

## MIGRATION, EURO-MEDITERRANEAN RELATIONS AND INTERCULTURAL DIALOGUE

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### *Introduction*

The theme of this part of the conference is the relationship between migration, Euro-Mediterranean relations and intercultural dialogue. It is no surprise to an audience in Europe that migration constitutes a difficult chapter in Euro-Mediterranean relations particular as regards some countries. The perspective of the relationship of migration and the Mediterranean basin which we most commonly encounter is that of people in unseaworthy little boats trying to get to European shores. Among the most infamous of such images is the one of people clinging to the net of a tuna fishing boat precariously hanging between life and drowning.<sup>1</sup> Of course there are many other aspects of migration in Euro-Mediterranean relations but all of them are affected by the popular depiction of this 'reality'.

My point of departure is intercultural dialogue. This is partly because commencing from the migration and Euro-Mediterranean relations angle repeats important and valuable work which others have done (Professor Philippe Fargues at CARIM, EUI is an outstanding example).<sup>2</sup> But it is mainly because migration remains a normatively ambiguous term and when coupled with the southern shores of the Mediterranean tends to become negatively charged. It is very rare to come across press reports anywhere in the EU which focus on the warm welcome that migrants from the North African or sub Saharan African countries have enjoyed in EU states (unless those migrants happen to be football players). Intercultural dialogue, on the other hand, tends to be positively charged in policy discussions in Europe. 2008 was the EU's European Year of Intercultural Dialogue. Central to the activities of the Year has been the programme aimed at mobilising civil society. The Commission considered that "[T]he active involvement of civil society will be essential in highlighting good practices and identifying needs in intercultural dialogue." The Council of Europe's White Paper on Intercultural Dialogue published in May 2008 puts it this way "Intercultural dialogue has an important role to play...It allows us to prevent ethnic, religious, linguistic and cultural divides. It enables us to move forward together, to deal with our different identities constructively and democratically on the basis of shared universal values."<sup>3</sup>

So how does migration in the Euro-Mediterranean basin contribute to or obstruct intercultural dialogue? For dialogue to take place people need to be able to speak to one another. Leaving aside the technological possibilities of telephone contact, video-conferencing etc, the medium of intercultural dialogue is people meeting face to face and having the time and space to discuss questions, issues and positions. Understanding is at the core of intercultural dialogue and people are the vector and

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<sup>1</sup> The Observer, Sunday, 9 September 2007

<http://www.guardian.co.uk/world/2007/sep/09/immigration.uk>

<sup>2</sup> The CARIM research papers on irregular migration in the Southern Mediterranean are a very valuable source of information

<http://www.carim.org/index.php?areaid=8&contentid=210&sortVar=country&pubResTopic=7&hideSearch=TRUE&callSeries=7>

<sup>3</sup> Council of Europe

[http://www.coe.int/t/dg4/intercultural/WhitePaper\\_InterculturalDialogue\\_2\\_fr.asp#TopOfPage](http://www.coe.int/t/dg4/intercultural/WhitePaper_InterculturalDialogue_2_fr.asp#TopOfPage)  
CM (2008) 30 final 2 May 2008.

the medium – it is relational. These people may be ordinary members of civil society curious to meet other people on another side of an EU external border. Or they may be officials of their countries representing intercultural dialogue on a state to state level. They may be academics, researchers and students deepening our knowledge of intercultural dialogue and what it means in its various settings. People include businessmen and women and workers whose economic activities provide a long lasting foundation for continuing intercultural understanding and familiarity.

As a jurist, my examination, then, will focus on how EU migration law aids or obstructs such intercultural dialogue. Within this context, I will look at three categories of people: visitors: how can those holding the citizenship of North African countries come to the EU? In this first section I will examine the general rules on the issue of short stay visas. Secondly, I will examine officials: what access is available for officials of North African countries to come to EU states in pursuit of intercultural dialogue? Again my focus will be on the visa rules which apply to them. Finally, I will address academics, researchers and students: how do members of the academic world who hold a North African nationality access the EU territory for scholarly pursuits?

### *Visitors and Intercultural Dialogue in the Euro-Mediterranean Basin*

At the moment all countries outside the EU but in the Euro-Mediterranean area are on the EU visa black list with only two exceptions – Croatia and Israel.<sup>4</sup> This means that, other than nationals of the two states, no national of a Euro-Mediterranean state can just come to the EU, present him or herself at the border and seek admission. Before leaving home, he or she will have to get a visa. No one likes having to obtain visas. There are many reasons for this – first there is the stigma that being subjected to a visa requirement means that, as a group, nationals of that state are risky in one way or another.<sup>5</sup> It also means that individuals cannot leave travel plans to the last minute or take advantage of cheap last minute offers for holidays. If the individual does not live in the capital or a city where there is a consulate, he or she will have to travel, often more than once, to the city where there is a consulate. The individual will usually have to queue on numerous occasions during the visa process, to get a form, to get an appointment etc. Further, individuals who have to get visas to travel are subject to a whole series of intrusive administrative formalities such as producing potentially sensitive information about their incomes, family ties, affiliations. They have to provide fingerprints like criminals which will be stored and made accessible to law enforcement agencies in the EU (see below). They have to pay visa fees and possibly fees to an agencies to present their applications to EU consulates. All too often, when they are required to attend interviews at consulates, people feel diminished by the experience.<sup>6</sup>

In order for an individual to obtain a visa he or she must satisfy the consular official of a Member State that he or she is coming to the EU country for a valid reason.<sup>7</sup> If a national of a non EU Euro-Mediterranean country<sup>8</sup> tries to come to the EU without a visa first he or she will be refused boarding on the plane (if flying). Under EU law, carriers are fined at least €5,000 for carrying to the EU someone who requires a visa

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<sup>4</sup> Reg. 539/2001 as amended.

<sup>5</sup> E Guild, "The Borders of the European Union: Visas and carrier sanctions" *Politik*, Nummer 3 Argang 7 September 2004 pp 34 -43.

<sup>6</sup> E Jileva in Kees Groenendijk, Elspeth Guild and Paul Minderhoud, (editors), *In Search of Europe's Borders* Kluwer Law International, The Hague, 2003 pp

<sup>7</sup> I will deal with the exceptions for officials below in that section.

<sup>8</sup> Other than Croatia or Israel.

for entry and does not have one.<sup>9</sup> Denmark only participates in the legislation discussed by reason of a separate agreement (if at all). Ireland and the UK opt in and out according to their perceived interests. At the moment Ireland has not opted into any of the legislation discussed here, the UK has only opted into the carriers' sanctions directive.

If the individual seeks to come irregularly by sea, the EU's external border agency, FRONTEX will make every effort to ensure that the individual does not depart let alone arrive. According to the Annual Report 2008, FRONTEX carried out eight sea border operations aimed at detecting and preventing irregular migration of which only 2 were not in the Mediterranean.<sup>10</sup> Altogether, the operations lasted more than 8,000 days and the total budget allocation for sea operations was €31 million.<sup>11</sup> If the person does arrive irregularly without a visa at an EU border post, he or she will be refused entry in accordance article 5 Schengen Borders Code.<sup>12</sup> However, the individual will have a right of appeal but it does not have suspensive effect so the individual can be sent back before the hearing. Indeed, according to the Returns Directive, the individual should be sent back as quickly as possible.<sup>13</sup>

### *Civil Society and Intercultural Dialogue – getting to the EU*

Anyone wanting to come to the EU from the Mediterranean basin had better queue up and try to get a visa before starting out, unless they come within an excluded category. Getting a visa for a short or long stay in the EU is not necessarily a straight forward matter. While the rules of short stay visas have been the subject of harmonizing legislation<sup>14</sup> other types of visa are not (or not necessarily). There is reference to family reunification visas in the directive of that name<sup>15</sup> and if an individual has a residence permit which a Member State has notified to the Commission as the equivalent of a visa for the purpose of entry into the EU then the lucky person does not need to go through the visa process.<sup>16</sup> Increasingly the management of visa issuing at EU consulates has been outsourced to private companies.<sup>17</sup> In the North African region, the company Visa Facilitation Services (VSF Global) is the preferred partner of a number of EU consulates, such as the Italian in Morocco. The company charges a fee for its services on top of the visa fee (which even for a Schengen visa can vary depending on the purpose) and carries out more or less of the visa procedure depending on the country and the consulate, from a minimum such as organising the interview diary for consular officials to more intrusive such as pre-reviewing visa applications. The trend is towards further privatization of the visa process. Consequently, the newly adopted EU Visa Code includes a section on the limits of what can be outsourced to the private sector.

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<sup>9</sup> Directive 2001/51

<sup>10</sup> They were in the North Atlantic and the Black Sea.

<sup>11</sup> FRONTEX Annual Report 2008

[http://www.frontex.europa.eu/gfx/frontex/files/justyna/frontex\\_general\\_report\\_2008.pdf](http://www.frontex.europa.eu/gfx/frontex/files/justyna/frontex_general_report_2008.pdf)

<sup>12</sup> Reg. 562/2006.

<sup>13</sup> Dir. 2008/115.

<sup>14</sup> The Visa Code was adopted by the Council on 25 June 2009. It replaces the former Common Consular Instructions.

<sup>15</sup> Dir. 2003/86.

<sup>16</sup> There are literally hundreds of different types of documents and stamps which the Member States have notified for these purposes:

[http://ec.europa.eu/justice\\_home/doc\\_centre/freetravel/rights/doc\\_freetravel\\_rights\\_en.htm](http://ec.europa.eu/justice_home/doc_centre/freetravel/rights/doc_freetravel_rights_en.htm)

<sup>17</sup> G Beaudu 'L'externalization dans le domaines des visas Schengen' Cultures et Conflits 68 hiver 2007.

Because the individual holds a nationality which is on the EU's visa black list, he or she will have to submit to being fingerprinted (all ten fingers unless some are missing).<sup>18</sup> These fingerprints will be stored in the Visa information System which will, as soon as it is operational, be available to law enforcement agents as well immigration control authorities across the EU. Of course nationals of Croatia and Israel will not have their fingerprints in the data base as they are not visa nationals.

In order to be issued a short stay visa, the individual will need to show that he or she has sufficient resources to stay in the EU. The levels are set nationally by EU states but are notified to the Commission.<sup>19</sup> At the moment, a visitor normally needs to have €70 per day of intended stay to go to Slovenia or €30 per day to go to Finland. The individual needs to justify the reason for the trip in accordance with the Visa Code. If refused a visa, once the Visa Code enters into force, the individual will have a right of appeal against that refusal. If issued, the visa gives the individual the possibility to present him or herself for admission at an EU external border post. It does not guarantee entry. It is normally valid for a stay of up to three months out of every six.

What picture emerges of the issuing of short stay visas in the Euro-Mediterranean area? The Member States notify the Council of the Schengen visas which they have issued by city where the visas are issued. The most recent information available does not include the 2004 or 2007 Member States and covers the 2007 period.<sup>20</sup> I have chosen to include the figures of visas issued, applied for and not issued for Belgium, France, Italy, Greece and Spain as regards their consulates in the capitals of Algeria, Egypt, Libya and Morocco. In the form of a table the results look like this:

Country/City	Algiers, Algeria	Cairo, Egypt	Tripoli, Libya	Rabat, Morocco
	Issued/applied/rejected	Issued/applied/rejected	Issued/applied/rejected	Issued/applied/rejected
Belgium	3,284/4,461/1,177	2,132/2,137/709	2,063/2,470/407	4,739/11,955/7,216
France	79,449/137,480/ 58,031	23,723/27,381/ 780	9,251/11,376/2,125	25,318/28,903/ 3,585
Italy	6,333/7,876/1,543	6,789/7,611/822	4,885/4,943/58	1,759/1,847/88
Greece	419/797/378	4,986/6,157/1,171	3,354/3,922/569	Casablanca 635/1,062/437
Spain	11,068/20,783/ 6,776	4,667/5,870/813	1,329/1,692/113	17,697/22,515/ 4,554

What do these figures mean? It means that an average Algerian seeking a visit visa to come to the EU has the following chances of success:

- 73.5% at the Belgian consulate;
- 58% at the French consulate;
- 80% at the Italian consulate;
- 52.5% at the Greek consulate; and
- 53.2% at the Spanish consulate.

For the Egyptian the chances of success are:

- 75% at the Belgian consulate;
- 86.6% at the French consulate;
- 89% at the Italian consulate;
- 80% at the Greek consulate; and

<sup>18</sup> Decision establishing Visa Information System (VIS) (OJ 2004 L 213/5).

<sup>19</sup> [http://ec.europa.eu/justice\\_home/doc\\_centre/freetravel/rights/doc\\_freetravel\\_rights\\_en.htm](http://ec.europa.eu/justice_home/doc_centre/freetravel/rights/doc_freetravel_rights_en.htm)

<sup>20</sup> <http://register.consilium.europa.eu/pdf/en/08/st08/st08215.en08.pdf>

- 79% at the Spanish consulate.

For the Libyan national planning a holiday in the EU, the chances of getting a visa are:

- 83.5% at the Belgian consulate;
- 81.3% at the French consulate;
- 98.8% at the Italian consulate;
- 85.5% at the Greek consulate;
- 78.5% at the Spanish consulate.

For the Moroccan the variations are more striking. The chances of getting a visa are as follows:

- 39.6% at the Belgian consulate;
- 87.5% at the French consulate;
- 95.2% at the Italian consulate;
- 58.8% at the Greek consulate;
- 78.6% at the Spanish consulate.

It remains somewhat surprising, in the light of these statistics why, for instance Moroccans continue to apply in substantial numbers (ie 11,955 applications) for Schengen visas from the Belgian authorities when the chance of getting one is only 39.6% while the Italian authorities issue visas to 95.2% of Moroccan applicants but only 1,847 persons applied. The statistics do not indicate successful visa shopping on the part of applicants but very serious differences in access by nationals of North African Euro-Mediterranean countries to the EU depending on where they apply for their visas.

#### *When Machiavelli's Prince needs a visa*

Intercultural dialogue includes an important dimension which is captured by contacts between ordinary people from different cultures. But intercultural dialogue between states and between the EU and the countries of North Africa must also take place through official contacts and discussion and contact in the academic world. Special EU visa arrangements have been put into place to facilitate both officials and academics not least in recognition of the importance of travel for them. In this section I will examine the measures in place for officials.

From the beginning of the EU arrangements for a common visa black list, the institutions and Member States recognised that special provisions needed to be included for holders of diplomatic, official and service passports. The mechanism for doing this was to create a list, attached to a different legal measure than the visa list itself, which sets out which holders of these documents are exempt from the visa obligation. The visa regulation which contains the black list is 539/2001. The list of exemptions from the visa obligation was contained in the Common Consular Instructions, Annex 2; but with its replacement by the Visa Code these exemptions will no longer be found there but under the separate list compiled under regulation 789/2001 (which contains the procedures for Member States to notify exemptions from the visa obligation). The consequence is that while the list of exemptions is public, it is not found anywhere near the visa black list or the Visa Code so anyone who does not know about it will not stumble on it unexpectedly. Thus the average citizen of a North African country may look at the visa black list or the Visa Code but

is less likely to find the list which sets out which of his or her officials are exempt from the visa requirement.

In general, the exemption rules provide that persons who have already been accredited by a diplomatic or consular representation and members of their families who hold an identity card issued by an EU Ministry of Foreign Affairs may cross the external borders of the EU area only on production of their documents. Where such persons have not yet been accredited they are entitled to transit through other Member States on their way to the state which issued them a visa for accreditation purposes. Leaving aside accredited representatives, there are many other officials who hold diplomatic, official or service passports. For these persons who are of less elevated official positions a variety of different rules apply on whether they have to obtain visas or not to enter the EU. It is these three groups which interest me here.

The list of documents which exempt an official from obtaining a visa before travelling is compiled on the basis of notifications from the Member States. Thus it is up to each Member State to determine which documents are valid for the purposes of exemption from the visa requirement for nationals of each country in the world. The list is updated by the Commission and can be found on its website. There are three categories of documents which can give rise to an exemption from the visa requirement: (a) holders of diplomatic passports (D); (b) holders of service passports/official passports (S); and (c) holders of special passports (SP). For the 25 Member States which participate in the system (ie all except Ireland and the UK), the following exemptions have been notified.

For Algeria, holders of diplomatic passports are exempt from visa requirements to enter: Germany, Spain, France, Italy, Hungary, Malta, Romania and Slovakia. For all the other Member States they must have visas. Holders of Algerian service passports do not need a visa to travel to Spain, Italy, Malta or Slovakia. One can imagine that it must be quite valuable in Algeria to have a service passport.

For Egyptian holders of diplomatic and service passports no visas are required to enter the Czech Republic, Italy, Cyprus, Malta, Slovenia and Slovakia. Additionally, Slovakia does not require visas from holders of special passports. EU intercultural dialogue with holders of Egyptian diplomatic and service passports is facilitated with quite different EU Member States than those of their Algerian counterparts.

For Libya, only Malta recognises diplomatic (and also service) passports as exempting their holders from visa requirements. All other Member States require visas from all Libyan nationals irrespective of their status as diplomatic passport holders. For Morocco a very complex picture emerges. Diplomatic passport holders do not require visas to enter: the Benelux, Bulgaria, the Czech Republic, Denmark, Germany, Estonia, Spain, France, Italy, Latvia, Hungary, Malta, Austria, Poland, Portugal, Romania, Slovenia, Slovakia, Finland and Sweden. Moroccan holders of service passports do not need visas to enter the Benelux, Bulgaria, the Czech Republic, Denmark, Spain, Italy, Hungary, Austria, Poland, Portugal, Romania, Slovenia and Slovakia. But only Slovakia allows Moroccan holders of special passports entry without a visa.

The recognition of diplomatic, service and special passports as valid to exempt holders from visa requirements is, of course, a matter of negotiation between the state whose officials seek to be released from the visa requirement and the state which requires the visa. Thus it is worth pausing briefly to correlate the success of some countries in negotiating visa exemptions with the percentage success of their nationals in obtaining visas at all. Algerians with diplomatic passports are exempt in

France, Italy and Spain where the average success rate of visa applications is 58%, 80.4% and 53.2%.<sup>21</sup> There is no recognition in Belgium (success rate 73.6%) or Greece (52.5%). If one does the same calculation for Egyptians, one find that only in Italy are diplomatic and service passports recognised as visa exempt while the visa success rate in Cairo is 89.1%. Libyans must always obtain visas no matter what passport they have (except to go to Malta) though the success rate for visa applications is generally high – ranging between 78.5% for Spain and 98.8% for Italy.<sup>22</sup> All five EU countries I have examined recognise diplomatic passports as exempting a Moroccan holder from obtaining a visa and three – Belgium, Italy and Greece accept service passports as well. The visa success rate, however, is very variable ranging from 39.6% at the Belgian consulate in Rabat to 95.2% at the Italian. Where holders of diplomatic, official or service passports do have to fulfill visa requirements, they are exempt from the sufficient means of subsistence requirement unless they are traveling in a personal capacity.<sup>23</sup>

What conclusions can one draw from this data as regards Euro-Mediterranean intercultural dialogue? Officials from Morocco are very substantially privileged in their easy access to EU Member States without the obligation to obtain a visa, while the same is not always true of their countrymen in general. Libyan officials are the least privileged in their access to EU Member States and will always be subject to a visa requirement unless they go to Malta. For the other two countries I have considered, Algeria and Egypt, officials from these states have privileged access to some Member States but there is no coherence between which Member States grant the advantageous treatment to one nationality as opposed to the other. Of course, once an official has arrived in one EU state which participates in border-control free Europe (ie all Member States except Ireland and the UK by choice and Bulgaria, Cyprus and Romania because they have not yet been admitted) he or she can, in practice, travel on anywhere else in the area. Thus the Libyan official who travels to Malta without a visa is not prevented from travelling on to Germany or Sweden.

One could say that traditional national politics seem to overwhelm EU objectives in the field of intercultural dialogue when it comes to access to the territory of officials. I have not examined information about how many holders of diplomatic, service or special passports there are in the North African countries considered. This research might reveal the tensions and competition within countries in North Africa which EU states may inadvertently create through their visa policies.

### *The Peripatetic Professor and the Academic Community*

Researchers and students are my final study group as regards migration and intercultural dialogue in the Euro-Mediterranean area. In this section, I will examine how students and researchers from North African countries can gain access to the EU in order to pursue studies or research. Unlike most areas of first admission to the EU for extended stay, the institutions and the Member States have found agreement on the conditions of admission for third country nationals for the purposes of study<sup>24</sup> and for the purposes of scientific research.<sup>25</sup> In light of the urgency which the EU has placed on the movement of researchers, the Council adopted a recommendation in 2005 encouraging Member States to apply the favourable regime contained in Directive 2005/71 immediately rather than waiting for the end of the transposition

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<sup>21</sup> At the consulates in Algiers.

<sup>22</sup> At the Tripoli consulates.

<sup>23</sup> Annex 2, Common Consular Instructions.

<sup>24</sup> Dir 2004/114.

<sup>25</sup> Dir 2005/71.

period 12 October 2007). Both directives apply to all third country national students and researchers, not only those from the Euro-Mediterranean area. For the first time, these directives do not give a special privileged position for Croatian and Israeli nationals in comparison with those of other non EU Mediterranean countries.

Turning to the first directive adopted, that in respect of students, the preamble states that this mobility “constitutes a form of mutual enrichment for migrants concerned, their country of origin and host Member State and helps to promote better familiarity among cultures.” The objective of intercultural dialogue is clearly in evidence here. Also to be found in the preamble is a call to the Member States “in order to allow initial entry into their territory, Member States should be able to issue in a timely manner a residence permit, or if they issue residence permits exclusively on their territory, a visa.” Clearly, the problem of access to EU territory is understood by those who drafted and adopted the directive. The directive applies to students but Member States are also encouraged to apply it to pupil exchanges, unremunerated training or voluntary service, though they are not obliged to do so. Where there are more favourable bilateral agreements these take priority according to the text. The directive sets out the general conditions which students must fulfil. They must have travel documents, sickness insurance, parental authority if they are minors, not be a threat to public policy, security or health and pay the relevant fee. They need to be accepted on a course of study, have sufficient resources, have a command of the language of tuition (if so required by the state) and have paid their tuition fees (if relevant).

When students are following studies which involve residence in more than one Member State their travel and residence are to be facilitated so that the pursuit of the studies is not hampered by migration related obstacles. The modalities are set out in the Directive. Special rules apply to school pupils to easy pupil exchange programmes and unremunerated trainees also benefit from specific provisions to facilitate their access to the EU. Volunteers must fulfil clear requirements to be admitted but those requirements are finite. Curiously, in addition to the objective requirements which volunteers must fulfil such as evidence that the organisation responsible for their scheme has third-party insurance, Member States may require volunteers to receive a basic introduction to the language, history and political and social structures of the particular Member State.

Once the individual has fulfilled the conditions and obtained a visa, he or she is also protected as regards obtaining a residence permit in the Member State by the directive. It provides that a residence permit must be issued to the student for at least one year and its must be renewable (subject to the student continuing to fulfil the conditions). The residence permit can only be withdrawn if the student works more than the permitted number of hours per week (the minimum set out in the directive is 10 per week) or the student does not make acceptable progress in his or her studies. Pupils are also entitled to residence permits for one year, trainees to the duration of the placement or one year and volunteers to no more than one year.

The treatment in the Member States of the third country nationals admitted under the directive is regulated by it. Economic activities by students must be permitted subject to time limits (though in the first year they can be excluded from economic activities). All decisions on residence permits must fulfil EU standards of procedural guarantees including redress procedures against refusals which include an appeal right, and transparency requirements – students must be informed of the procedures and are entitled to written and reasoned decisions on their applications. Member States are, however, permitted to charge fees for processing applications and the directive does not place any express limit to those fees though general principles of EU law may

impose a proportionality test. The Commission is obliged to report to the Parliament on the application of the Directive by 12 January 2010 – it will be a matter of substantial interest to all those concerned with intercultural dialogue to see how well the Member States have been applying the Directive in respect of the Euro-Mediterranean basin.

In October 2005 the Directive on admission of third country nationals for the purpose of scientific research was adopted.<sup>26</sup> It had to be transposed into national law by 12 October 2007.<sup>27</sup> The preamble states that it is intended to contribute to achieving the goal of “opening up the Community to third-country nationals who might be admitted for the purposes of research”; the EU objective of investing 3% of GDP in research and increasing the number of researchers in the EU by 700,000 set by the Barcelona Council 2002 to be achieved by 2010. It is intended to make the EU more attractive to researchers from around the world and to boost its position as an international centre for research. Attention is paid in the preamble to the question of brain drain and back up measures to support researchers’ reintegration in their countries of origin. In accordance with the Lisbon process, fostering mobility within the EU is also an objective. The preamble calls for Member States to permit family unity for researchers but does not actually deal with the issue, leaving it to the Member States to determine.

The Directive defines the meaning of research, researcher and research institution in wide terms. Research means creative work undertaken on a systematic basis in order to increase the stock of knowledge of man [sic], culture and society, and the use of this stock of knowledge to devise new applications. A researcher is someone who holds higher education qualifications which give access to doctoral programmes. A research organisation, however, must have been approved for the purposes of the Directive by a Member State in accordance with legislation or administrative practice. As the Directive is written in terms of a research institution holding the key to mobility, Member State control over access to the territory for researchers takes place through the qualification of a research institution. According to the Directive, the research institution must initiate the procedure. Further, in the event that a foreign researcher overstays his or her permitted time in a Member State, the state is allowed to require the research organisation to reimburse costs related to stay and return of the individual. The Directive allows Member States to hold the institution responsible for costs for up to six months after the termination of the hosting agreement! This is indeed a serious sanction for a research institute and one which could easily dissuade it from sponsoring any researcher at all in view of the very serious financial consequences which this might entail.

Under the Directive, a hosting agreement must be signed between an authorised organisation and a researcher. This agreement must include details of the purpose and duration of the research and the availability of financial recourses, evidence of the researcher’s qualifications, evidence of resources and travel costs for the researcher (beyond the social assistance system), sickness insurance and working conditions. Member States are to admit a researcher once their authorities have checked that the individual has a valid travel document, a hosting agreement, a statement of financial responsibility from the research organisation and that the individual is not a threat to public policy, security or health. However, Member States may still require visas for researchers who meet the conditions of the Directive (article 14(4)) though every facility must be provided to obtain one. The Member State shall issue a residence permit to the individual for at least one year (unless the

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<sup>26</sup> Directive 2005/71.

<sup>27</sup> Denmark, Ireland and the UK do not participate in this directive either.

research is to last less than that period). Researchers are allowed to teach but only in accordance with national rules. Once admitted as a researcher under the directive in one Member State, normally, he or she can carry out research activities in any other Member State for not more than three months without further formality. Member States must make a decision as soon as possible and if appropriate have an accelerated procedure. Refusal of an application must be accompanied by an appeal procedure available to the individual or the organisation. A report on the operation of the directive is due y 12 October 2010.

### *Conclusions*

Intercultural dialogue is rightly allocated a position of paramount importance in Euro-Mediterranean relations. Achieving successful relations around the whole of the Mediterranean basin is critical to the security interests of the EU. Conflict and tension in the Mediterranean by definition makes the EU less safe. The emphasis which the EU institutions have placed on successful intercultural dialogue in the region is thus very well justified by virtue of the strategic importance of the area and the pressing need for common understanding and respect throughout the communities around the Mediterranean. However, for such an important political project to succeed it must be flanked by policies in other fields, such as in relation to movement of persons, which support and promote the objectives of intercultural dialogue in an efficient and transparent manner.

Currently, as I have sought to show in this paper, the situation is anything but transparent or predictable in outcome for the individual. Whether that individual is a curious person seeking to travel, a diplomat or an academic or student, there is too much uncertainty in the process of getting to the EU. Only Croatian and Israeli nationals do not face the obstacle of a mandatory visa to come to the EU, all other nationals in the region must submit themselves to what can be a long, tiresome and uncertain process. Sadly, from anecdotal evidence, the visa process can also be humiliating. If there is one policy recommendation out of this study it is that the EU institutions and Member States should reconsider the purpose of visa requirements for nationals of states in the Mediterranean region in light of the objective of intercultural dialogue. Is it really necessary, for immigration purposes, to make contact between people living on opposite sides of the Mediterranean so complicated when the people who want to travel live on the south shore rather than the north one? The situation as regards persons with diplomatic, service or special passports remains highly variable – there is a decided lack of harmonisation in this regard among the Member States. For scholars, the situation is somewhat better as there has been EU legislative activity which has produced two directives for students and researchers, however, in both cases, there is rather a lot of leeway left to Member States on the kinds of restrictions they can place either on access to the territory for students and researchers or by making the risks involved in sponsoring a researcher too high for most public institutions to be able to accept. There is still much work to be done to achieve real inter-cultural dialogue in the Euro-Mediterranean area when it comes to immigration rules.