

THE EUROPEAN UNION - ASEAN COUNTRIES' RELATIONS ON MIGRATION AND POLICE COOPERATION

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Abstract

Cooperation between the European Union and the Association of Southeast Asian Nations has many and increasingly varied dimensions. Migration and police cooperation are emerging as key areas of cooperation. These are sensitive areas, traditionally concerned with issues of sovereignty and internal affairs. For the time being, they are still in their infancy, but could be developed in the light of the opportunities for cooperation offered by the European Union to its partners. Looking at the instruments and methods used, the factors identified and the outlook, this contribution reveals a fairly differentiated approach to cooperation in these two particularly sensitive article, with a multidimensional development of political dialogue, a variable mobilisation of operational cooperation possibilities and an under-utilisation of conventional instruments.

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The European Union (EU) began developing cooperation in the field of migration and policing in 1993, following the entry into force of the Maastricht Treaty, which reformed the European Communities and created the EU. While this was initially purely “internal” cooperation between its Member States, an “external dimension” involving the development of relations with third countries gradually developed.¹ This cooperation with other countries appears to be important for achieving the EU’s objectives. On one hand, to achieve the objective of establishing and developing an area of freedom, security and justice (AFSJ), it is essential to ensure proper management of migratory flows, but also to combat transnational organised crime.² On the other hand, with regard to the objectives of the EU’s external action,³ it is important to be a global player on the international stage,⁴ promoting multilateral solutions to common

1 Bruycker, P. D., Foblets, M.-C., & Maes, M. (Eds.). (2011). *External dimensions of European migration and asylum law and policy / Dimensions externes du droit et de la politique d’immigration et d’asile de l’UE*. Bruylant, p. 596; Cremona, M., Monar, J., & Poli, S. (Eds.). (2011). *The external dimension of the European Union’s Area of Freedom, Security and Justice*. Peter Lang, p. 434; Flaesch-Mouglin, C., & Rossi, L. (Eds.). (2013). *La dimension extérieure de l’espace de liberté, de sécurité et de justice de l’Union européenne après le traité de Lisbonne*. Bruylant, p. 670; Dony, M. (Ed.). (2013). *La dimension externe de l’espace de liberté, de sécurité et de justice au lendemain de Lisbonne et de Stockholm: Un bilan à mi-parcours*. Éditions de l’Université de Bruxelles, p. 281

2 For the objectives of the AFSJ, see Article 67 of the TFEU.

3 For the objectives of the EU’s external action, see Article 21(2) of the TEU.

4 Bosse-Platière, I. (2012). L’objectif d’affirmation de l’Union européenne sur la scène internationale. In E. Nefframi (Ed.), *Objectifs et compétences dans l’Union européenne* (pp. 123-145). Bruylant.

challenges, which must also include cooperation in these two areas. To achieve these different objectives, the EU has developed cooperation with various partners, and in particular, although still in a rather timid way, with the countries of ASEAN.

However, the importance of cooperation between the EU and third countries in the fields of migration and policing is becoming increasingly strategic and is emphasised in its policy documents. It has thus become a strategic axis of its action. In the area of migration, for example, a strategy for cooperation with third countries, entitled “Global Approach to Migration and Mobility” (GAMM), has been developed by the Commission since 2005,⁵ and has been regularly adapted since.⁶ The GAMM seek to provide an overarching political framework for EU external migration policy by defining how the EU conducted its policy dialogues and cooperation with non-EU countries.⁷ Four objectives are identified, include: “better organising legal migration, and fostering well-managed mobility”, “preventing and combating irregular migration, and eradicating trafficking in human beings”, “maximising the development impact of migration and mobility”, and “promoting international protection, and enhancing the external dimension of asylum”. Even more recently, in the major reform project initiated by a Commission communication in 2020, the New Pact on Migration and Asylum,⁸ the importance of external relations is emphasised. In it, the Commission expresses its desire to “Embed migration in international partnerships”, with four priorities: preventing irregular departures, fighting migrant smuggling, cooperation on readmission, and promoting legal pathways.

In the field of police cooperation, the external dimension is envisaged in all the strategic orientation documents that have been put in place.⁹ For example, the 2020 European Security Strategy¹⁰ stresses

5 Communication from the Commission, Priority actions for responding to the challenges of migration – First step in the Hampton Court follow-up process, COM (2005) 621, 30 November 2005.

6 Communication from the Commission, ‘A global approach to migration and mobility’, COM (2011) 743, 18 November 2011.

7 Nascimbene, B. (2008). The Global Approach to Migration: European Union Policy in the Light of the Implementation of the Hague Programme. *ERA-FORUM*, 9(2), 135-145. <https://doi.org/10.1007/s12027-008-0056-5>, pp. 291-300.

8 The Commission’s proposals for the New Pact on Migration and Asylum led to the adoption of ten new legislative texts by the European Parliament and the Council on 14 May 2024. See Stępka, M. (2023). The New Pact on Migration and Asylum: Another step in the EU migration-security continuum or preservation of the status quo? *Białostockie studia prawnicze*, 28(1), 15-30. <https://doi.org/10.15290/bsp.2023.28.01.02>, pp. 23-37.

9 Kerchove, G. D., & Weyembergh, A. (Eds.). (2023). *Sécurité et justice: Enjeu de la politique extérieure de l’UE*. Éditions de l’Université libre de Bruxelles, Coll. Institut d’études européennes, p. 325.

10 Communication from the Commission “on the EU strategy for the Security Union”, 24 July 2020, COM (2020) 605 final.

that: “In the face of common challenges, it is essential to cooperate with third countries and at global level in order to respond effectively and comprehensively, as stability and security in the EU’s neighbourhood are essential to the EU’s security”. Also in the EU strategy to combat organised crime (2021–2025),¹¹ the Commission stresses that “global partnerships are essential to ensure effective cooperation and the exchange of information and knowledge between national authorities” and that “organised crime is emblematic of the link between internal and external security”. It goes on to state that “international commitment to the fight against organised crime, including new measures to establish partnerships and cooperation with countries in the immediate neighbourhood and beyond, is necessary to meet this transnational challenge”.

Despite a general ambition to develop these two strands, the EU nevertheless adopts a widely different approach to developing relations with its various partners, based on a logic of “concentric circles”. The first circle is made up of the so-called “associated” states: European states which, although not members of the EU, participate closely in its policies because of their geographical and political proximity.¹² A second circle consists of relations with neighbouring States (in Eastern Europe or North Africa) with which the Union is developing close cooperation because they are located on the Union’s borders and/or appear to be strategic points on the Union’s territory for the success of its objectives.¹³ A third circle is made up of other States further afield, with whom the Union shares a desire to cooperate with a view to strategic cooperation on a global scale. Relations with the ASEAN countries are unquestionably part of this third circle. But beyond this global positioning, it is interesting to analyse the cooperation methods used to develop this cooperation, the instruments mobilised, and to consider the potential and prospects for developing these relations. We can see that there is a multifaceted development of political dialogue, a variable mobilisation of operational cooperation possibilities, and an under-utilisation of conventional instruments.

1. The multifaceted development of political dialogue

Political dialogue is established at several levels between the EU and the States of South-East Asia. At bilateral level, between the EU and each State, migration and police issues are occasionally raised, but do

11 Communication from the Commission “on an EU strategy to combat organised crime (2021–2025)”. COM (2021) 170 of 14 April 2021.

12 Norway, Iceland, Switzerland and Liechtenstein, which participate fully in Schengen cooperation.

13 This includes countries in Eastern Europe and North Africa that share maritime or land borders with the EU.

not appear to be central elements of cooperation or priorities for action. The bi-regional level, between the EU and ASEAN, appears to be more conducive to the emergence of regular joint political dialogue on these sensitive issues. This dialogue takes various forms.

At the ASEAN level, the political dialogue established within the framework of the strategic partnership is expanding into more and more areas, and the themes of migration and police cooperation are emerging. One dialogue is dedicated to migration issues. More specifically, this is the Dialogue on Safe and Fair Labour inaugurated in 2018 in Jakarta, the second edition of which took place in July 2023.¹⁴ This dialogue focuses mainly on economic migration and working conditions, in line with the priorities within ASEAN,¹⁵ which reflects an adaptation by the EU, since the EU's priorities in its relations with third countries on migration issues are usually largely focused on combating illegal immigration.¹⁶ The publications that followed this discussion confirmed this orientation in the dialogue,¹⁷ referring to the desire to increase the mobility of migrant workers. One example is the launch of awareness-raising campaign videos, financed by Enhanced Regional EU-ASEAN Dialogue Instrument (E-READI) developed to equip prospective and current migrant workers with reliable and comprehensive information to help them prepare better for migration and safeguard against exploitation. There is no specific regular dialogue dedicated to police cooperation within the framework of the EU-ASEAN strategic partnership, but this aspect is considered incidentally within the framework of other dialogues with more cross-cutting themes, such as the "Transnational Crime and Cyber Security" or "Security and Defence" dialogues. In addition, the partners have already adopted joint declarations envisaging multi-actor cooperation involving cooperation between police authorities, as was the case in 2003 with the Joint Declaration on Cooperation to Combat Terrorism, adopted at the 14th ASEAN - EU Ministerial Meeting.¹⁸

In the field of police cooperation, a political dialogue has also been established at the level of specialised bodies, and more specifically between

14 The ASEAN Secretariat. (2023, July 7). *ASEAN and EU join hands for better protection of migrant workers in Southeast Asia*. ASEAN. <https://asean.org/asean-and-eu-join-hands-for-better-protection-of-migrant-workers-in-southeast-asia/>

15 One example of this priority is the adoption during the 42nd ASEAN Summit of the ASEAN Declaration of the Protection of Migrant Workers and Family Members in Crisis Situations which reaffirms ASEAN's commitment towards equitable access to social protection for all and the commitment for better preparedness of policies to increase the resilience and agility of the ASEAN workforce for the potential outbreak or recurrence of crises.

16 For comparison, see the Joint Africa EU declaration on migration and development, Tripoli, 22-23 November 2006.

17 The ASEAN Secretariat (2023), *supra* note 14.

18 *Ibid.*

EUROPOL and ASEANAPOL, the two bodies responsible for organising operational cooperation between police authorities in the two regions concerned. There is a clear desire to strengthen cooperation between EUROPOL and ASEANAPOL in the fight against organised crime “to promote practical co-operation on counter terrorism and organised crime”.¹⁹ Cooperation between the two bodies also takes the form of multi-actor cooperation with INTERPOL. Thus, on 8 November 2016, during the 85 INTERPOL General Assembly organised in Bali, the Deputy Director of Operations at Europol and the Executive Director of the ASEANAPOL Secretariat signed a Letter of Intent aimed at strengthening the cooperation between the two organisations, providing mutual support, as well as facilitating the exchange of best practices and expertise in their areas of interest. Since then, direct cooperation has developed between the two partners, particularly in the area of organised crime linked to economic activities. Strategic Meetings on Payment Card Fraud have been organised,²⁰ in order to provide the law enforcement community with a comprehensive overview of payment card fraud issues, such as compromising payment card data, ATM malware and e-commerce fraud. This has led to the creation of the Investigative Network of Law Enforcement specialists from the EU and ASEAN countries.

Beyond the identification of the different strands of political dialogue, a few general remarks can be made.

First, the political dialogue is based on these classic areas for the EU, migration and police cooperation, but with a specific focus that is markedly different from what can be found with other strategic partners. The main thrust of the EU’s action on migration is most often security (international security or the security of the Union). In this case, there is a much greater focus on the economic challenges of migration, but also on police cooperation, which means that the political dialogue and the elements of cooperation discussed between the partners are geared to these concordances in political priorities.

Second, the importance of the multilateral cooperation framework for the partners is particularly emphasised, and here again appears to be an important point of convergence. Indeed, there are many references in the exchanges, and to a greater extent than in the documents with other partners. The EU and ASEAN are partners who share the same values and are convinced of the need for rule-based multilateralism. References to the UN framework and reminders of the shared desire to ensure respect for UN law thus play a very important role in the political dialogue. These

¹⁹ *Ibid.*

²⁰ Four Payment Card Fraud Meetings between 2015 and 2017.

include a commitment to the universal implementation of all the UN resolutions and conventions, and action in accordance with international obligations, the UN Charter and general norms of international law.²¹

Thus, a political dialogue is well established, which takes different forms and also gives rise to the establishment of operational cooperation, even if this remains mobilised in varying ways.

2. Variable mobilisation of operational cooperation possibilities

An essential aspect of the cooperation developed by the EU in the field of migration and policing is operational cooperation, understood here as the implementation of joint actions on the ground between the competent authorities.²² Within this framework, specific European players have been set up to strengthen the coordination of this operational cooperation. These are EU agencies, which are independent decentralised bodies with legal personality that work under the supervision of the EU institutions. These agencies are set up to meet specific objectives in targeted areas, making it possible to increase the effectiveness of European cooperation between the competent national authorities, and sometimes even to replace them with autonomous means of action. Within the EU, there are two main agencies specialising in the fields of migration and police cooperation:²³ the operational border and coast guard agency (“Frontex”), which is responsible for organising the security of the EU’s external borders, and the EU Agency for Law Enforcement Cooperation (“EUROPOL”). These two agencies are developing relations with third countries and thus offer the potential for cooperation²⁴ between ASEAN and the countries of Southeast Asia, although the extent to which this potential is currently being exploited varies.

21 Joint Declaration on Cooperation to Combat Terrorism, 2003. “We stress the leading role of the UN in the fight against terrorism and reaffirm our strong commitment to the universal implementation of all the UN anti-terrorism resolutions and conventions and remain fully committed to supporting the work of the UN Counter Terrorism Committee and other pertinent UN bodies. We acknowledge that the fight against terrorism must be conducted in accordance with international obligations, the UN Charter and general norms of international law, including respect for human rights and humanitarian law”.

22 Billet, C., & Turmo, A. (Eds.). (2020). *Coopération opérationnelle en droit pénal de l’Union européenne*. Bruylant, p. 232.

23 There are other justice and home affairs agencies that specialise in other areas, such as the EU Asylum Agency (Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021, OJ L 468, 30 December 2021, p. 1), Eurojust in matters of judicial cooperation (Decision 2002/187/JHA, OJ L 63, 06 March 2002, p. 1), or the EU-LISA agency managing large-scale information systems within the AFSJ (Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011, OJ L 286, 1 November 2011, p. 1).

24 Fernández-Rojo, D. (2021). *EU migration agencies: The operation and cooperation of FRONTEX, EASO and Europol*. Edward Elgar Publishing, p. 254; Coman-Kund, F. (2018). *European Union Agencies as Global Actors: A Legal Study of the European Aviation Safety Agency, Frontex and Europol*. Routledge. <https://doi.org/10.4324/9781351136860>, p. 348.

First, Frontex, an agency established in 2004,²⁵ has seen its powers considerably strengthened, particularly following the “migration crisis” experienced by the EU in 2015/2016.²⁶ Following a particularly large increase in the number of illegal immigrants arriving at that time, mainly via the Mediterranean in Italy and Greece, it was decided to considerably strengthen the agency’s means of action,²⁷ in order to better support the border guards and coastguards of the Member States, coordinate actions and better secure the EU’s external borders.²⁸ The agency is currently responsible for several different tasks. First, there are the so-called “strategic” actions: information, risk analysis and training. It also carries out “operational” actions on the ground. These include coordinating joint border operations, organising rapid border interventions at the request of one or more Member States, and contributing to operations to return illegal migrants to third countries of origin or transit. As part of these operational activities, many mechanisms have been set up to strengthen cooperation with third countries “to the extent necessary for the performance of its tasks”²⁹ and to “effectively manage” the EU’s external borders and “increase the effectiveness” of the EU’s return policy.³⁰ This may involve exchanging information or funding technical assistance programmes, organising common return procedures and even deploying joint operations on the territory of third countries.

In practice, however, operational cooperation between Frontex and ASEAN or its Member States is not clear from a study of the agency’s internal documents. This may be explained by the agency’s priorities, which are largely focused on securing the EU’s borders and combating illegal immigration, an aspect which is not at the heart of the priorities of the partnership with its Asian partners. Instead, it is developing relations with partners of origin or transit located on the main migratory routes to

25 Council Regulation (EC) No 2007/2004 of 26 October 2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the EU, OJ L 349 of 25 November 2004, p. 1.

26 Billet, C. (2020). Le développement de la coopération des agences ELSJ avec des États tiers : Entre recherche d’efficacité dans la gestion de la « crise des réfugiés » et cohérence de l’action extérieure de l’Union européenne. In Medhi R. (Ed.), *L’agenciarisation de la politique d’immigration et d’asile, collection « Confluence des droits » du CERIC: L’agenciarisation de la politique d’immigration et d’asile face aux enjeux de la « crise des réfugiés » en Méditerranée* (pp. 79-94). DICE Édition.

27 Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Corps of Border Guards and Coastguards [...], OJEU L 251 of 16 September 2016, p. 1; Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Corps of Border Guards and Coastguards [...], OJEU L 295, 14 November 2019, p. 1.

28 Chevalier-Govers, C., & Tinière, R. (2019). *De Frontex à Frontex: Vers l’émergence d’un service européen des gardes-côtes et gardes-frontières*. Bruylant, p. 298; Sarantaki, A.-M. (2023). *Frontex and the rising of a new border control culture in Europe*. Routledge, p. 210.

29 Article 73 of the Regulation 2019/1896.

30 Article 1 of the Regulation 2019/1896.

the EU and is currently strengthening its action with Eastern European states on whose territory Frontex operations can now be deployed³¹ and is considering doing the same with African states.³² However, this approach is driven by the EU's aim to secure migration routes and externalize controls. Given the current migration context and the state of EU-ASEAN relations, there is no pressing need to develop specific operational migration initiatives with ASEAN states.

In the area of migration, the EU therefore provides aid for operational activities by funding programmes to develop actions in South-East Asia. These programmes often involve specialised international organisations, with the EU appearing here more as a financial contributor to operational cooperation than as a direct player in this operational cooperation. For example, between 2018 and 2022, the EU supported the joint International Labour Organization – United Nations Women programme, “Safe and Fair. Realising women migrant workers’ rights and opportunities in the ASEAN region” developed under the Spotlight Initiative.³³ The aim of this programme was to ensure that labour migration is safe and fair for all women in the ASEAN region, and it therefore included various projects to protect the rights of women migrant workers. The EU, although not directly involved in the field, provided funding to the tune of 25 million euros, or 98% of the programme’s total budget. There is also the “EU-ASEAN Migration and Border Management Programme II”,³⁴ a three-year programme started in 2016, funded by the EU, which aims to support ASEAN in its integration process through the implementation of the Master Plan on ASEAN Connectivity. Implemented by INTERPOL, the initiative highlights a migration aspect but primarily emphasizes a policing dimension within the cooperation. The programme intends to improve people-to-people connectivity by strengthening law enforcement agencies’ networks and cooperation at regional transit hubs, and by working on easing visa requirements for ASEAN and non-ASEAN nationals within ASEAN.

Second, regarding EUROPOL, there are several operational actions involving the European Police Agency and partners in South-East Asia.

31 Agreements on the status allowing the deployment of Frontex operations have been concluded with several Eastern European states, particularly in the Balkans, but also with Moldova.

32 Negotiations have begun with Mauritania and Senegal.

33 The European Commission. (2022). *Safe and Fair: Realising women migrant workers’ rights and opportunities in the ASEAN region*. European Commission. https://international-partnerships.ec.europa.eu/policies/programming/projects/safe-and-fair-realising-women-migrant-workers-rights-and-opportunities-asean-region_en

34 ASEAN. (2016). *EU cooperation spotlights border security*. ASEAN. <https://asean.org/asean-eu-cooperation-spotlights-border-security/>

EUROPOL was set up in 1995,³⁵ and its powers were increased in 2016.³⁶ The main tasks of the European agency are to strengthen the exchange of data and information, as well as to process the information gathered by developing strategic studies and analyses in order to improve the fight against organised crime, as well as to provide operational support to the authorities of the Member States to facilitate the coordination of actions in the context of ongoing investigations, and surveillance by setting up specialised units to be responsive to emerging threats in the field of terrorism and other forms of serious and organised crime. Since its creation, EUROPOL has been developing relations with third countries, mainly through the exchange of information, but which may also lead to participation in operations involving third countries.

In practice, operational cooperation has been developed with the ASEAN states, and sometimes even directly with ASEANAPOL, the agency specialising in police cooperation within ASEAN. The first forms emerged in 2015, and since then joint actions have been organised from time to time. One example is the Joint Customs Operation HYGIEA (2019), targeting counterfeit goods used in the daily lives of citizens.³⁷ During this operation, the customs authorities of many states, including all EU and ASEAN Member States and carried out targeted physical or X-ray controls on several hundred selected shipments transported by sea containers. These checks uncovered a wide array of counterfeit goods including counterfeit cosmetics.³⁸

However, most actions carried out in cooperation with the ASEAN States involve only certain States. This was the case, for example, with Operation Global Chain which took place between 8 and 15 May 2023, which was a global action targeting human trafficking for sexual exploitation, forced begging and forced criminality. Coordinated by EUROPOL and INTERPOL, it took place in 44 countries (25 EU Member States and 19 non-EU countries, including the Philippines and Vietnam) and involved a wide range of law enforcement authorities including police, immigration and border control agencies, transport

35 Convention based on Article K.3 of the Treaty on EU, on the establishment of a European Police Office (Europol Convention), OJ C 316, 27 November 1995, p. 2.

36 See, in particular, Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol), replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, OJ L 135, 24 May 2016, p. 53.

37 Europol. (2019, October 10). *Europol helps partners seize millions of counterfeit goods in OLAF-coordinated operation*. Europol. <https://www.europol.europa.eu/media-press/newsroom/news/europol-helps-partners-seize-millions-of-counterfeit-goods-in-olaf-coordinated-operation>

38 Perfumes, soaps, shampoos, detergents, battery cells, footwear, toys, tennis balls, shavers, electronic devices, toys.

police, social services and child protection services. The main objectives of Operation Global Chain were to identify, protect and refer victims and potential victims of human trafficking for assistance. Specific actions targeted the disruption of criminal networks potentially exploiting victims originating from South America, Asia, Africa, the Western Balkans and Ukraine. The joint and coordinated actions of different authorities in different parts of the world are crucial for the development of the operational activities.³⁹ A final recent example is an action coordinated by EUROPOL, EUROJUST (another EU agency) and INTERPOL in which an ASEAN State, Singapore, is involved: the European Money Mule Action (EMMA 9) which took place between June and November 2023 in 26 States. The aim of this action was to combat a key facilitator of money laundering: money mules and their recruiters.⁴⁰

While various forms of cooperation are developing, the partnership is not yet (for the moment) translating into ambitious contractual relations.

3. Under-use of conventional instruments

The EU has developed a range of instruments to structure its partnership relations in migration and police cooperation. It is seeking to incorporate clauses on migration and police cooperation into global agreements, aiming to strengthen dialogue and cooperation. The Union is also developing sectoral agreements to structure cooperation on a long-term basis.

Concerning the clauses included in the global agreements, there are a few clauses in the cooperation agreements set up with the various States of South-East Asia, which vary in content but are often limited in scope. The 1997 cooperation agreements with Cambodia and Laos⁴¹ do not contain such clauses. However, they were negotiated before the European Commission, as negotiators of external agreements, sought to systematically incorporate such clauses.⁴² The “new generation” partnership and cooperation agreements negotiated with Indonesia,⁴³

39 Sustained enforcement actions on the ground led to 212 arrests and the identification of 1,426 potential victims, while 244 new investigations were initiated.

40 Several operational phases identified 10,759 money mules and 474 recruiters, leading to the arrest of 1,013 individuals worldwide.

41 Cooperation Agreement between the European Community and the Lao People's Democratic Republic, OJ L 334, 12 May 1997, p. 15; Cooperation Agreement between the European Community and Cooperation Agreement between the European Community and the Kingdom of Cambodia, OJ L C 107, 05 April 1997, p. 7.

42 Following the Seville European Council of 21 and 22 June 2002, which stated that “the European Council urges that in any future cooperation agreement, association agreement or equivalent agreement which the European Union or the European Community concludes with any country whatsoever, a clause be inserted on the joint management of migratory flows and on compulsory readmission in the event of illegal immigration”.

43 Framework agreement on partnership and cooperation between the European Community and its Member States, of the one part, and the Republic of Indonesia, of the other part, OJ, L 125, 26 April 2014, p.17.

Vietnam,⁴⁴ Singapore,⁴⁵ Malaysia⁴⁶ and Thailand⁴⁷ contain more developed clauses and reflect new perspectives, even if the commitments often remain rather vague. The issue of police cooperation is not dealt with in a separate article. Nevertheless, it may appear necessary for other areas of cooperation expressly identified, such as “combating organised crime and corruption” or “cooperation in combating money laundering”. Conversely, a clause on migration is systematically included in every agreement negotiated. The content of these clauses is very similar and largely modelled on the migration clauses proposed by the EU. The first paragraph stresses “the importance of joint efforts in managing migratory flows” and the need for “comprehensive dialogue on all migration-related issues”. Then a second paragraph with specifically identified areas of cooperation (visas, return, etc.). A third paragraph sets out an obligation to readmit illegal immigrants, the only binding commitment between the parties on migration issues. A fourth paragraph deals with the prospects for sectoral agreements: the possibility of negotiating a readmission agreement (to organise the readmission procedure in greater detail) is systematically mentioned, as is sometimes an agreement on visa facilitation (this is the case for the agreement with Thailand).

However, there is currently no sectoral agreement, and no binding instrument dealing specifically with migration and police issues between the EU and the States of South-East Asia. While the EU is developing a network of agreements on migration and police cooperation with various partners,⁴⁸ there are no such agreements with South-East Asian partners. For example, there are no agreements on readmission or visas. While the absence of a readmission agreement seems to be explained by the limited stakes involved, the absence of an agreement on visas is more a sign of the EU’s reluctance. Several countries currently benefit from a Schengen visa

44 Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Socialist Republic of Viet Nam, of the other part, OJ 328 of 03 December 2016, p. 8.

45 Partnership and Cooperation Agreement between the European Union and its Member States, of the one part, and the Republic of Singapore, of the other part, not yet published on EU official journal.

46 Framework Agreement on Partnership and Cooperation between the European Union and its member states, of the one part, and the Government of Malaysia, of the other part, Council of the EU doc. 11732/22 of 03 October 2022.

47 Framework Agreement on Comprehensive Partnership and Cooperation between the European Union and its Member States, of the one part, and the Kingdom of Thailand, of the other part, OJ L 330, 23 December 2022, p. 72.

48 Thiollot, H. (2024). *Accords de coopération de l’UE en matière migratoire: Un jeu d’équilibre*. Institut Montaigne. <https://www.institutmontaigne.org/expressions/accords-de-cooperation-de-lue-en-matiere-migratoire-un-jeu-dequilibre>; Trauner, F., & Kruse, I. (2008). EC Visa Facilitation and Readmission Agreements: A new standard EU foreign policy tool? *European Journal of Migration and Law*, 10(4), 347-366. <https://doi.org/10.1163/157181608X376872>

exemption, i.e. short-stay visas, but this is not enshrined in an agreement. This exemption is granted unilaterally by the EU, via a list set out in Regulation 2018/1806 “listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement”.⁴⁹ This exemption can therefore be modified by a unilateral move on the part of the Union, by amending the regulation that establishes the list. The States currently exempt are Brunei Darussalam, Malaysia and Singapore. The others are subject to visa requirements. This issue has been put on the agenda for bilateral talks. Indonesia and Thailand have expressed their wish, during bilateral political dialogues, to obtain a liberalisation of the visa regime.

Furthermore, there is no agreement with EUROPOL, even though the European Police Agency, as has been mentioned, regularly carries out joint actions with several States. This lack of an agreement is more surprising given that the Agency has built up a network of major agreements, which it is still developing. It can propose various agreements, with adapted levels of cooperation including or not including personal data, providing for the setting up of national contact points between EUROPOL and law enforcement authorities, consultation and regular meetings, and the secondment of a liaison officer in EUROPOL. EUROPOL is developing a network of agreements with the States of South America, and priority could subsequently be given to the States of South-East Asia if there is a common desire to strengthen cooperation through this EU agency.

Conclusion

EU-ASEAN relations in migration and police cooperation exist in various forms but lack structured instruments. A more permanent legal framework and political dialogue covering all aspects of migration and police cooperation could enhance trust and strategic partnership. Operationally, liaison officers and a Europol-ASEANAPOL agreement could strengthen joint actions against global organized crime. Proactively strengthening bi-regional cooperation now would avoid reactive measures during future crises. ●

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- [1] Billet, C., & Turmo, A. (Eds.). (2020). *Coopération opérationnelle en droit pénal de l'Union européenne*. Bruylant

49 Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, PE/50/2018/REV/1, OJ L 303, 28 November 2018, p. 39.

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Author Contribution

The author solely contributed to the study conception and design. The author read and approved the final manuscript.

Declarations

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