and combined effect of preventing refugees from reaching safety (De Coninck 2024).

In such a context, there is growing concern among scholars and civil society organisations towards what has been labelled as the 'normative transformation' of EU external relations in the field (Wessel 2020). There is a strong trend of increasing recourse to informal forms of cooperation on migration between the EU and third countries (Cassarino 2007, 2018; Wolf 2020; Slominski and Trauner 2021; Frasca 2021, 2023; Cardwell and Dickson 2023; Reviglio 2023; Moreno-Lax 2024). On the one hand, informal agreements and cooperation practices could be analysed as attempts at escaping judicial control and legal responsibility for human rights violations that may occur as a result, as illustrated by controversies surrounding the EU-Turkey statement (Zoetewij and Turhan 2017; Ovacik et al. 2024) and the memorandum of understanding for a global and strategic partnership between the EU and Tunisia (Raach and Sha'ath 2025). Informality would then sustain systemic rule of law violations (Marin et al. 2024).

On the other hand, informality is inherent to the conduct of international relations (Kwasi Tieku 2021). When cooperating on the international scene, states often rely on informal agreements of varying nature. These agreements can be 'soft law' agreements, such as memoranda of understanding and gentlemen's agreements (Gautier 2022). But that is not always the case. International cooperation can also take the form of purely informal practices. Informality is such a major component of international relations that discussions commonly arise among legal actors on whether a given international *norm* can be considered as part of international *law*, to such an extent that it produces legally binding effects and that it can be invoked when litigating before courts (Pauwelyn 2012; Nussberger 2018). In European liberal democracies, the division of powers between the executive and legislative branches of government contributes to sustaining the informal nature of international relations. The conduct of international relations falls under the competence of the executive, which must only involve the parliament to ratify international treaties (art. 218 TFEU). Treaties are the most formalised form of international cooperation, which necessarily produces legally binding effects. Other forms of cooperation, which are based on soft law agreements, don't require formal approval from the parliament.

When discussing cooperation processes within the World Trade Organisation ('the WTO'), which they could observe during ethnographic fieldwork at international meetings and conferences that were organised by the WTO, Badaro and Abèles concluded that these processes are part of a 'regime of invisibility' (Badaro 2011; Abèles 2017). They observed that decisions are often made during informal side meetings, based on highly technical discussions involving various actors who claim expert knowledge on the topic. Both the content of these discussions and the resulting decisions frequently remain unknown to the broader public, as they occur outside any mechanisms of public scrutiny.

As this paper argues, the international cooperation between the EU and third countries on migration can be analysed as producing similar 'regimes of invisibility'.³ Proper understanding of the actual legal and policy developments in the field thus requires to move beyond the analysis of international agreements, to unpack the underlying institutional and power dynamics that guide the cooperation. While most concrete developments in the field are invisible and result from invisible processes, they can still be partially unveiled through dedicated attention to how institutional actors compete and cooperate to achieve them. This paper makes such a preliminary attempt, in view of contributing to the abovementioned debates on the 'normative transformation' of EU external relations in the field of migration, and its consequences on migrants' rights protection.

2.2 | Unveiling 'Regimes of Invisibility' Through the Textual Analysis of International Agreements, and Interviews With the Institutional Actors Involved

The EU policy documents, international agreements, and court cases that were analysed as part of this study were identified through existing databases. These included the EU Council treaties and agreements database and existing mappings (Cassarino 2006; Carrera et al. 2015; Garcia Andrade 2015; Longo and Fontana 2022; Hoffmeyer-Zlotnik et al. 2023; Feith Tan 2025). A literature review was also conducted. It included studies from think tanks, NGOs, and research units within EU and national administrations. In addition, in-depth and semi-structured expert interviews were conducted within EU institutions and the relevant administrations of one EU Member State (Belgium). They were used to complement textual analyses and confirm (or infirming) findings that result from the study of the relevant legal and policy documents, as well as to steer the research into these documents.

Besides being a practical choice dictated by access considerations given the author's network as a Belgian scholar in migration law, the choice of Belgium results from its specific institutional dynamics that diverge from the ones at play at the EU level. In Belgium, the Ministry of Foreign Affairs oversees negotiations with third countries on migration-related issues; whereas, at the EU level, the EU Commission Directorate General for Migration and Home Affairs generally leads such negotiations (Interviews 1, 2, 12, 13, 14). This differing institutional structure offers a useful ground for comparisons, which highlight and identify the various policy approaches depending on the professional background of the expert public servants involved.

Interviewed public servants were selected on account of their high degree of expertise and knowledge on international relations between the EU and third countries on migration. All are active in the fields of home affairs, foreign affairs, or development aid. Belgian experts were serving within the Ministry of Foreign Affairs (DIPLOBEL), the Aliens Office (OE/DVZ) and the Governmental Agency in charge of development aid (ENABEL). EU experts were serving within the Council, the Commission, and the European Parliament. Most were involved within the legal services of these institutions and share a

background in the law and/or in the political sciences. All were holding senior positions.

Discussions with the interviewees were not digitally recorded, and all quotes highlighted below have been reconstructed based on the handwritten notes made during the interviews. The taking of the notes during one interview (Interview 1) that took place in a restaurant where lobbyists, politicians and other expert stakeholders meet was interrupted, following the request of a third party who insisted this was not the appropriate setting. The interview was reconstructed shortly afterwards, based on my recollection of it. All interviewees were informed of the overall objective of the research, and they were made aware of my academic background. Most were first approached during or following academic events gathering legal scholars mainly. Anonymity was guaranteed, and for that reason limited information only is being given on the profile of the interviewees. Most of them insisted they were speaking 'off the record'.

3 | Building 'Regimes of Invisibility': Mainstreaming EU Border Policies Through the EU Foreign Policy

The emergence of 'regimes of invisibility', within which cooperation between the EU and third countries on migration is now unfolding, can be analysed as the structural by-product of how the EU developed its competences in the field. Whereas the initial EU policy emphasis on the enforcement of return decisions fostered the conclusion of international treaties, such as readmission agreements, later attempts at developing a 'Global Approach to Migration and Mobility' ('GAMM') (European Commission 2011) led to the mobilisation of all CFSP components and tools, beyond international treaties.⁴ Since the Pact was presented in 2020, that trend culminates in multiplying framework agreements, which set out some overarching principles and structure for further and more concrete forms of cooperation that often remain informal and involve public servants with various backgrounds.

3.1 | From Readmission Agreements to a Global Approach on Migration and Mobility

3.1.1 | EU Readmission Agreements

Low return rates, which generally evolve at around 35%–45% of the adopted return decisions, are often pointed out as a continuous concern for the EU and its member states (European Commission 2018; Stutz and Trauner 2022; European Parliament Research Service 2023). Main practical difficulties in enforcing return decisions are well-known. They include shortcomings in the administrative cooperation with third countries, namely, to identify returnees and deliver them the documentation required to cross borders (European Commission 2014, 2017, 2021).⁵ To solve these difficulties, the EU and its Member States have initially sought to conclude readmission agreements with third countries (Coleman 2009; Peers and Rogers 2006).

First EU attempts at fostering the signing of readmission agreements date back to the 1990s, at a time when EU migration policy

was dealt with on an intergovernmental basis. In 1994 and 1995, the Council adopted a standard readmission agreement, which Member States were incentivised to use when concluding bilateral readmission agreements, as well as recommendations on establishing the implementing protocols (Council of the European Union 1994, 1995). A standard clause on readmission was also established, to be included in agreements signed by the EU with third countries within EU's sphere of external competence, such as association agreements and partnership agreements (Council Doc. 12509/95, 8 December 1995; Council Doc. 4272/96, 22 January 1996; Council Doc. 13409/99, 25 November 1999).

In 1999, the EU acquired the implied competence to conclude readmission agreements with third countries following the communitarisation of migration policies by the Treaty of Amsterdam. The first EU readmission agreements (EURA) were adopted in the 2000s. The momentum for concluding EURAs increased following the adoption the Returns Directive in 2008, which notes that 'international cooperation with countries of origin at all stages of the return process is a prerequisite to achieving sustainable return' (Directive 2008/115/EC, recital 7). In 2009 and following the entry into force of the Treaty of Lisbon, the EU implied competence to conclude EURAs became an explicit one (Article 79, 3, TFEU).

Eighteen EURAs have been concluded so far.⁶ The web of readmission agreements between the EU and third countries is much more complex, however, than existing EURAs may suggest. The competence of the EU to conclude readmission agreements is a shared one, meaning that the Member States retain their competence to conclude their own bilateral readmission agreements with third countries. EURAs thus coexist with numerous bilateral agreements, which were established by EU member states outside of the framework of EU law. Yet, multiplying readmission agreements did not have major effects on return rates (Billet 2010, at 49; Stutz and Trauner 2022).

Besides, concluding EURAs has become more difficult. Most sending countries do not have interest in facilitating the return of their own nationals, which can be a highly sensitive political issue (  duygu and Aksel 2014; Stutz 2023). This is well illustrated by the saga surrounding the failed adoption of a EURA with Mali, which some of the interviewed civil servants referred to (Interviews 1, 10 and 11). The Malian authorities aborted the adoption process as soon as it was publicised by the Dutch Minister of the Interior. This move was then analysed by the European External Action Service (EEAS) as an illustration of 'the cultural dimension of migration as a model of success and the economic importance of remittances' in Mali (EEAS 2016). In other instances, the obligation to readmit transit migrants has led to stark opposition from third countries. Negotiations for signing a EURA with Morocco, for example, have failed so far, mainly because Moroccan authorities are not willing to accept an obligation of readmitting migrants who transited through their territory before reaching Europe (Interview 14).

For these reasons, the EU Commission has regularly called for 'the EU's readmission policy (...) (to) be more firmly embedded in the overall external relations policies of the EU' (European Commission 2011b). In parallel to initiatives in view of concluding EURAs, increased attempts are made at developing a

'comprehensive/global approach' on migration, which involves the various components of EU foreign policy.

3.1.2 | A 'Global Approach'

The Conclusions of the 1999 Tampere Council, which laid out the first roadmap towards the establishment of a common EU asylum and migration policy, called for a 'comprehensive approach', 'addressing political, human rights and development issues in countries and regions of origin and transit' (para. 11, see also the paras. 12 and 59–61). The need for such 'comprehensive approach' that would also address the 'root causes' of migration was further reiterated in the Hague Programme (European Council 2005). On 2005, following the events in the Spanish enclave of Ceuta and Melilla where over 500 migrants simultaneously attempted to force their passage through the Spanish border with Morocco, a 'Global Approach on Migration' (GAM) was adopted at EU level.

The GAM set an overarching policy framework to foster the mainstreaming of migration within all sectors of the CFSP (Conclusions of the European Council, Brussels, 15–16 December 2005). In 2011 and following the Arab Spring, the GAM was updated into the 'Global Approach on Migration and Mobility' (GAMM) (European Commission 2011a; our emphasis), which is still in force. The emphasis on 'mobility' aims to highlight an evolution in the policy focus, from enforcing return decision to facilitating legal migration and mobility.

In practice, however, security considerations remained paramount in the main achievements of the GAMM, which primarily seek to reduce irregular migration to Europe (Wa Kabwe-Segatti 2009; Wunderlich 2013; Bauloz 2016; Pijnenburg et al. 2018). This is unlikely to change following the EU New Pact, which calls for the further implementation of the GAMM. While the EU New Pact includes new measures to foster the development of legal migration channels to Europe, such as the Union Resettlement Framework (Reg., EU, 2024/1350) and recommendations for developing complementary pathways to protection (Rec., EU, 2020/1364), its overall logics have been analysed as focused on containing migration movements rather than facilitating them (Garcia Andrade 2021).

The interviewed public servants shared that analysis. Different explanations were given as to why the GAMM is unlikely to shift the focus away from the enforcement of EU border policies. One of them referred to political considerations. He labelled the promise of legal pathways to Europe as a 'Christmas Tree', that is, a political argument designed to ease criticisms against EU border policies rather than a fully-fledged and coherent policy objective that governs their everyday work (Interview 14). Another emphasised the lack of EU competence in the field of integration or in regulating access to labour markets, which prevents the EU from developing a proactive migration policy (Interview 4).

Over the years, the 'global approach' nonetheless sustained a policy shift from readmission to attempts at mobilising all CFSP policy tools in view of addressing migration in its numerous aspects, including but not limited to the enforcement of return

decisions. As detailed in the next subsection, this shift led to the emergence of a complex web of legal and policy instruments.

3.2 | A Complex Web of Formal and Informal Instruments

Extensive attempts have been made at mapping the foreign policy instruments that were developed in view of fostering international cooperation on migration to Europe (Cassarino 2006; Carrera et al. 2015; Garcia Andrade 2015; Longo and Fontana 2022; Hoffmeyer-Zlotnik et al. 2023; Feith Tan 2025). Such attempts do not claim exhaustivity, due to the challenges of identifying the relevant instruments. Some instruments entertain but a loose and indirect connection with migration management, whereas others have not been made public and/or are of a purely informal nature. There is nonetheless a clear trend towards greater recourse to agreements and political declarations, whose objective is to set the overall framework within which practical cooperation can take place on a regular and often informal basis. Hereafter, and in view of refining understandings of the recourse to CFSP instruments as part of international cooperation on migration, I establish a distinction depending on the legal nature of the instruments that were adopted.

The *first category* of legal instruments includes international agreements in the strict legal sense of Article 218 TFEU. Such international agreements are legally binding, and they constitute the most formalised forms of international cooperation that require approval from the European Parliament and publication in the Official Journal of the EU. Some of these international agreements stem from the EU internal competence in the field of migration, which is part of JHA policies. They were adopted in view of supporting the implementation of the EU Regulations and Directives that harmonise legal standards in the field: EU Readmission Agreements (EURAs) guarantee the effective implementation of return decisions adopted in line with the Return Directive, whereas Visa Facilitation Agreements and Short Stay Visa Waiver Agreements guide the implementation of the provisions of the EU Visa Code (Reg., EC, 810/2009).

Other international agreements, such as Association Agreements and Partnership and Cooperation Agreements, are based on the CFSP and pursue objectives that are often related to the EU trade policy. They are nonetheless increasingly including clauses that enable further cooperation on migration. Whereas such clauses were initially limited in their scope to readmission commitments (Coleman 2009), they now tend to refer to migration management more generally (Hoffmeyer-Zlotnik et al. 2023). For example, the Cotonou Agreement, which creates the framework for cooperation between the EU and the African, Caribbean, and Pacific group of States (ACP), contains a clause on cooperation in the field of migration (Article 13 of the Cotonou Agreement). The clause is intended to pave the way for further cooperation on migration between the EU and ACP countries, including when implementing development programmes (Koeb and Hohmeister 2010; Cassarino 2016).

The *second category* of legal instruments encompasses EU legal acts that were adopted based on EU internal legislative procedures, in view of creating the conditions for international

cooperation in the field of migration. These include the Council Decisions that are adopted by the EU with the view to develop its Common Security and Defence Policy (CSDP). Some of the EU common defence and security missions are deployed in the assumed objective to support the capacities of third countries in controlling their own borders, such as the EUBAM Libya strengthening the capacity of Libyan coastguards (Council Decision 2013/233/CFSP). They also facilitate bilateral collaborations between the EU Member States and these countries. For example, the EUBAM Libya supported Italy's efforts to conclude a memorandum of understanding with Libya, which agreed to intercept migrants in the Mediterranean Sea at the request of Italian authorities (Liguori 2019). Other examples include the EU capacity building missions in Niger and Mali (EUCAP Sahel) (Council Decision 2012/392/CFSP; Council Decision 2014/219/CFSP), which have been used as leeway to convince these countries to cooperate with the EU and its Member States in the field of migration control (Hamadou 2018).

The *third category* of legal instruments governs EU funds, which are increasingly being used to support development projects that entertain a link with EU migration policy, such as the EU Trust Fund for Africa (EUTF). The EUTF is a development aid fund that has been designed to finance development projects that demonstrate their impacts on the prevention of irregular migration to Europe (Castillejo 2016; Kipp 2018; Tardis 2018; Gazzotti et al. 2023). It was established following the 2015 Valletta Summit that gathered EU and African Heads of State with the objective to 'mainstream migration in development cooperation' (Joint Valletta Action Plan, 2015). Other relevant funds include the Asylum, Migration and Integration Fund (AMIF), which funding criteria include a project's ability to 'enhance cooperation with third countries and to reinforce key aspects of migration management in areas of interest to the Union's migration policy' (Reg., EU, 2021/1147, recital 34). Talent partnerships, which are multiplying following the EU New Pact in view of organising labour migration to Europe (European Commission 2022), also rest on the mobilisation of EU funds to finance programmes that would help matching skills with EU and third countries labour market shortages, such as education programmes that allow third country nationals to acquire the skills that are missing among the workforce in both their countries of origin and the EU.

The *fourth category* of instruments includes the various policy declarations that set out an overall framework for further cooperation on migration, and that outline the policy objectives that will govern that cooperation. Among these instruments, migration and mobility partnerships are declarations that refer to the ulterior signing of EURAs and Visa facilitation agreements (European Commission 2016). Common Agenda on Migration and Mobility (CAMMs) are another kind of policy declaration, which represent a lower level of commitment than migration and mobility frameworks, notably because they do not emphasise the objective of concluding EURAs and Visa Facilitation Agreements. They are signed with third countries that are further away from the EU influence sphere, as exemplified by the two CAMMs that have been signed with Ethiopia and Nigeria.

The *fifth category* of instruments encompasses the numerous policy dialogues and exchanges that are taking place,

multilaterally or bilaterally, on migration. While such dialogues are part of the normal and everyday conduct of diplomatic relations, numerous platforms have been established to foster them, such as the regional processes that include the Budapest process, the Rabat process, the Prague process and the Khartoum process. Most of these dialogues are conducted under the overarching framework of the European neighbourhood policy, which sets an overall framework of partnership between the EU and its neighbours in the objective to support their stabilisation (European Commission 2003); and which was revised in 2015 to further emphasise migration as a cross-cutting and priority issue (European Commission 2015).

This classification demonstrates that there is now recourse to the full array of CFSP instruments, and that this development contributes to invisibilise EU border policies. It is also very likely to be perpetuated in the years to come, given the emphasis of the Pact on the need to 'deploy a wide range of policy tools' when cooperating with third countries in the field of migration (European Commission 2020, at pt. 6). As showed in the next Section, this has wide consequences on the legal and institutional dynamics that underpin EU border policies.

3.3 | Evolving Within Invisibility Regimes

3.3.1 | Invisibilisation and Accountability Gaps

The externalisation of EU border policies has often been criticised for sustaining an 'out of sight, out of mind' effect that creates the conditions for migrant rights violations (Gammeltoft-Hansen 2011 at 228). The mainstreaming of EU border policies through the CFSP further reinforces that trend. It has the effect of moving bordering processes further away from the public sphere within which migration policies are usually discussed, adopted and implemented, to the sphere of informality, bargaining, and back-chambers deals that characterise the conduct of international relations. As a result, the institutions in charge of controlling the executive (such as the European Parliament and the CJEU) face additional difficulties in overseeing border policies and practices.

While MEPs may still request information on the content of any executive action and express criticism where they see fit, exercising that prerogative becomes more difficult when executive actions are based on informal cooperation. Asking meaningful questions requires some prior knowledge of the agreements that are adopted and of their overall focus and content (Eisele 2019; Reslow 2019). Judges are also facing additional challenges, as illustrated by the CJEU case law on the 'EU-Turkey Statement'. The General Court of the CJEU declined to reply on the merits of the annulment proceedings that were brought against that statement on the ground that it did not formally involve the EU (Case T-192/16 *NF v European Council* [2017] EU:T:2017:128; Cases C-208 to C-210/17 *P NF, NG and NM v European Council* [2018] ECLI:EU:2018:705).

This begs the question of whether mainstreaming border policies through the CFSP does not serve as a strategy to escape accountability for border practices. On the other hand, and as showed below, the interviewed public servants, who are active

within home affairs and foreign affairs departments in Belgium and in EU institutions, generally emphasise the recourse to informal instruments of cooperation as an essential component of their work, and as a trend that is far from new.

3.3.2 | Invisibilisation as a Necessary Requirement for International Cooperation

When confronted with the abovementioned developments, a public servant within the Belgian Ministry of Foreign Affairs expressed their surprise, arguing that informal agreements are common irrespective of the field they cover (Interview 13). They put the trend towards informality in international relations on migration in the broader context of foreign policies, reminding that international relations are usually conducted informally, and that they are part of executive prerogatives. They also emphasise that, as the EU seeks to extend cooperation with third countries beyond its immediate sphere of influence, recourse to all components of the CFSP toolbox (including policy tools of informal nature) is required in view of multiplying the available incentives. Another interviewed public servant, who is advising the Council of the EU, similarly argues that:

Negotiating with neighbouring countries is not the hardest part as they have an interest in the counterparts, such as visa facilitation, and as there is a long-lasting relationship. It's when you go beyond that things get trickier, for example, when negotiating with Sub-Saharan African countries. You need to become inventive to offer the right incentives.

(Interview 10)

Besides, there are doubts in the ability of formalised international agreements to produce the expected results. A public servant within home affairs, and who is tasked with overseeing the enforcement of return decisions, further underlined that readmission agreements aren't required to develop good working relationships with officials from third countries. They argue that interpersonal relationships are much more efficient to generate the trust required for the consular employees of foreign countries to collaborate with return proceedings, for example, by swiftly identifying their own nationals. Sharing a lunch from time to time or making use of the administrative margin of appreciation bestowed upon the bureaucrats by the law, in a way that addresses the specific needs of the foreign country (such as deciding on some visa applications through a fast-track procedure) are the essential components to good cooperation. While readmission agreements can help in generating and fostering such relationships, they don't precondition nor guarantee them.

A similar analysis was shared by a diplomat within the Belgian public service when discussing cooperation with African countries:

With representatives of African countries in particular, interpersonal trust, and the words given, are what matters the most. Sometimes much more

can be achieved through informal and flexible forms of cooperation than by formalising the cooperation through a legal instrument.

(Interview 13)

Lastly, interviewees often warned against what they see as mounting attempts at regulating the conduct of international relations through law. A public servant, involved in foreign affairs, warned from the outset of the interview, and before being asked any question, that the EU and its member states are not legally committed to ensure respect for human rights when they enter into agreements with third countries with the view of preventing irregular migration to Europe, but that they have a strong moral commitment in doing so (Interview 4). This opening statement, while questionable, hints at their wariness against arguments, which seek to submit their work to additional and binding human rights guarantees.

These arguments put the abovementioned developments and accountability gap in another perspective, which relates to creating the conditions for efficient forms of international cooperation in the field. As further shown below, behind this consensus, there are very different perceptions among expert public servants on the purposes that informal forms of international cooperation should serve. Depending on the interviewees' expert background, they lay the emphasis on different aspects of the EU foreign policy in the field.

3.3.3 | De-Invisibilising EU Border Policies Through a Focus on the Practices of High-Level Public Servants?

During interviews, public servants within home affairs highlighted their need for additional tools, which would incentivise third countries to collaborate in the enforcement of return decisions. They commonly emphasised the political mandate to improve return rates, while insisting that it can only be effectively implemented based on broader political will to exercise diplomatic pressure on third countries. Two of them, active at EU level, attributed the (generally) stable return rates for the past 30 years, despite all the measures that have been adopted, to fears of harming the diplomatic and economic relationships with some third countries (Interviews 11, 12 and 14). Another one, who is a member of the Belgian ministry of interior, insisted that development aid should not be a 'blank cheque', but also a leeway to remind third countries of their international obligations to readmit their own nationals. He argued in favour of better integrating foreign actions with home affairs priorities:

A common approach involving home affairs and foreign affairs is required, as diplomats have other policy tools at their disposal that can be used to provide additional incentives for third countries to cooperate in the enforcement of return decisions. There is a need for further horizontal cooperation between the civil servants involved in home affairs and diplomats, through which the former can indicate areas of priority to the latter.

(Interview 2)

On the other hand, diplomats generally highlight the need of finding solutions that also suit third countries, so that long-term and 'win-win' partnerships can be established. A diplomat within the Belgian public service warned against acting in 'brutal' and short-sighted ways, which might improve return rates for a while but fail to improve migration management in the long run, because the partners' trust has been eroded (Interview 1). Confronted with that statement, another one agreed while insisting that 'difficult conversations' should not be eluded out of fear of disturbing some partnerships. In their view, European policy priorities (including return) must be clearly communicated to third countries (Interview 13):

We have to underline to our international partners that the setting-up of an efficient return policy is one of our key priorities, even though that may be difficult for them to hear. But we must also remain aware of their own interests that may sometimes be conflicting. Agreements must be found, and this requires the use of all the policy instruments we have at our disposal.

In turn, one interviewee, active in the field of development aid, insisted on the need to address migration following a 'whole-of-government approach', a concept that has been developed in the context of development to call for joint action by all relevant actors to address a cross-cutting issue (Interview 12). They insisted that all actors should be involved in addressing migration as a cross-cutting issue, which can only be done if the focus isn't on improving return rates exclusively.

These interviews show very different perceptions on how to mainstream EU border policies through the CFSP. As a result of their background, public servants within home affairs tend to focus on improving return rates, in line with the explicit concerns often voiced by political decision-makers. Their discourses constantly highlight the need for more efficient forms of border management and emphasise the need to organise migration movements in an orderly way. They thus call for foreign policy instruments to be used to fulfil the policy priorities they are responsible for. While they show understanding of these policy priorities, public servants within foreign affairs and department aid departments also highlight the need to consider the broader dynamics of the policy field they are evolving in, including the other political objectives they must fulfil—and that relate to keeping good relationships with third countries and to assist with development aid where needed.

While the mainstreaming of migration through the CFSP has led to new forms of international cooperation on migration that increasingly attract the features of a foreign policy, including informality, a proper understanding of these developments thus requires acknowledging how this policy shift may also affect the content of the agreements that are adopted. Interviews show that the public servants who are involved may steer the approach differently depending on their institutional background—and this, within the limits of their competence and of the political mandate they must implement. De-invisibilising their practices would then help counter the invisibilisation of the EU bordering regime.

4 | Conclusion

At the EU and domestic levels in Europe, migration policy is traditionally viewed as an internal policy that belongs to Justice and Home Affairs (Garcia Andrade 2018). But the development of its external dimensions requires the involvement of foreign policy tools and instruments, which give more leeway to the executives. This has far-reaching consequences on EU border policies, and the overall picture that emerges is one of growing informalisation: the externalisation of EU borders increasingly relies on flexible forms of cooperation with third countries, which are based on soft law instruments. The current trend, which is intensifying with the Pact, is to conclude agreements that set the framework for further cooperation, often based on informal practices.

Such forms of cooperation are more likely to escape control from the Parliament and Courts. As borders are being increasingly created and enforced through the 'regimes of invisibility' that characterise State action on the international scene, significant accountability gaps emerge. This generates critical challenges to the protection of migrants' rights. But the increasing use of the CFSP policy toolbox also goes paired with the involvement of public servants other than those from home affairs. They are used to develop and implement different policy objectives, and they have developed different knowledge and mentalities as a result. New policy dynamics that are not exclusively focused on border enforcement may thus emerge: The mainstreaming of EU border policies through the CFSP may not only sustain a shift in the instruments of cooperation, but also in the content of the cooperation. It may offer the ground for new modes of multi-lateral migration governance, which account for third countries perspectives and interests.

Yet, to evaluate whether that promise is manifesting itself through actual developments, there is a need to further unpack the institutional dynamics that preside over the mainstreaming of EU border policies through the CFSP. To that end, it is essential to reach a better understanding of how, and to what extent, the involvement of public servants with different institutional backgrounds has an actual impact on the conduct of international relations in the field.

Data Availability Statement

The data that support the findings of this study are available on request from the corresponding author. The data are not publicly available due to privacy or ethical restrictions.

Endnotes

¹ Reg. (EU) 2024/1348 and Reg. (EU) 2024/1349. Both regulations will apply from June 2026.

² Unlike ethnographic studies conducted in the field, this article focuses on high-level public servants rather than the 'street-level bureaucrats' (Lipsky 2010), who are involved in the everyday enforcement of EU border regulations in individual cases, and who are the usual focus of anthropological literature (Eule 2017; Achermann 2021; Lindberg and Borrelli 2025).

³ 'Regimes of invisibility' are referred to in the plural throughout this publication, to highlight that their actual content and modes of

operation depend on each cooperation framework and the specific country involved. This plurality also reflects the objective of the Pact to develop 'tailor-made partnerships' that are 'first and foremost based on bilateral engagement' (pt. 6).

⁴ The stated objective of the GAMM is to address migration from a comprehensive perspective that mobilises all components of the EU foreign policy, and that moves beyond a focus on return to include the prevention of irregular migration and the facilitation of legal migration.

⁵ Shortcomings in the cooperation with third countries aren't the sole obstacle to the enforcement of return decisions. Other shortcomings concern insufficient intra-EU cooperation, and the lack of cooperation among the different institutional actors involved at the national level.

⁶ Third States who concluded EURAS are located in Eastern Europe (Moldova, Russia, Ukraine, Belarus) and in the Western Balkans notably (Macedonia, Montenegro, Serbia, Albania, Bosnia and Herzegovina), as well as in South-West Asia (Armenia, Azerbaijan and Georgia) and Eastern Asia (the Chinese Special Administrative Regions of Macao and Hong Kong). EURAs have also been concluded with Cape Verde, Sri Lanka and Turkey.

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Appendix A

Dataset

Numbering	Professional profile of the interviewee
1	Belgian Foreign Affairs
2	Belgian Home Affairs
3	Belgian Home Affairs
4	Belgian Foreign Affairs
5	European Parliament
6	European Parliament
7	European Parliament
8	European Parliament
9	European Parliament
10	European Council
11	European Council
12	Belgian Foreign Affairs
13	Belgian Foreign Affairs
14	European Commission