The State of "Good Migration Governance".
Fieldwork main findings of the AdMiGov project

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Introduction

In this article we draw conclusions about **the state of "good migration governance"** based on the findings in the six fieldwork related work packages (1-6) of the AdMiGov project. These work packages address migration governance and good migration governance with regard to entry (WP1), exit (WP2), circular migration (WP3), protection in the borderlands of Europe (WP4), protection for people on the move (WP5) and sustainable development (WP6).

As defined in the first AdMiGov report (D7.1), we understand **"good migration governance"** as "the multiphase, multi-site, multi-stage, multi-area, and multi-scale system of actors, relations, resources, policies and practices that well regulates international migrations" (Pasetti, 2019, p14). Based on the existing literature, AdMiGov defines the "goodness" of migration governance according to two main components. First, the **instrumental component** relates to the capacity of the governance system to reach the expected goals (effectiveness) with the least resources (efficiency). Second, the **normative component** consists of respecting the relevant agreements by the UN, which have been signed by most states in the world. In the field of migration, these include the New York Declaration (NYD), with the following Global Compacts on Migration and Refugees, and the Sustainable Development Goals (SDGs).

Based on these agreements, the AdMiGov team decided to focus on the protection and sustainable development principles. The **principle of protection**, as grounded in international law and highlighted in the New York Declaration, provides special attention to refugees and undocumented migrants as target categories, and highlights human rights and protection gaps as central issues. The key question is thus the extent to which protection is guaranteed at the borderlands of Europe and with regard to people on the move in origin and transit countries. The **principle of sustainable development**, as

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formulated in the SDG2030 and the New York Declaration, addresses economic inequality, political instability, and (the lack of) development as root causes of migration but also the inverse, that is, migration and migrants as potential remedies for these root causes. The crucial question here is what migration governance does or can do to create conditions for a positive contribution to migration and development at the micro-, meso- and macro- levels of the country of origin.

The analysis of "good migration governance" faces a **twofold challenge**. First, the boundary between migration and non-migration governance is blurred, therefore the expected goals and effects are difficult to assess as different policies and policy regimes become intermingled with each other. Second, migration governance includes a wide range of public and private actors, each one with different rationales, objectives and implementation practices. This demands a much broader lens of analysis shifting from policy on paper to policy in practice and from the concept of migration policy to the that of migration governance.

To assess the state of "good migration governance", this article analyses the instrumental component of migration governance, particularly with regard to the areas of entry, exit and circular migration. Second, the normative component is examined vis-à-vis the principles of protection and sustainable development. The final aim of this chapter is not only to summarise the main findings of AdMiGov fieldwork but also to provide an overview that puts the basis for the analysis of the AdMiGov Indicators of Good Migration Governance (Pasetti & Lebon-McGregor, 2021), which assess compliance with the principles of protection and sustainable development but this time on the basis of 68 synthetic measures.

Instrumental perspective

Entry governance is aimed to regulate entry, i.e. to develop and implement rules and procedures around the eligibility of persons soliciting access to the territory of an EU or EEA/Schengen state. In this regard, its goals are twofold: first, to establish under what conditions and how foreigners are allowed to enter the territory of states; and second, to effectively control entries so that foreigners with permission can get in and those without permission remain out. Effectiveness therefore should be assessed with regard to each of these two goals. With regard to the first goal, AdMiGov's Report 1.4 (Jeandesboz 2020) shows rather ineffective entry regimes. Although member states are subject to international obligations, EU common policies and very specific national legislations, rules of entry are much more fragmented and divergent than expected.

The first line of fragmentation is between EU and national rules: while Member States have to apply common harmonized rules with regard to checks at the external borders and short-stay visas, they set their own rules within coordinated frameworks for the admission of TCNs regarding residence, long stays, family and employment purposes, as well as international protection. Another line of fragmentation results from rules leaving significant margins of appreciation and discretion in practice. For instance, discretion is found in the lists of supporting documents that Member States consulates can require from Schengen visa applicants, with the result that visa applicants are likely to encounter different requirements from one country to the other. Moreover, entry policies intersect with other regulations beyond migration policies, for instance EU rules established in the Schengen Borders Code become entangled with rules on international civil aviation, commercial

practices and local arrangements. These uneven multi-scalar normative entanglements contribute to make entry policies even more blurred in practice. Finally, entry governance is plural, which means that different private and public actors (including agencies, bodies, companies, institutions, organisations and services) have different rationales and interests and therefore often overlap or contradict with each other in different spaces (before departure and at arrival) and moments (once in the country of destination). In this context, commercial and industry actors are afforded a leading role in shaping and implementing EU measures.

With regard to the second goal, namely the effectiveness in implementing rules and procedures and therefore effectively controlling entries, WP1 results are less conclusive. On the one hand, statistics on entry provided by Eurostat and Frontex show that irregular entry is a relatively limited concern when placed in relation with regular entry. Indeed, in September 2020 the Communication on the EU Pact on Migration and Asylum acknowledged that the number of illegal border crossings (a total of 142,000 in 2019) was insignificant in comparison to the number of regular entries (with 3 million first residence permits to non-EU nationals that same year). On the other hand, it has also been argued that the intensification of push factors has increased irregular entries to the EU regardless of migration control measures. This was the case in 2015 and 2016, with more than one million irregular crossings per year. This is again the case in 2022, when the situation in migrants' countries of origin and transit (aggravated by the effects of the pandemic and the war in Ukraine) has increased the number of irregular arrivals to the EU. As the concept of "autonomy of migration" puts forward (see, among others, Mezzadra 2010, Tsianos and Karakayali 2010, Walters 2008), the mass mobility of human beings on the move persists even with increasing border control measures. This material fact of migration puts into question the simple but accepted assumption that states can turn migration on and off at will.

Exit policies are aimed to ensure that irregular migrants will exit the sovereign territory of Member States. Having become an increasingly urgent matter for the EU, the EC seeks to achieve a more effective and coherent European return policy while protecting the fundamental rights of irregular migrants. This is why the EC has invested vastly in, and broadened the mandate of, the European Border and Coast Guard Agency (Frontex) to work on returns. In this context, the question about the effectiveness and efficiency of exit policies has become more fundamental than ever. Though the analysis of such policies is limited by the lack of official and comparable (across Member States) data, AdMiGoV's WP2 results (see Kalir and Dybdahl Jensen 2022) allow to conclude that exit policies fail in achieving return, basically due to low implementation rate of return orders. Data shows as well that there appears to be no clear correlation between increased investment in exit and the total number of irregular migrants leaving a Member State and/or the EU. The proportion of irregular migrants leaving the EU did not increase either. Likewise, no correlation could be established between an increase in the length of pre-removal detention and return rates. This allows to conclude that the *efficiency* of exit policies is also rather low. Moreover, there is wide evidence in the literature that stricter detention and forced removal measures do not deter potential irregular migrants from reaching the EU or encouraging them to leave once they are in the EU.

The effectiveness of exit policies is extremely low not only regarding the number of returnees but also if we look at their capacity to protect the fundamental rights of irregular migrants. As Frontex has become central in the institutional structure and operational dynamics underpinning EU exit policies, WP2 (see Lemberg-Pedersen & Halpern 2021) examined the work done by this agency in

collaboration with Member States and non-state actors, ranging from commercial for-profit companies to International Organisations and NGOs. The results show a clear lack of monitoring and therefore accountability. First, the Frontex Consultative Forum on Fundamental Rights (CF) does not seem to have been granted sufficient institutional gravity and therefore has a limited capacity to advance more effective fundamental rights. Second, the monitoring of forced return flights depends on state institutions and non-state organisations, which results in very different monitoring standards. For instance, some organisations were only present on the plane for about half of the flights they monitored or only two out of the 150 flights chartered from Italy to Tunisia were actually monitored. Third, in a landscape of rapidly accelerating datafication of EU exit governance, with Frontex gaining a more prominent role here as well, there is the risk that data is used to increase surveillance of TCNs for the purpose of return instead of closing the gap – as it is alleged – between asylum and exit policies. Fourth, there is a lack of sufficient capabilities and reporting mechanisms to monitor the growing market of European-wide contracts for scheduled and chartered airline returns.

Finally, exit policies are not effective either in achieving sustainable reintegration post "voluntary return". WP2 also shows (see Dubow and Kuschminder 2021) that a lack of preparedness for return makes reintegration particularly difficult. The comparative analysis of reintegration across three different cases (Albania, Iraqi Kurdistan and Senegal) corroborates previous research that highlighted the importance of both the structural context and the individual characteristics shaping reintegration processes. For instance, sustainable reintegration is even more challenging for migrants who were less integrated prior to migrating, such as Roma in Albania. Despite these differences, most returnees reported a lack of dignity and rights in their lives post-exit. Satisfaction with quality of life was generally low among the respondents in Albania and more mixed in Senegal and Iraqi Kurdistan. Findings also show that reintegration assistance is limited in its effectiveness. While it is considered useful and valued by respondents, in practice it offers only a small boost to individual's reintegration efforts, thus not addressing the (multiple) structural barriers to reintegration. This leads to the conclusion that the provision of reintegration assistance is not sufficient to ensure sustainable reintegration. Even more, broader structural barriers call into question whether sustainable reintegration is even possible.

Temporary migration is often presented as a win-win response to cover temporary labour shortages in destination countries while opening legal channels for potential migrants in origin and transit countries. These schemes aim to give a flexible response to employers' needs while protecting migrants' labour and living rights. AdMiGov's WP3 studied how labour demands in agriculture were covered under the Covid-19 pandemic. This was of particular interest as agricultural workers were perceived as essential workers to guarantee food security for all citizens during the lockdown. Interestingly, temporary migration was promoted in very different ways in the four countries under study: in Germany, the Netherlands and Poland recruitment is strongly based on private agencies, which facilitate the arrival and employment of workers from other Member States (in the case of Germany and the Netherlands) and from non-EU neighbouring countries whose citizens enjoy an easy access to the country and the labour market (in the case of Poland). In contrast, in Spain circular migration schemes are promoted above all by state-driven programs that annually recruit female workers from Morocco.

Despite these differences, similar problems arose in the four cases, which directly question the supposed effectiveness of circular migration programmes (see Matusz and Aivaliotou 2021). First, employers' needs are not always easy to cover due to the difficulties of predicting in advance the exact labour demands and the cumbersome and time-consuming recruitment procedures. During the pandemic, this necessary flexibility was even more difficult to achieve due to the closure of borders within the EU and with neighbouring countries and the reluctance of potential workers to travel under these conditions. We can thus conclude that circular migration schemes are not always effective (or effective enough) to cover labour shortages. Second, in all cases the issue of abuse and exploitation remained the most challenging question. Living and working conditions of seasonal workers seemed to be a pressing issue in the four countries. Due to the pandemic many workers were isolated in the farms with limited access to Covid-19 tests or protective measures. In all cases, migrant workers' dependence on recruitment agencies or employers made them more exploitable and limited in practice their labour (and other basic) rights. If we understand that guaranteeing migrant workers' rights is among the key objectives of circular migration programmes (in this win-win relation pointed out earlier), then they are not effective (or directly fail) in this respect too.

Normative perspective

In order to assess the normative component of good migration governance, AdMiGov has focused on the UN principles of protection and sustainable development. **Protection** is defined as "the extent to which a system of migration governance can ensure the protection of migrants, both formally and substantially" (Pasetti & McGregor 2022). From this perspective, protection does not only concern the formal architecture of rights, but an array of formal and informal practices that cover a wide range of issues (e.g., reception, health care, human rights, etc.) as well as different contexts (at origin and destination), levels (supranational, national, and local) and concerns (from ensuring migrants' access to rights to the delivery of humanitarian assistance to asylum seekers).

Protection in the borderlands of Europe was assessed inside the EU (Greece) and outside the EU (Turkey and Lebanon). Instead of analysing laws and policies on paper, AdMiGov took a bottom-up perspective to understand how protection is practiced on the ground and in the everyday. It concluded that protection is shaped and limited in practice by political decisions and actions, which also include inactions at international, state and local levels. Regarding the three cases, D4.4 report (Pallister-Wilkins and Papataxiarchis 2022) highlights a broad set of protection gaps that fall under three main categories. First, 'systemic' gaps involve failures of the existing international and national level normative and legal protection mechanisms to adequately address basic needs. Second, 'political' gaps are due to the discretionary power of the states (and the EU) 'to interpret at will the legal/normative protection framework and apply strategies (for example, of containment, incarceration, or even criminalization) on the basis of priorities that put state security over the well-being of people and eventually deny basic needs'. Third, 'conjunctural' gaps relate to 'special' historical circumstances, such as particular 'migration crises' which provide additional grounds for ad hoc legal categorizations of displaced people and may end up 'justifying' the violation of international protection norms.

As for **Greece**, D4.1 report (Pallister-Wilkins et al. 2021) shows important protection gaps for arriving asylum seekers in the reception centers in Lesvos and Athens. Although it was not addressed in

AdMiGov, it is well documented that similar problems occur in Italy (see for instance d'Angelo, 2019; Kuschminder, 2021) and Spain (López Sala and Moreno, 2020). In the case of Greece, the AdMiGov report shows how these gaps have worsened since the election of the New Democracy government in 2019, with the introduction of a new International Protection Act that reduced access to legal protection, the implementation of a closed camp policy and the enforced closure of solidarity spaces. Alongside this reduction in protection standards and shrinking of the humanitarian space, the Covid-19 pandemic aggravated the situation with policies that have signalled asylum seekers as a problematic group and targeted them for particular health interventions. According to the report, all this has taken place within a political climate characterised by rampant authorised xenophobia, racists attacks and the ongoing stigmatization of the asylum seeker community, resulting in more confinement in inadequate camp spaces, thus bringing the closed camp policy into the facto reality.

Outside Europe, the **Turkish** (Karadağ and Üstübici 2021) and **Lebanese** reports (Trovato, Al-Akl and Ali 2021) point to severe protection gaps too, starting with the non-recognition of non-Syrian refugees in Turkey (with Afghans as a major group) and the non-recognition of refugees in Lebanon, which continues to see itself as a transit country rather than as a country of asylum. In Turkey access to rights depends on whether migrants are Syrians under temporary protection, non-Syrians under international protection and undocumented migrants, a category that includes asylum seekers whose application was rejected, individuals who are not residing in the cities where they are registered and those who were never registered with authorities. On the ground, however, differences stemming from the legal framework are blurred, for instance when access to registration is restricted in practice. In Lebanon, as refugees are not recognised and thus do not acquire legal status, their living conditions are extremely precarious (often in illegal settlements without facilities and basic services) with the only help of International Organisations and local NGOs. Finally, in both countries precarities of protection (as defined by Aras and Mencütek 2020) are related as well to structural factors, such as the informal economy, general pressure on the healthcare system and the housing market, which is entirely left to market dynamics. As in Greece, the pandemic rendered the situation even more difficult, in this case even blurring at times the distinction between citizens and displaced.

In terms of **protection for people on the move**, AdMiGov WP5 seeks to better understand the journey of refugees and migrants travelling along mixed migration routes towards Europe, including their experiences, the risks and challenges they face and their motivations and future intentions (Linekar & Achilli, 2021). According to the migrants that participated in the 4Mi survey, the journey to Europe was fraught with severe risks, including detention, physical and sexual violence, robbery, bribery/extortion and even death. Interestingly, the most reported perpetrators of abuse and crime were militias on the Central Mediterranean Route and state actors on the Eastern Mediterranean Route and Western Balkan Route. This puts the EU's current approach to irregular migration into question as the EU relies on these same militias and state actors in the countries of origin and transit. In other words, the externalisation of border controls to third countries such as Turkey, Libya and Niger is likely to contribute to the prevalence of major protection risks. Interestingly, respondents to the 4Mi survey declared to adopt a number of strategies to mitigate the risks, such as travelling in groups or carrying cash to avoid having to work to pay for the journey, often in exploitative conditions.

In relation to good migration governance, **sustainable development** is defined as "a multifaceted principle that addresses inequality, political instability, and development as *root causes* of migration but also the other way around, namely migration and migrants as potential remedies for these root causes" (Pasetti and McGregor 2021). Starting from this definition, WP6 examines the role of EU development interventions in migrants' decision making. The countries that were chosen for fieldwork are considered to have a large "reserve" of potential migrants either because they neighbour the EU and have conflict nearby, such as Turkey and Lebanon; or because they are well known as a transit hub, such as Mali and Ethiopia. While Mali is a transit hub for migrants from West Africa and has internal problems of conflict and poverty, Ethiopia houses many Eritrean refugees and poverty and conflict drives its own citizens to migrate. Examples of development interventions are the EU Emergency Trust Fund for Africa, the European Social Safety Net (ESSN) in Turkey, livelihood and youth employment interventions and information campaigns aimed at reducing irregular migration in Mali and Ethiopia.

Among other factors such as the existence of remittances and property, it analyses the relationship between development assistance received by the respondents and their migration aspirations. Interestingly, in contrast to what most policymakers assume, the results demonstrate that there is no clear relationship: both potential migrants and refugees' aspirations to leave Ethiopia, Lebanon, Mali and Turkey were related to conflict and the poor conditions in these countries, which had not been mitigated in practice by development programmes. For refugees, emergency support is indispensable but it does not change substantially their situation (and prospects), thus it is not enough to stop them from migrating further. Refugees' aspirations to return to their countries of origin were also very low. In Mali locals mentioned that they received cash assistance but that it was not enough to improve their living conditions. As report 6.5 suggests (Kuschminder and Rajabzadeh 2022), this reflects the protected nature of these crises and the need for permanent solutions.

In line with EU donor interest in stemming irregular migration to Europe, migration governance in refugees' countries of residence is often meant to encourage people to stay and settle as a means to prevent migration. The risk is that, through donors, migration-related actors at all levels are being steered more towards discouraging migration than making it safer. As noted by Ogahara and Kuschminder (2019), this leads to an overemphasis in 'addressing root causes' as opposed to creating more legal routes to Europe or the Middle East. This approach is problematic in two different ways. First, there is little evidence that development would stem migration. Second, if migration aspirations do not change, in practice this means that more people migrate irregularly, which places emigrants in more vulnerable positions as they lack support abroad and information on their rights to make their migration safer (Kuschminder 2014).

While WP6 was explicitly set up to study whether sustainable development goals are used in policies that target migration, the issue was also present in other WPs. For instance, the Assisted "Voluntary" Return (AVR) programs that Dubow and Kuschminder (2021) describe in report 2.4 take sustainable development as a key principle, in the sense that the returnees are provided with a sum in cash to re-establish their livelihood. However, as the interviewees remark, the sum is small, and the slightest failure or bad luck can mean that the returnees end up in the same poverty that originated their initial migratory adventure. Likewise, the temporary schemes described in WP3 could be an instrument for sustainable development since remittances are an important source of income for families back home and sometimes for the larger community, as profits may contribute to house

building activity, hospital, and school development. Returnees interviewed in Dubow & Kuschminder (2021) acknowledged indeed the possible development impact of remittances.

Conclusions

This article assesses the current state of good migration governance in the EU and beyond on the basis of AdMiGov research fieldwork. By analysing both the instrumental and normative components of good migration governance regarding entry, exit, circular migration, protection and sustainable development, it shows its limits. The main conclusion is that migration governance is not always capable to reach the expected goals (effectiveness) with the least resources (efficiency) nor to guarantee protection to migrants, particularly the most vulnerable ones such as asylum seekers and irregular migrants or to address the root causes of migration sufficiently.

In terms of circular migration seem much more successful than policies of exit. Indeed, most migrants in the EU enter through legal channels and circular migration schemes partially succeed in covering specific labour demands in particular sectors and occupations. In contrast, despite being central in political and policy debates, exit policies seem to fail in its more fundamental purpose: they do not succeed in achieving return and there is no clear correlation between increased investment in exit and the total number (or proportion) of irregular migrants leaving the EU. But even the success of entry and circular migration policies should be put into question. First, as we saw in 2015, when conditions in countries of origin and transit get worse, states in destination countries are not always capable (or not as much as expected) to turn migration on and off at will. Second, though on paper entry and circular migration policies aim not only to regulate migration but also to protect migrants' rights, in practice they show important protection gaps. For instance, government bodies and agencies may violate in practice international and national legislations at the moment of entry and circular migrants may find themselves in precarious living and working conditions, partly resulting from their legal dependence on employers.

To assess the effectiveness and efficiency of policies aimed at providing **protection or promoting sustainable development** is a much more difficult task as in this case stated policy goals are so important as non-stated ones. While on paper asylum procedures and reception are aimed to guarantee international protection and minimum living standards for asylum seekers, in practice these are often used to reduce access to the territory and to asylum and thereby not only limit the number of beneficiaries of international protection but also have a deterrent effect on those to come. As for humanitarian and aid programmes, here the question is whether these programmes are aimed to promote sustainable development or rather to stop migration in the countries of origin and transit. As we have seen, AdMiGov results show that there is no clear relationship between development programmes and potential migrants' aspirations. This lack of relationship is also confirmed by an expanding body of research, which shows for instance that the stream of remittances from North to South contributes considerably to the wellbeing of families of migrants back home and that mobility as part of a middle-class lifestyle becomes more prominent when countries get richer (De Haas 2020).

Finally, **protection gaps** not only are considerable both at the borders of the EU and beyond but also, they are growing as a consequence of policy factors (due to a shift towards more restrictive and

exclusionary policies), political factors (in a context of increasing politicisation and a normalisation of xenophobic discourses) and structural factors (including the pandemic and the socioeconomic effects of the war in Ukraine). In this context, one of the key challenges of the EU and member states will be how to reconcile increasing border control with full respect for the rule of law and human rights. Without any doubt, in an unequal and increasingly globalised world, Europe will have to choose between addressing the causes of migration (which includes conflict prevention and mitigation) or fortifying itself at the expense of its own liberalism. In fact, this may end up representing the real migration crisis: when Europe's fear of another migration wave makes it willing to accept the unacceptable, from the normalisation of states of exception to the violation of fundamental rights.

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