Asylum - not an EU problem?

Qualitative analysis of the readmission agreements in the asylum and migration policy of the European Union

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Abstract

In the European Union asylum and migration policy, the expressions “exclusion” and “externalization” are often used and encountered because the EU transfers the responsibility of migration control to non-EU states through readmission agreements. The EU does not have the capacity to receive all migrants, refugees and asylum seekers that seek protection in Europe, hence the agreements are constituted between the EU and other countries outside the EU on the basis of returning nationals and third country nationals who have been denied asylum. The purpose of this thesis is to explore how and to what extent are human rights embedded in the readmission agreements and in the materials that constitute the basis for the decision to enter into readmission agreements. This thesis also tends to analyze if and on what basis the readmission agreements pose potential consequences for asylum seekers, refugees and migrants. In order to answer the posed research questions, I have used a qualitative research method of case study and text analysis. I have used a theoretical framework of externalization and studied the cases of the EU-Ukraine agreement and the EU-Pakistan agreement. Today, the EU cannot guarantee the safety individuals that are being returned to either Ukraine or Pakistan, because both Ukraine and Pakistan lack functional human rights institutions and cannot practice what human rights instruments ordain because they lack the capacity to do so. The EU’s failing of safe returns for asylum seekers, refugees and migrants has consequently created situations of orbit and chain refoulment where migrants, refugees and asylum seekers risks being returned to their country of origin or passed around between countries.

Keywords: Readmission agreements, European Union, Externalization, Criminalization of migration, Human rights.
## List of Abbreviations

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<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>CAT</td>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
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<td>CEDAW</td>
<td>International Convention on the Elimination of Discrimination against Women</td>
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<td>CERD</td>
<td>International Convention on the Elimination of All Forms of Racial Discrimination</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>CSP</td>
<td>Country Strategy Paper</td>
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<td>ENP</td>
<td>European Neighbourhood Policy</td>
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<td>HRW</td>
<td>Human Rights Watch</td>
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<td>ICCPR</td>
<td>International Covenant on Civic and Political Rights</td>
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<td>ICESCR</td>
<td>International Covenant on Economical, Social and Cultural Rights</td>
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<td>TCN</td>
<td>Third Country National</td>
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<td>UDHR</td>
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1. Introduction

"...I admitted that I wanted to cross the border and that we were smuggled. They were four persons and one interpreter. They said they were security forces, but they were in plain clothes... I felt my heart was going to stop. I was sitting on a chair. I just admitted everything, but they didn’t stop torturing me” (HRW 2010:4).

The quotation above is taken from a report by the Human Rights Watch (HRW) in 2010, where the HRW had interviewed several migrants, refugees and asylum seekers in Ukraine who suffered torture and other ill-treatments when seeking protection. Some of these migrants and asylum seekers have been returned from European member states, upon the policy of readmission signed between the European Commission and other non-member states. Today’s European Union (EU) asylum and migration policy is countered of expressions of externalization and exclusion.

The term externalization has become a known term in relation to the EU asylum and migration policy because the EU, through cooperation with migrant-sending and ‘transit’ countries (i.e. countries through which migrants and refugees travel), transfer the responsibility of migration control to non-EU states. But even though the EU is trying hard to control their borders, the immigration to Europe does not stop, but rather makes it harder and more dangerous for the protection and asylum seekers to reach Europe (Boswell 2003:619f).

The main instrument of the externalization approach is the use of readmission agreements. These agreements are built upon the concept of ‘safe third country’. The ‘safe third country’ practice is developed by the EU in order to return individuals, which have been denied asylum, to countries that are seen as safe and are willing to readmit asylum seekers when they cannot be returned to their country of origin (Byrne, Noll, Vedsted-Hansen 2002:15). However, one problem regarding these agreements has been that the third countries may not be “safe”, inasmuch as they are not protecting the human rights of migrants and that they do not have a full working asylum and migration system. Instead these third countries are treating the migrants badly and in some cases return them to their country of origin where they will be subject to persecution. These agreements also tend to only satisfy one part, because the agreements are often entered into between, one country with problems of
immigration and another country with less problems of migration (Trauner & Kruse 2008:16).

In this study I want to analyze how the EU can ensure that the human rights are maintained in the readmission agreements. To study the readmission agreements, it will be necessary to not only look at the reports that the EU are basing their decision upon, but also the reports done by other non-governmental organizations, such as Amnesty International and Human Rights Watch.

1.1 Problem Orientation

In the 1980s the control of immigration started to solidify. The European Union member states started to cooperate and introduce the Common European Asylum System (CEAS). This happened in connection with the large-scale migration and refugee flows from Africa and Asia. When the numbers of refugees increased during the 1970s in developing countries, the demand in labor market decreased, and European states started instead to introduce restrictions for refugees in resettlement programs. This resulted in disappearance of the distinction between labor migrants and refugees and consequently all of them had to take the same road, as asylum-seekers (Haddad 2008:168). The mismatch between labour supply and demand is also a reason for the increase in irregular migration. There are different ways migrants could be found irregular, and one way is crossing borders without authorization. To overstay the visas or work permits is also to be found as irregular, even though they entered legally (IOM Report 2010:29).

Subsequently, the matter of migration became an important question within the EU and different policies were set out to implement a stricter and more secure asylum system. The EU asylum and migration policy includes two approaches: the preventative approach that focuses on the root causes of migration in the country of origin, and the externalization approach that represent a tightening of border controls to prevent people from reaching the border of the potential destination country and also to transfer the responsibility of migration control to non-EU states (Brochmann 1999:304f).

The main instrument of the externalization approach is the readmission agreements which are signed with neighbouring countries or other countries outside the EU in order to return migrants to either their country of origin or to a third country where the migrants have transit through (Boswell 2003:622). These agreements have been widely criticized by non-governmental organizations, principally by Amnesty International and Human Rights Watch (HRW). The criticism that have been directed to these agreements deals with the absence of
any effective means of legal redress that would let returnees to deposit their asylum applications or raise non-refoulment concerns (under article 33 of 1951 Refugee Convention, article 3 of United Nations Convention against Torture and article 3 under European Convention on Human Rights) (HRW 2010:22f). The non-refoulment device covers the right of asylum seekers not to be sent back to a territory where their life or liberty would be in danger (Byrne, Noll & Vedsted-Hansen 2002:18). The criticism also deals with the concern about the security-driven approach at the expense of human rights. Amnesty International opposes the list of safe third countries though they think that it is only about political negotiations influenced by national interests, rather than human rights considerations. They also believe that the decision of what is a safe country or not should be based on a wide range of sources including reports by non-governmental organizations (Amnesty International 2006:1).

European Union and Ukraine have signed a readmission agreement that entered into force on January 1, 2008. The HRW Report from December 2010 shows that migrants that have been returned from Slovakia and Hungary to Ukraine have been beaten hardly and even tortured during interrogations (HRW 2010:4). In December 2010 the readmission agreement between EU and Pakistan entered into force. This agreement is quite new, hence it is quite difficult to find statistics on how many individuals that have been returned upon the request of readmission. The agreement between the EU and Pakistan is interesting because Pakistan is a rather unstable country where discrimination of ethnic groups and minorities exists. The EU must have been aware of the problems concerning discrimination and suppression of ethnic groups when signing a readmission agreement with Pakistan.

These two agreements have opened up discussions on how the human rights aspects are dealt with in the material that constitutes the agreements and the specific readmission agreements. By looking at the readmission agreements of EU-Ukraine and EU-Pakistan, I seek to analyze to what extent and how human rights are embedded in the readmission agreements, and in the material that constitutes the basis for the decision to enter into readmission agreements.
1.2 Aim and Research question

The purpose of this thesis is to study the readmission agreements from a human rights perspective and determine how and to what extent are human rights dealt as an issue in the material that constitute the basis for the decisions to enter into readmission agreements and how it is embedded in the readmission agreements. The European Union and its Member States have signed the UN Universal Declaration of Human Rights in 1948, the European Convention on Human Rights in 1953 (ECHR) and the Charter of Fundamental Human Rights of the European Union in 2000 and are compelled to work towards the realization of these rights and ensure that these rights are maintained.

The thesis thus aims to answer the following questions:

- How and to what extent are human rights embedded in the readmission agreements?
- Are human rights an issue in the material that constitutes the basis for the decisions to enter into readmission agreements?
- What are the consequences for the asylum seekers and how are these potential consequences dealt with in the agreements?
- To what extent does the readmission agreements differ and on what basis?

1.3 Method and Material

This thesis is based on the qualitative research method of case study and text analysis. I have chosen two countries, Ukraine and Pakistan, both of which have signed agreements on readmission with the EU. The EU-Ukraine agreement have existed since 2008 but have already been criticized by non-governmental organization for their bad treatment of returned migrants. The other agreement between EU-Pakistan has newly entered into force, which raises interesting questions like: What have the EU done to maintain respect for the human rights of returning migrants to Pakistan and are human rights embedded in the said agreement. The purpose of the choice of these two agreements was principally because one country is mainly a transit country (Ukraine) and the other country is mainly a sending country (Pakistan). I thought it would be interesting to, on the one hand, compare the two agreements to see if they are general or specific, and on the other hand, see if the EU’s implementation of the agreements differ depending upon whether or not the readmitting country is a neighbouring country to the EU or a country at farther distance.
To be able to study these agreements it is also necessary to study the material that constitutes the basis of the decision for an agreement (which henceforth will be called *background material*). This material consists of policy papers. It has also been necessarily to use secondary literature such as reports from non-governmental organization, articles and books.

It is important to make limitations in a study like this to prevent the study to be too extensive and to make it easier for the author to keep it within the framework of the proposed structure. It is also important that clear distinctions are apparent in the study for readers to understand what areas will be covered. In order to limit this study I have chosen to exclude the issue on securitization of migration. I have mentioned that there has been, and still ongoing, discussion about the securitization of migration. However I have not chosen to study this area in deeper terms. Further, I will not focus on the ways specific EU member states deal with the returning of migrants. Instead I look at the general picture of EU and its agreements with Ukraine and Pakistan. The discussion around the question of who falls into the refugee category is very interesting. Because of the restrictions of reception in the EU asylum and migration policy, and the cessation of the reception of labour migrants, refugees and migrants fell under the same category as asylum seekers. However, in this study I will not discuss this matter further.

1.4 Disposition

This thesis is divided into seven chapters. After the introductory chapter, a chapter of previous research follows. That chapter is divided into two parts; the external dimension of the EU asylum and migration policy; the right to seek asylum.

The third chapter contains of the chosen theoretical framework, which is structured into four subchapters.

In chapter four I describe the methodology used for this research. This chapter also contains the limitations of this study.

The fifth chapter proceeds with the results from this research. This chapter is structured into four subchapters where the results from the case of Ukraine are separated from that of Pakistan. The results from the readmission agreements are also divided from the results from the material that constitute the basis to enter into readmission agreements.
The sixth chapter contains the analytical discussion that is based on the results presented in chapter five. The analytical discussion is divided into three sections in order to answer my research questions.

The seventh and last chapter presents the conclusions that are drawn from this research.
2. Previous Research

In this chapter I will present different authors and their main arguments regarding the external dimension of the EU asylum and migration policy and the principle of the right to seek asylum. The reason why this part is important is that it gives a wider understanding of the problem that this thesis is investigating. It also gives a better understanding as to why the tool of readmission agreements needs further elaboration. The authors derive from different disciplines; Sandra Lavenex, Emek Ucarer and Christina Boswell belong to the field of Politics and International Relations. Thomas Gammeltoft-Hansen and Emma Haddad belong to the field of refugee studies with a background in Political Science and Economics. Rosemary Byrne and Gregor Noll are both senior lecturer in international and human rights law. Jens Vedsted-Hansen belongs to the research field of Social Science. Jari Pirjola is a legal adviser at the office for the Parliamentary Ombudsman of Finland.

2.1 The external dimension of EU asylum and migration policy


Referred to as the external dimension of the EU asylum and migration policy, Sandra Lavenex and Emek M. Ucarer explain externalization as a process in which states push their borders further away and shift the protection responsibility on to other states. The term externalities is used in many contexts, but originally developed in economics (2002:8). Lavenex and Ucarer describe the notion of externalities in the example of the EU, “external effects may be the result of active policy transfer on the part of the EU and its member states as well as of the less intentional process of policy diffusion or policy learning” (Ibid.). Lavenex and Ucarer further note that the change of immigration policies in one country has
implications for immigration policies in other countries. A more restrictive immigration policy may lead to an increase in the numbers of migrants seeking entry in other countries. The same may happen with convergence of policies among one group of actors that may have implications to other parts. There might be both positive and negative externalities. In cases of negative externalities with increased migration into one’s territory, actors may be forced to adapt the new policies (ibid:209).

Christina Boswell uses the two concepts of ‘external dimension’, externalization approach and preventative approach, when looking at the political and institutional factors that have influenced the emergence of the external dimension of EU immigration and asylum policies (Boswell 2003:620). Stephen Castles, Thomas Gammeltoft-Hansen and Christina Boswell also illustrate the EU asylum and migration policy as two approaches. Firstly, there is the repressive/restrictive approach with border controls, and the preventative/‘root cause’ approach that has long-term strategies to confront the factors that cause migration, such as poverty and violence. This approach also seeks to give support to protection of refugees in the country of origin or in the region, so that they don’t have to seek asylum in Europe (Castles 2010:1567, Gammeltoft-Hansen 2006:1, Boswell 2003:623f). Brochmann and Hammar further note that the ‘root cause’ approach should be seen as enriching the traditional control policy. This comprehensive approach was sometimes seen as a rhetorical framework, when legitimizing reinforced border control by long-term preventative measures in the countries of origin (1999:305). The ‘restrictive’ and externalization approach, however, have a distinct control-oriented logic and looking for further migration control outside the EU (Gammeltoft-Hansen 2006:1). Boswell also discusses another phenomena of the externalization, namely the redefinition of migration as a threat: “political parties found migration a useful way of channeling these often nebulous fears, and defining concrete measures through which they could be addressed” (ibid:624). Boswell concludes, that the preventative approach opens up for mutually beneficial forms of cooperation in contrast to externalization approaches. Externalization approaches tend to shift the burden of control on to migrant-sending countries and transit countries, countries that do not have the equipment to deal with these problems (ibid:636).

Gammeltoft-Hansen’s theoretical perspective is framed by using the concept of hard and soft power (2006:3). Hard power means using material conditionality, like sanctions, to get others to do what they otherwise would not do. Soft power, however, indicates persuasions to convince others to adopt similar interest in order to get desired outcomes (ibid:3). He describes that both hard and soft power has a role in the policy of controlling the
immigration to EU. Identifying EU’s ‘soft power’ – the attraction of specific interest – the EU is an attraction itself. Considering the negotiations of membership in the Union, countries from Eastern Europe have adopted the otherwise tedious Schengen border control requirements (ibid:4).

A part of the Tampere Summit was to act more communally and the readmission agreements were delegated to be signed by the EU and not by each Member State (Gammeltoft-Hansen 2006:1). The readmission agreements is an establishment that works to facilitate the return of asylum seekers that have been denied asylum and facilitate the return of irregular immigrants back to third countries (Haddad 2008:196). Gammeltoft-Hansen argues that the readmission agreements might be one reason for the increased silence of the migration policy within the foreign policy agenda (2006:4). When negotiating readmission agreements with third countries, a united EU is more likely to gain more weight than single member states acting alone, and this is a power that the EU willingly considers (ibid). Rosemary Byrne, Gregor Noll and Jens Vedsted-Hansen argues that one problem with the readmission agreements is that Western European governments are overlooking the unique protection requirements of a asylum seekers. They also state that the agreements not only fail to guarantee that a returned asylum seeker will have access to asylum procedures in the readmitting country, but they do not even require that the readmitting country are notified that a third country national is an asylum seeker and that their claim has not been examined on its merits (Byrne et al 2002:21). Boswell explains that when signing the agreements, the third countries are motivated to improve their asylum system and their migration border control to EU standards (2003:624).

Hence, by using the concept of hard and soft power one can see EU’s hegemonic position towards third countries. Through a combination of economic initiatives and the threat of sanctions, the EU can structure third country migration priorities through the readmission agreements. Third countries are hardly in a position with no other options than to welcome the initiatives of improved migration management and asylum systems from the EU, to not land in a situation of being branded as ‘non-cooperative’ state in addition to the economic and diplomatic costs (Gammeltoft-Hansen 2006:11).

Most of the scholars examining the external dimension of the EU asylum and migration policy agree about the problems with the different tools that the EU has set out to tackle the flow of asylum seekers and refugees. Many scholars also refer to the externalization of migration control as a way from the EU to shift the burden of asylum seekers and refugees
on to other states. Some scholars, Lavenex and Ucarer (2002), and Gammeltoft-Hansen (2006), notes that the convergence of policies in one group have implications to other parts and how the third countries are enforced to adopt policies even though they do not have tools or equipment to deal with these issues. The underlying dilemma here is that of the conflict between the states right of sovereignty and the principle of the right to seek asylum. This will be further discussed below.

2.2 The right to seek asylum

The right to seek asylum was proclaimed in December 2000 by the European Parliament, the Council and the Commission on a meeting of the European Council. The principle is recognized by the Charter of Fundamental Rights of the European Union (Gil-Bazo 2008:33).

Scholars that discuss the principle of the right to seek asylum have different opinions whether migrants and refugees have a right to seek asylum in whatever country they prefer, and that the receiving country has a duty to accept the asylum application. Guy S. Goodwin-Gill has illustrated this blurry tension and ascertains that there exists a “clear gap between what may be called functional responsibilities and expectations, on the one hand, and the legal obligations of States on the other hand” (1996:26). Emma Haddad argues the way one country deals with their problem of refugees will affect and have consequences for others and even influence future relations between states (2008:2). When a host country is granting a person refugee status it is not less complicated as they automatically make a statement about the country of origin which can have political or economical consequences between states. Refugees, however, represent a reminder of failings in modern international society (ibid:3).

Gregor Noll examines how the access to extraterritorial protection is regulated in the European Union, and inquires if the EU acquis Communautaire is in conformity with international law. Both Gregor Noll and Jari Pirjola elaborate the concepts of universalism versus particularism. On the one hand, there are the universal rights of protection seekers, and on the other hand there also exist the particular rights of the states. The universal human rights are inconsistent with the particular security dimensions (Noll 2000:75, Pirjola 2009:353). Pirjola states, “it is asked whether Europe should stick to the (universal) ‘sanctity of non-refoulement’ or prioritize the (particular) ‘struggle against terrorism’” (ibid.). He further argues that “human rights language should not be used as a fixed institutional and instrumental tool for advancing particular migration-related concerns and interests of the EU
member governments while ignoring the voices of those who are excluded” (ibid.). Christina Boswell also expresses worries in the argument. When expressing migration as a ‘threat’ it will climb on the international agenda. However, securitizing migration might not help the excluded (2003:624).

Furthermore, Pirjola illustrates that there are arguments in the field of asylum that the EU prioritizes to protect the European borders instead of protecting the refugees due to the increased border security, additional readmission agreements and increased mass deportations. In accordance with the Tampere Summit in 1999, the EU has broken its promise on refugee protection and has ignored the right to seek asylum (2009:351f). The different legal frameworks that have been put forward in Europe have all an exclusionary effect on protection seekers. For example, the Schengen and Dublin Conventions were based on the logic of excluding refugees. The London resolutions were stated to remove asylum seekers as soon as possible from the jurisdiction of the Member States and in the Amsterdam Treaty, the EU protection responsibility were set out based on territorial ‘exceptionalism’ (described as exclusion). As with the Hague program, the asylum seekers were to be excluded beyond the common external border to the territory of a third state (ibid:354). According to Haddad, the refugee status gives attention to the clash between pluralism and solidarism, communitarism and cosmopolitanism, sovereign rights and human rights (2008:3).

Pirjola further explains that there does not exist any exact content of what international protection is (2009:356). From a universalistic approach, Gregor Noll argues that the global community has to secure a minimum level of protection where a local community such as the nation state fails to do so, since each individual is part of a global community (2000:75). Further recognized and observed by Maria-Teresa Gil-Bazo, the 2000 Charter of Fundamental Rights of the European Union is bringing Europe to recognize not only the right to seek asylum, but also the right to be granted asylum (Gil-Bazo 2008:34). Gil-Bazo argues that “the right to be granted asylum has become a subjective right of individuals under the Union’s law”. She puts attention to issues, such as “Is it a right to seek (and eventually enjoy) asylum, as enshrined in the Universal Declaration of Human Rights? Or does it go beyond that to guarantee a right to be granted asylum in line with other regional human rights instruments?” (Gil-Bazo 2008:45f).

The authors that discuss both the external dimension of EU asylum and migration and the principle of the right to seek asylum explores the balance between state sovereignty and the universal human rights. Some scholars note the problem of readmission agreements and
argue that there might not be any guarantees for the EU to control the asylum system and asylum process in third countries of cooperation. However, there is a lack of further elaboration of this track. In this manner, I found the importance of studying the readmission agreements from a human rights perspective and look at to what extent and how are human rights embedded in the readmission agreements.
3. Theoretical framework

3.1 Migration and Control

Migration in Europe is not a new phenomenon. It existed before the nineteenth century in various forms. There are various reasons why people migrate out of, to and within their home states. It could be political, religious, economic (as in the case of the migration of highly qualified or seasonal farm labourers, and trades people) and cultural or educational (e.g. students). It was rather the change of quantities of intra-European and intercontinental migration, and the average distance of migrants that changed the migration with the industrialization of the eighteenth and nineteenth centuries (Fassmann & Lane 2009:1). Today, the United Nation Population Division expects the international migration of the world to reach 214 million (UN Population Division 2008:1).

Migration is a result of economic and social development. But it also causes social transformations in migrant-sending and receiving countries. Today, it is very common to migrate in search of security and a better livelihood (Castles 2000:269). Migration is often a challenge for cultural traditions, national identity and political institutions. Often, it also contributes to a decline in the autonomy of the nation-state. This is a result per se of the fact that migration contributes to the erosion of traditional boundaries, between languages, cultures, ethnic groups and nation-states (ibid).

Even though people have different purposes for resorting to migration, states have categorized the international migrants as a way to improve control mechanisms. The categories include: temporary labour migrants, highly skilled and business migrants, irregular migrants, refugees, asylum-seekers, forced migration, family members, and return migrants (Castles 2000:270f). Some of the named categories will be further explained and elaborated in the subsequent sub-chapters.

A crucial aspect of nation-states sovereignty is border control. Emigration countries (also called sending-countries) have a hard time to control migration flows because they lack effective systems for monitoring international migration (Castles 2000:277f). However,
immigration countries (so-called receiving countries) have a hard time preventing unwanted migratory flows. For example, the Schengen Agreement and the implementation of border controls in the USA are examples of attempts to reduce irregular movements. However, migration persists whether there are efforts to control it or to stop it (Castles 2000:278f, Fassmann & Lane 2009:2). The conventional wisdom that less marginalization and exploitation coupled with reduced poverty and human insecurity will decrease the migration is not true. But migration can rather take place under very different circumstances (Castles 2010:1568).

The view of migration as a problem and something that needs to be 'fixed' (using Castles’ words) comes firmly from dominant political discourses that want to solve it by appropriate policies. There are two variants of controlling the migration. One is of the repressive sort and focus on tight border control. The other is of the liberal approach and addresses the ‘root causes’ of migration. The ‘root cause’ approach attempts to address the causes (especially poverty and violence) in the countries of origin (Castles 2010:1567).

Immigration flows might have an impact on national security and national identity, on the ethnic and religious structures of the people and on political stability in receiving countries. This makes many governments, like those in Western Europe, fear an increase of the migration-pressure (Brochmann 1999:2). It was in the 1970s that the European governments started to influence their external policy with migration and asylum goals, and limit and manage the flow of immigrants and refugees into their territory (Boswell 2003:619). Three main purposes: (1) immigration from the east with the fall of the Soviet Union and the creation of new states; (2) the immigration from the south with civil wars in the Middle East and in Africa; (3) conflicts in former Yugoslavia, created an alarming wakeup in Western European countries (ibid). Brochmann argues that there has been an escalation of the number of asylum seekers (1999:2). Emma Haddad explains this as being the result, among others, of the merging of refugees and labour migrants. When the numbers of refugees increased during the 1970s in developing countries, the demand in labour market decreased, and instead states started to introduce restrictions for refugees in resettlement programs. However, this also resulted in that blurring of the distinction between labour migrants and refugees such that all of them had to take the same road, as asylum-seekers (Haddad 2008:168). Asylum-seekers is defined as people who move across borders in search of protection, but who do not fulfil the requirements that were laid down in the 1951 UN Refugee Convention. There exist difficulties to distinguish between people who flee from persecution and people who leave their country based on the destruction of the economic and social infrastructure needed for
survival (Castles 2000:271). In light of the EU restriction, the numbers of irregular migrants have consequently increased, and hence resulted in more dangerous routes for the migrants to enter Europe (Boswell 2003:619).

3.2 Criminalization of Migration in Europe

Since the mid-1980s, immigration has been highly politicized through the matter of asylum, or more specifically, from the confusion regarding the distinction between immigration and asylum. And as a cause of the alternative road for economic migrants in the EU, asylum has also become increasingly politicized (Boswell 2003:621, Huysmans 2000:755). After 9/11, the non-citizens in Western countries were viewed as risky (treated as if they were terrorist suspects) because asylum and economic migration were seen as possible routes into the West for foreign terrorists. The presence of a terrorist inside the state represents the most extreme threat and inherent danger that is posed by migration policy that is not strictly regulated (Bosworth and Guild 2008:708).

The criminalization of migration in Europe is especially built upon a created and imagined fear of the unknown and undocumented as dangerous. The concern of being homogenized through assimilation, integration and citizenship is hidden behind the argument that we are socially and culturally different (Bosworth & Guild 2008:704). The criminalization of migration in Europe addresses irregular migrants and the act of irregular entry. Irregular migrants, also known as undocumented or illegal migrants, are defined as people who enter a country in search for employment without any required document or permits. The term can also address people that overstay the period of validity of their visa or those whose work permits breach immigration laws (Castles 2000:270, Cholewinski 2005:8).

Cholewinski points out that the act of defining a person as ‘illegal’ can be regarded as denying their humanity. It can be quickly forgotten that such migrants are human beings and also have the right to recognition everywhere before the law and who, despite their illegal or irregular status, are bearers of fundamental rights (2005:9). The use and choice of language is very important to the image that the authorities present to their population and the world. For example, the use of ‘illegal’ is not very welcomed by international organizations, the Council of Europe, and non-governmental organizations. The concept of illegal immigration gives a negative perception and has an effect of rendering suspiciousness of the population and the movement of persons across international borders (Guild 2009:9).
The debates in the problematization of migration in the 1980s presented migration as a challenge to the welfare state and the cultural compositions of the nation. The discussions also circulated around protection of public order and the maintenance of domestic stability. Security discourses became, in this manner, a part of the Europeanization of migration policy (Huysmans 2000:756). The received sense is that migration has been securitized. Ole Weaver (1995) developed the concept of securitization, which reviews how a certain issue can become of substantially security function. Like migration, it is said that the politics have turned the issue of migration into a security problem by mobilizing specific institutions and expectations and thereby helping to legitimize practices and technologies in migration control that were originally used for emergencies (Huysmans 2000:757). However, there are separated comprehensions whether this is the case or not. In contrast to Jef Huysmans (2000), Christina Boswell argues that the European migration have not been affected by the anti-terrorism agenda in that range as pronounced. The case of the US border control has clearly been securitized. Notwithstanding, the migration in Europe has not been affected by the anti-terrorism agenda. Boswell argues that there are little evidence that the migration in Europe should have been securitized through linking irregular migration and new entrants to terrorism (Boswell 2007:590). However, it can be noticed that the level of policy practice has a different dynamics. According to Boswell, it is migration control practices that has been used by law enforcement agencies at national and EU-level to support counter-terrorism activities, rather than the other way around (Boswell 2007:590). No matter how, this study will not be a research on whether migration has been securitized or not. What is important here is the observation that migration has become a part of the security agenda and highly problematized by politics, and whether that is through securitization or not will not be further discussed here.

3.3 Extra-territorialization and Externalization

Refugees are a modern problem, which has made it an issue beyond the capacity of any government to effectively deal with. Furthermore, the way one country decides to manage and control its immigration will affect and have consequences for others and even influence future relations between states (Haddad 2008:2). While the home government is expected to protect and safeguard those under its jurisdiction it sometimes fails in that role. This results in people finding alternative sources for protection by claiming the status of being a refugee (Haddad 2008:3). But when a host country grants a person such refugee status it complicates relations between the host and home governments as the former automatically makes a statement about
the country of origin, which can have political or economical consequences between the states involved. Refugees also represent a reminder of failings in modern international society (Haddad 2008:3). A refugee belongs to a state, and when she moves out of that jurisdiction for whatever purposes, the person becomes an international individual and protected under international law (Haddad 2008:3).

In the 1999 Tampere Summit, the member states of the EU came to a consensus with regard to the necessity of a common approach to issues such as immigration, border control and asylum. The Tampere Conclusion became a standpoint for cooperation between the EU member states. The 1999 Amsterdam Treaty declared that EU would be a single protection area for refugees, based on the Geneva Convention on Refugees and on the common humanitarian values shared by all member states (Pirjola 2009:348). It was also decided to extend the internal policy focus to third countries domestic policies through introducing new modes of cooperation in EU’s external policy on asylum and migration. Through this extra-territorialization of migration, the EU seek to remove potential security ‘threats’ through ‘cooperation’ with third countries, and push other European states to adopt similar policies (Chou 2009:542, Lavenex 1998:126).

As mentioned earlier, there are two ways of controlling the migration: the repressive approach (an externalization approach) and the more liberal preventative approach (Boswell 2003:620). The preventative approach takes on what influences the root cause of migration. The purpose of this approach is to have an impact on the factors forcing or encouraging refugees and migrants to travel to the EU (Boswell 2003:624). It has a long-term focus when concentrating on economic and human rights instrument (Gammeltoft-Hansen 2006:1). The preventative approach should be seen to enrich the traditional control policy. It was sometimes seen as a rhetorical framework, when legitimizing reinforced border control by long-term preventative measures in the countries of origin (Brochmann & Hammar 1999:305). Regional protection is an instrument applied in this approach. It aims to support the refugee protection in either the country of origin, or in the region of origin. For this reason, the refugees and migrants do not have to seek asylum in Europe (Boswell 2003:624). The external dimension of EU asylum and migration policy has been dominated by the externalization approach, ahead of the more liberal and comprehensive approach (Chou 2009:543).

The enlargement of EU includes the extension of EU asylum and migration policy to the eastern, central and southern parts of Europe. By the cooperation with neighbouring
countries EU can particularly safeguard their own borders and trigger the non-EU countries to the adoption of stricter asylum policies. Some of these neighbouring countries are in the stage of deciding or already have decided to apply for membership with the Union. Hence, requirements of stricter asylum systems and migration policies are put forward in negotiation with states applying for membership. Moving the responsibility of migration control to other states is a part of the externalization approach (Lavenex & Schimmelfennig 2009:791f).

Externalization is a process in which states push their borders further away and shift the protection responsibility on to other states. The term externalities is used in many contexts, but originally developed in economics (Lavenex and Ucarer 2002:8). The change of immigration policies in one country has implications for immigration policies in other countries. A more restrictive immigration policy in one country may lead to an increase in the numbers of migrants seeking entry in other countries. There might be both positive and negative externalities. In cases of negative externalities with increased migration into one’s territory, actors may be forced to adapt to the new policies (Lavenex and Ucarer 2002:209).

The externalization of migration control can be structured into two components. The first component is referred to as the transfer of classical migration control instruments to migrant-sending countries or transit countries outside the EU. The primary instruments that are used are, border control, measures to combat irregular migration, smuggling and trafficking, and capacity-building of asylum systems and management of migration in transit countries (Boswell 2003:622). The second component is referred to as the facilitation of the return of asylum seekers and irregular migrants to third countries. The main instrument used to return migrants are the readmission agreements. Third countries sign agreements to readmit persons that have passed their territory on the way to EU member states (ibid). Another implement is the concept of ‘safe third country’ where EU can return asylum seekers to their countries of origin or other countries that they have passed through and which are considered to be ‘safe’ (ibid.). As mentioned above, externalization approaches tend to shift the burden of control to migrant-sending countries and transit countries, countries that do not have the equipment and the capacity to deal with these problems (ibid:636).

3.4 The Readmission Agreements
Readmission agreements have been used for a long time as a mean of combating irregular immigration. Such agreements may be bilateral, intergovernmental, or at EU level (Cassarino
2010:12). They facilitate the return of asylum seekers that have been denied asylum and of irregular immigrants back to third countries (Haddad 2008:196). The aim of the agreements is built upon the policy of extending the redistribution system for the trial of asylum claims to non-EU countries, and hence transfer the responsibility to other non-member states (Trauner & Kruse 2008:16). As stated earlier, European member states enter into readmission agreements with other states. By means of the Amsterdam Treaty 1997, the competences for readmission were transferred to the EU. The European Commission thus negotiates readmission agreements with non-EU states on the member states behalf (Trauner & Kruse 2008:17). Until today, the European Community has signed 12 readmission agreements (see Appendix 1). When signing these Community readmission agreements, the member states agrees to return third country nationals, and not only citizens of contracting states. International law however, does not express any obligation to readmit third country nationals. But advocates of readmission of third nationals refer to the principle of neighbourliness and responsibility, in which it argues that as good neighbours, states bear the responsibility for processing aliens who have transited through their territory on their way to a neighbouring state (Trauner & Kruse 2008:16). In order to integrate the obligation into customary international law, there is a need of consistent state practice. EU is seeking to transform the obligation into international law by implement precise description of material and procedural demands on transit countries into readmission agreements (ibid.).

The readmission agreements are written in a reciprocal manner. This means that the contracting states must be poised to readmit third country nationals on the same terms as they would their own nationals. However, the reciprocity of the readmission agreements between the EU and other non-EU states tend to be only theoretical since those other countries that the EU find interesting to enter into agreements with do not have problems that would involve expulsion to the EU (Trauner & Kruse 2008:16). Hence, for this reason the readmission agreements are not of mutual benefits for the states involved. The agreements consist of one country with a lot of troubles of immigration and another country with less troubles of immigration (Trauner & Kruse 2008:16).

There are three actors involved in a readmission:

1. the state that requests readmission,

2. the state that is requested to readmit,
3. the person to be readmitted (either an illegal migrant or a rejected asylum seeker) (Kruse 2006:119).

These actors have very different interests. The first actor might have an interest of rejecting migrants in to protect the integrity of the asylum system or the migration control system. The second actor may have economic, demographic or even social interests in not readmitting it’s own citizens and third country nationals. The second actor might show a negative attitude in form of denying that the individual actually possesses their nationality, not issuing the necessary documents or objecting to the modalities of return (Kruse 2006:119). The problematic situation that occurs for the individual is to confront the choice of staying illegal or returning. If the individual is unwilling to return, the returning state might implement forced removal (ibid.).
4. Methodological Considerations

In this chapter, I attempt to present the qualitative research method used for this study. In order to analyze the readmission agreements from a human rights perspective, I will use the method of case study and text analysis. A qualitative research method’s tended goal is to seek a deeper understanding of a phenomenon that is related to the human beings everyday life. This study tends to explore how and to what extent the EU readmission agreements respect human rights. In this regard, I will begin by presenting a short definition of human rights.

The United Nations General Assembly proclaimed the Universal Declaration of Human Rights (henceforth UDHR) in 1948 after the Second World War. In the preamble the UDHR recognizes that the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Barbarous acts, as a result of contempt of human rights, have shaped the conception of a world where human beings shall enjoy freedom of expression, freedom of religious belief and freedom from fear and suffering. It is also stated that the human being should be treated with dignity and worth, men and women shall have equal rights and the UN shall promote social progress and improved standard in living condition in larger freedom (UDHR preamble). Furthermore, the UDHR is a common standard that all human beings, public institutions and nations shall pursue through education and nurturing to promote the respect of these rights and freedoms. Through national and international measures, the universalism and effective recognition shall be ensured and applied among people of Member States and among people of territories under their jurisdiction (UDHR preamble).

The first article of UDHR recognizes that, “All human beings are born free and equal in dignity and rights” (UDHR Article 1). This article is, for some people, a given, while others find it harder to relate to the concept. An important knowledge in human rights considerations is that different people see human rights in different ways. To some, human rights are a moral thought that everyone should be treated with respect for their equality in dignity and worth. To others, human rights mean the protection of interests of terrorists, criminals and other undesirable elements at the expense of the security of the population (Clapham 2007:2).
Article 2 of UDHR acknowledges that “[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdiction or international status of the country or territory to which a person belong, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty” (UDHR Article 2). Article 5 of UDHR states that “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” (UDHR Article 5).

I chose a qualitative research method and consequently deselected the quantitative research method, because I found myself not in need of mapping or calculations for this study. In a qualitative research, as mentioned above, the tended goal is to seek a deeper understanding of a phenomena or a problem related to the everyday life of human beings (Johansson and Tufte 2002:21). In the search for a deeper understanding, I discuss the externalization of EU asylum and migration policy and analyze the readmission agreements with a special regard to human rights. In order to answer the question posed in the introduction chapter, this study is based on a case study and qualitative research which is primarily based on text analysis.

From earlier research, I found a link between the ‘external dimension’ of the EU asylum and migration policy and the principle of the right to seek asylum and protection of refugees (see chapter 3). The main instrument utilized in the EU externalization policy is the readmission agreements. However, the readmission agreements have not been problematized by many scholars. Hence, instead of proceeding from a hypothesis, this research uses inductive reasoning. Mostly recent research on the readmission agreements appears in reports from non-governmental organizations, such as Amnesty International and Human Rights Watch. However, in order to understand how the EU can ensure that human rights are not violated in the countries with which they have agreements on readmission, it is necessary to also look at the material that constitutes the basis for the decision to enter into readmission agreements.

The methodological approach is a duplex framework that consists of:

1. theories drawn from literature of migration control, criminalization of migration, extra-territorialization and externalization; and

2. a qualitative analysis on the measure of human rights discussions in the readmission agreements and the material that constitute the basis for the decision to enter into readmission agreements.
As noted by Chambliss and Schutt, it is important to be critical and selective in the collection of material in textual analysis. To get a good comprehensive understanding of the research area and of the reached discussions, it is of good knowledge to look at sources with a historical perspective and perhaps classical works. But it is also important to search for and analyze the latest and current publications (Chambliss and Schutt 2006:260). The materials that I have used for this study included documents in various forms, e.g. declarations, conventions and policy paper from the EU. I define these documents to be primary sources in my case because they include statements made by the institutions or agents themselves and, hence they are not *mediated translations*. However, to get a wider perspective, I also used secondary sources, such as literature and academic articles from various scholars and reports by non-governmental organizations. The academic studies that are used for this study is mainly discussed in the chapter of *Previous Research* (see chapter 3).

For this thesis I have chosen to look at the readmission agreements between EU and Ukraine and EU and Pakistan. The reason for choosing these two agreements is partly because one of them (EU-Ukraine agreement) entered into force in January 2008, while the other (EU-Pakistan agreement) was signed recently (December 2010). Ukraine and Pakistan is also differently located and have different relations to the EU.

### 4.1 Validity and Reliability

Massive quantities of texts are produced all around the world. And the reason why people are producing texts is because they want to communicate something to others. However, when the texts are read and referred to, there will be consequences of what people think and how they act. Hence, it is important that the research that is being conducted is valid and reliable in order to allow others to critically examine the reached results (Bergström & Boréus 2005:13).

The validity of this study has been considered. However, the validity of a study can be considered differently depending on what method and theoretical framework are used. For example, in this study I have chosen a content analysis when looking at the readmission agreements within a theoretical framework of externalization of EU asylum and migration policy. However, using an ideology-based analysis and a theoretical framework of, e.g. normative power, the validity may not be considered durable. Göran Bergström and Kristina Boréus argues that validity may always be re-argued, however what is equally important is to
actually regard the researcher itself with his social and historical prejudice (Bergström & Borèus 2005:35).

The consideration of reliability is also of importance. In this study the question of reliability has been considered in the aspects of interpretation, and in the process of assessing sources and eliminating sources of error. For example, I have chosen to use primary sources which are the policy documents as far as possible. But, I have also used secondary literature to. However, in these cases I have been very critical and evaluated them by taking into account the authors background and social and historical prejudices. More about the choice of sources are presented in the chapter Material, where an evaluation of the texts and authors also can be found.
5. Results

In this chapter the result from this study will be presented and then further elaborated and discussed in chapter six, *analytical discussion*. This chapter is separated into two sections where the findings of human rights discussions in both of the agreements will be presented. Firstly, findings of human rights discussions in the readmission agreements will be enunciated. Secondly, discussion of human rights in the material that constitute the basis of the readmission agreements will be pronounce.

The readmission agreement is a further strengthening of the bilateral relation between EU and Ukraine. In January 2008, Ukraine entered into an agreement with the European Community. The negotiations started in 2002, but Ukraine was generally unwilling to negotiate, and the easing of visa requirements of their own nationals travelling to the EU was its only concern. Ukraine is a source for irregular migrants to the EU, but mostly a transit country and therefore they were more concerned about the fact that their territory would be a dumping ground of irregular migrants from Europe, especially stateless persons and other individuals that could not be sent back to their country of origin (HRW 2010:23). Ukraine was also concerned that, due to EU’s strict border control and Russia’s poor border control, Ukraine would be a country were migrants will ultimately end up. Ukraine and Russia entered into an agreement in 2006 (Pribytkova & Gromovs 2007:8). In article 20(4) it is stated that the readmission agreement is concluded for an unlimited period (Argeement p30).

The negotiations of a readmission agreement between EU and Pakistan have occurred during nine years. Discussions of entering into a readmission agreement with Pakistan followed earlier Action Plans and Agreements by the EU. In 2009 the readmission agreement was signed and adopted, however the agreement entered into force only in December 2010. One significant concern that bears on human rights is that Pakistan has not signed the 1951 Geneva Convention. Pakistan is both a country where Pakistanis migrate out of the country and a country where migrants transit through to reach other countries (e.g. West- and South
Europe and United Arab Emirates). A great concern regarding the migration in the region where Pakistan is located is human smuggling and human trafficking which are defined as acts of irregular migration.

5.1 Background material for concluded readmission agreement with Pakistan

When EU signed an agreement with Pakistan regarding readmission of migrants there have been various papers outlined as a basis for the decision to enter into a readmission agreement. These papers are: Country Strategy Paper (hereafter CSP 2002-2006) that were effective between 2002-2006 and Country Strategy Paper for the period between 2007-2013 (hereafter CSP 2007-2013). The EU and Pakistan have also concluded a Cooperation Agreement in 2004. In the two Country Strategy Papers, the European Community (EC) have given attention to different areas such as economical, political, human rights, governance and development that need special attention and which the European Community is willing to offer support and cooperation. In the CSP 2002-2006, it emerges that Pakistan has ratified three human rights instrument: International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in September 1966, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in March 1996, and the Convention on the Rights of the Child (CRC) in November 1990 (CSP 2002-2006 p. 10). At the time when the CSP 2002-2006 was written, Pakistan had not yet ratified either the UN International Covenant on Economic, Social and Cultural Rights (ICESCR) or Civic and Political Rights (ICCPR). However, today Pakistan has ratified both ICESCR in April 2008 and ICCPR in June 2010. They have also ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in June 2010.

In the CSP 2002-2006, it can be observed that basic political rights are under restraints. There exist discrimination against religious minorities, there is lack of respect for the rule of law, and the use of torture, lack of fair trials and arbitrary detention remains. Death penalty is still practiced in the country and child labour and bonded labour remains high (CSP 2002-2006 p. 10).

The instability in Pakistan has partly to do with the violent region where Pakistan is located. The neighbouring country, Afghanistan is countered of instability and the high tension with India puts Pakistan to further develop the conflict prevention in the country. The
EU Community also brings up the rising problem of irregular migration and trafficking in human beings in the CSP 2002-2006. It is noted that a readmission agreement is of interest with third countries from the Community’s part, however they point out that it can only be concluded if it is appropriate (CSP 2002-2006 p.30-31). According to the CSP 2002-2006, Pakistan has been a temporary place for thousands of refugees from Afghanistan. Pakistan was for several years exhausted towards asylum and closed its borders for new arrivals. The EU Community have set out plans to economically support Pakistan within this field (ibid p. 31).

In the recent Country Strategy Paper of 2007-2013 the Community emphasizes their worries of migratory flows out of Pakistan and irregular migration: “[m]igratory flows out of Pakistan principally head westwards. The Pakistan authorities have been stepping up their capacity to prevent and fight illegal migration, especially through improving their ability to detect forged or fraudulent travel documents and to collect information on smugglers’ networks. A readmission agreement with Pakistan is under negotiation” (CSP 2007-2013 p. 10). As noted, a readmission agreement was under negotiations. During the time of the negotiations of the readmission agreement and in the context of EU migration policies, the Commission was willingly to give focused economical support within that field (CSP 2007-2013 p. 25).

5.2 Background material for concluded readmission agreement with Ukraine

In 1994 a Partnership and Cooperation Agreement (PCA) was concluded with Ukraine and entered into force in 1998. This agreement is the legal basis of the relationship between EU and Ukraine and the EU is the largest economic donor to Ukraine (European Council 2005:28). Ukraine has not ratified the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees. They have ratified the core UN Human Rights Conventions and both the Convention and the European Convention of Protection from Torture, Ill-treatment and Disappearance (United Nations 2011-07-20).

In 2004, the European Commission noted in the European Neighbourhood Policy (ENP) Country Report (SEC(2004) 566) that there exists discrimination of minorities: “…immigrants of legal or irregular status, asylum-seekers and refugees are reportedly faced by racism, direct and indirect discrimination, intolerance and disadvantage” (European
Commission 2004:8f). It also appears in the report that torture and other ill-treatment have been noted by the National Human Rights Ombudsperson in 2002, principally in situations of interrogations where the individuals are pressed for a forced confession (European Commission 2004:9). Furthermore, they state that the EU and Ukraine co-operation were at that time devoting increasing attention to regional and national security threats and jointly address these threats. This also includes the fight against terrorism (European Commission 2004:10).

Already in the 2001 EU Action Plan on Justice and Home Affairs with Ukraine, the main priorities were co-operation for readmission and migration, border management, the fight against money laundering and trafficking in human beings (European Commission 2004:10). Ukraine had adopted different programmes and action plans in 2001 and 2004, such as the Action Plan for Integration of Refugees of 2004 and the Programme for Combating Illegal Migration 2001-2004 (European Commission 2004:11).

Before signing the readmission agreement with Ukraine, the European Commission had set out Action Plans and Cooperation Agreements. This material is the basis for the concluded readmission agreement. The European Neighbourhood Policy that has been concluded has opened up for new partnership, economic integration and cooperation perspectives (European Commission 2005:2). In the Action Plan, different priorities are set out and one of these priorities concerns the Visa facilitations and, at that time, the ongoing negotiations for a readmission agreement. Another priority concerns the discrimination of migrant workers on grounds of nationality (European Commission 2005:4).

In the Association Agenda that entered into force in November 2009, specific areas are brought up as issues that need special attention and are priorities for a forthcoming Association Agreement (European Commission 2009:2). The Association Agenda replaces the earlier Action Plan that was set out in 2005. The areas that were brought up as priority issues were, *inter alia*, implementation of international human rights instruments, strengthening the judiciary and court system, ensure the respect for the rights of persons that belongs to minorities, combat torture and inhuman and degrading treatment, ensure equal treatment, ensure respect for children’s rights (European Commission 2009:7f). Other areas that are brought up as priority areas cover migration management and the fight of irregular migration, smuggling and trafficking in human beings. They also seek practical implementation of the 1951 Geneva Convention relating to the status of refugees and its 1967 Protocol and the principle of the right to seek asylum and the respect of the principle of “non-refoulment” (European Commission 2009:13f). Another important area is the full
implementation of visa facilitations and readmission agreement. In the Association Agenda, the visa dialogue is seen as a priority because of an agreement in Paris between EU and Ukraine in 2008. Concluded at the Paris Summit was the quest for a long-term perspective of establishing a visa-free regime between EU and Ukraine. Hence, the visa dialogue is important for developing relevant conditions with special attention to issues such as document security, irregular migration including readmission, public order and security, and external relations (European Commission 2009:14).

5.3 Human rights discussions in the EU-Pakistan Agreement

The case of Pakistan is a bit different from that of Ukraine. While Ukraine is most affected by migrants in transit, Pakistan is rather a migrant-sending country, which means that people are mainly migrating out of Pakistan.

In the readmission agreement it is emphasized that “the agreement shall be without prejudice to the rights, obligations and responsibilities of the Member States of the European Union and Pakistan under International Law” (European Commission 2009:4). As stated in article 5 (2:a), the readmission application shall contain a notification that the person to be readmitted may need help or care. It shall also include a statement of other necessary protection or security measures (ibid 2009:11).

If there does not exist any document for the identification of the migrant, the requested state shall arrange an interview with the person (ibid 2009:12). According to article 11 (2), the requested state have a possibility to revoke the acquiescence if the journey is no longer assured in possible states of transit or the readmission by the state of destination (ibid 2009:17).

In article 15 (1), matters of consistency of legal obligations emerges. The Community, the EU member states and Pakistan shall be without prejudice to the rights, obligations and responsibilities arising from and under International Law, and International Treaties to which they are Parties (ibid 2009:23).

A Joint Readmission Committee shall monitor the application of the agreement, decide on technical provisions that are necessary for its uniform and prepare amendments to the agreement (ibid 2009:24).
5.4 Human rights discussions in the EU-Ukraine Agreement

Stated in the readmission agreement, ”Ukraine and the Member States of the European Union should make the best efforts to send third-country nationals and stateless persons who illegally entered their respective territories, back to the States of origin or permanent residence” (European Community 2007:4).

Also noted in the agreements is that the both parts of the agreement have to observe the human rights and freedoms and be without prejudice to the rights and obligation of the Community. Conventions and declarations that is referred to are: Universal Declaration of Human Rights of 1948, European Convention of 1950 for the Protection of Human Rights and Fundamental Freedoms, both the Convention of 1951 and the Protocol of 1967 on the Status of Refugees, the international Covenant on Civil and Political Rights of 1966 and international instruments of extradition (ibid 2007:4). Furthermore, the readmission application should include information about the person to be transferred health status if the person is in need of any help or care. Other protection or security measure that might be necessary in the individual transfer case shall be stated in the application (ibid 2007:12).

If there does not exist any documents of the person’s nationality, the requested state shall interview the person to be readmitted in order to establish the person’s nationality (ibis 2007:14).

A transit can be refused from the requested state if the third-country national or the stateless person runs the risk of being subject to torture, inhuman or degrading treatment, punishment, death penalty, persecution because of race, religion, nationality, membership of a particular social group or political conviction in the state of destination (ibid 2007:19).

Article 14 (1) in the agreement, refers to that the agreement should be without prejudice to the rights, obligations and responsibility of the Community, the member states and Ukraine arising from International Law. They shall also be without prejudice to rights, obligations and responsibilities arising from any applicable International Convention or agreement (ibid 2007:24).

In article 15, it appears that there is a Joint Readmission Committee that is designated to monitor the application of the agreement and prepare proposals and make recommendations for amendments to the agreement (ibid 2007:25).
6. Analytical Discussion

In the previous chapter the results of the main findings in the readmission agreements and in the material that constitute the basis to enter into readmission agreements with Ukraine and Pakistan were presented. Among others, it appears that the EU recognized the lack of human rights institutions in both Ukraine and Pakistan. The result presented in the previous chapter will now be further and more deeply discussed. This chapter is structured into three sub-chapters where I will discuss the criminalization of migration and human rights, externalization and human rights, and the differences between the EU-Ukraine agreement and the EU-Pakistan agreement.

6.1 Criminalization of migration and human rights

The European Council states in the European Pact on Immigration and Asylum, that the EU cannot help all migrants who seek a better life outside their countries of origin (European Council 2008:3). However, something the EU can do is to change their view and attitude towards migrants and refugees. One problem concerning the readmission agreements is EU’s attitude towards migration and especially irregular migration. An example of EU’s poor framing of migration can be found in the readmission agreements. Throughout the two readmission agreements with Ukraine and Pakistan the word “illegal” migrant is frequently used by the European Commission. Even in the materials that constitute the basis for the decision to enter into readmission agreements “illegal” migration is repeatedly used. According to the EU, individuals that either overstay their visas or enter a territory without documents are “illegal”. According to the EU, irregular migrants commit a crime against the state by not respecting the state sovereignty and violate national legislation on border crossing. The EU has introduced criminal sanctions against irregular acts, such as fines, imprisonment and expulsion (Hammarberg speech 2011). However, using the word “illegal” might be a problem concerning the picture of migrants. As argued by Cholewinski, the use of the word “illegal” might create a picture of framing migrants as illegal persons, which
disregard the fact that migrants are human beings and bearers of fundamental human rights (Cholewinski 2005:9, Guild 2009:9).

Another problem with EU’s attitude towards migration is that the EU speaks of migration as a security threat and that migration could be a security threat if it is not managed. Theoretically, migration could be a “threat” against the economy by making the levels of unemployment increase. Migration could also be a “threat” against politics because the EU wants to avoid segregation, disturbances and conflicts. In this sense, it would suggest that migration always has been a problem and seen as a threat. However, as discussed at a seminar by the Commissioner for Human Rights (henceforth CHR), migration is not a historical problem. As expressed by the CHR, both sedentary and mobile people in the world “are no longer bounded by the private orbits they inhabit” (CHR 2011:7). The perception of framing migration as a threat can shape the identities of existing citizens and the character of society. Most importantly, framing migration as a threat has implications on the human rights dimensions of migration (ibid). Some countries have found it essential to limit social rights for irregular migrants in order to tighten the immigration policies and make the country less attractive for asylum seekers, refugees and migrants. This may have further implications on the picture of refugees and asylum seekers. Cholewinski argues that limiting social rights for irregular migrants will rather increase the marginalisation and stigmatisation in the general populations’ framing of foreigners. Hence, such policies will certainly not contribute to the fight against racism and xenophobia (Cholewinski 2005:18).

Framing migration as a national security threat is a way to control the immigration and carry through new approaches towards immigration. However, the way EU is regulating its immigration policies today concerns the respect for human rights principles. EU transfers the responsibility of protecting refugees and asylum seekers to other countries which lack functional human rights institutions. In the background papers for entering into a readmission agreement with Ukraine, the European Commission have compiled the problems of torture and the lack of human rights institutions. Discrimination of minorities is also described as an extensive problem in Ukraine, which the European Commission brings up in the European Neighbourhood Policy Country Report (European Commission 2004:8f). The problem of torture and lack of human rights institutions have also been confirmed by Amnesty International and Human Rights Watch regarding migrants. They have observed that there have been many cases of ill-treatment and torture during interrogations with migrants. There have also been cases where migrants that have been returned from a European member state to Ukraine, have later on been sent back to their country of origin without having their claim
for asylum treated or investigated in Ukraine (so called chain refoulment) (Amnesty International 2010:2, HRW 2010:4).

The case of Ukraine is a good example of how EU hands over the responsibility of immigration to a country that cannot ensure the respect for human rights. When the EU signs readmission agreements with other countries and establish visa requirements, asylum seekers and refugees are excluded from the right to seek asylum and the right to seek protection. Thomas Hammarberg (from Commissioner for Human Rights) expresses concern about the criminalization of migration. He states that “the criminalisation of persons seeking international protection is a matter of substantial concern. Such stigmatisation violates basic principles of human rights” (Hammarberg speech Istanbul 2011). When the EU establishes readmission agreements, they can return asylum seekers, refugees and migrants to third countries and avoid the responsibility for violations of human rights for the migrant returned to countries comprised by the agreements (Hammarberg speech Istanbul 2011). Pakistan, however, has not signed the 1951 Geneva Convention which makes refugees, asylum seekers and migrants also very vulnerable if they are readmitted to Pakistan.

Framing of migration as a security “threat” may contribute to the entering into readmission agreements with other countries such as Ukraine and Pakistan. As a neighbouring country, Ukraine is dependent on economic support from the EU. When framing migration as a threat, the EU does not only bring attention within the Union, but also get other countries’ attention regarding migration control. It can also contribute to influencing other countries to implement stricter migration control and asylum and migration policies. Sandra Lavenex and Emek M. Ucarer argue that the change of immigration policies in one country may have implications for immigration policies in other countries (2002:209). For example, more restrictive immigration policies in the EU may lead to an increase in the numbers of migrants seeking entry in other countries such as Ukraine. As noted earlier, the reason why Ukraine initially rejected a readmission agreement was because they were afraid that their territory would turn out to be a dumping ground of irregular migrants from Europe. The result today has been what Ukraine was afraid of; a dumping ground of irregular migrants because Ukraine do not have the capacity to adopt such asylum and migration policies as EU requires.

All these measures of creating a picture of migrants as a threat and using words that give migrants a negative label are measures that are part of the externalization approach and are tools in the fight against migration and especially irregular migration. However, what concerns about EU’s acting is that EU migration and asylum policies are not built upon
human rights principles. They are rather built upon the expression of externalization. The indefinite references to fundamental human rights laws in the readmission agreements with Ukraine and Pakistan is solely used by the EU to be able to run their asylum and migration policies of externalization, rather than actually build the asylum and migration policies upon the principles and practices of human rights standards.

6.2 Externalization and human rights

Externalization is an approach to control and manage the migration in the EU. It can also be defined as a tool of defence mechanism since the aim is to transfer something and superimpose the responsibility to someone else. The EU has developed different tools to combat irregular migration and manage the immigration into the EU. However, as we have seen in the case of Ukraine and Pakistan the tool of readmission agreements have meant great concerns regarding the respect for human rights for asylum seekers, refugees and migrants. The consequences for asylum seekers, refugees and migrants are that they either can be subject to situations of orbit or chain refoulment. In an orbit situation, people are travelling between states without being granted entry or residence in any of them. Chain refoulment is when the third country may return the asylum seeker to the country of origin based on the assumption that the asylum seekers case or asylum claim had been rejected in the EU (UNHCR 2004:3). These situations are the main consequences that asylum seekers, refugees and migrants might face because of EU’s restrictive migration control and because of the readmission agreements. In Ukraine, Human Rights Watch has reported that asylum seekers and refugees are subjected to lengthy involuntary exiles to various countries pending the determination of their refugee status (orbit situation). Asylum seekers and refugees have also been subject to chain refoulment to the country of origin (HRW 2010:21).

Another huge problem in Ukraine is their dysfunctional asylum system. Between August 2009 and August 2010, Ukraine did not have a government body with a mandate to recognize or provide protection for refugees (HRW 2010:20f). Amnesty International has also given attention to this problem. The Refugee and Asylum Affairs Department within the State Committee for Nationalities and Religion has been restructured 10 times in the last eleven years. This has created serious gaps in the protection for refugees and asylum seekers (Amnesty International 2010:6). Due to the dysfunctional asylum system, approximately 300 asylum seekers in 2009 have been left without documents even though they have filed appeals against status determination. People risk to be taken for irregular migrants by the police and
be harassed or deported without having their asylum claim properly assessed (Amnesty International 2010:6). Upon the facts about torture, ill-treatment and discrimination in Ukraine, situations of orbit and chain refoulement might be a great threat for asylum seekers and refugees that are returned from a European country.

An interesting note is in the 2004 Country Report of Ukraine by the European Neighborhood Policy, they already noticed problems of ill-treatment and torture in the country. In the following Action Plan of 2005 and in the LIST (2009) of the EU-Ukraine Association Agenda priorities for 2010, it has always been recognized that torture and ill-treatment of individuals exist in Ukraine. Hence, in the signed readmission agreements there are no further mention of the threat on returned person to be exposed and subjected to torture and ill-treatments even though such threats exist. One reason of this suspiciousness is because, if Ukraine does not care for the human rights of its own people, it can be reasonably assumed that there is a greater risk for non-nationals to be subjected to such human rights violations by the state and especially the police. Thus, there are reasons for the criticisms that the Human Rights Watch raised against the readmission agreement, and its recommendation that the EU member states should suspend the agreement until Ukraine has the capacity to protect human rights (HRW 2010:13).

In Pakistan, the risk of orbit situations and chain refoulement is also a great concern. Since Pakistan have not signed the 1951 Geneva Convention, the respect for the refugee status is not the same as if they were to be signatories. As noted in the Country Strategy Paper 2007-2013 for Pakistan, Pakistan has already experienced great difficulties with displaced people and refugees from Afghanistan. They are also located in a very conflict-torn area (European Community 2006:7ff), which makes it very hard to guarantee a safe return for refugees and asylum seekers. According to the Amnesty International World Report of 2010, Pakistan lack respect for human rights in many cases. The situation in the country is very unstable because of the escalated armed conflict between the government and armed groups. In areas that are controlled by the Pakistani Taleban and allied groups, civilians suffer severe abuses, torture and other ill-treatment (Amnesty International 2010:250). Hence, a safe return for asylum seekers and refugees to both Ukraine and Pakistan seem to be a remote possibility.

In the EU-Pakistan readmission agreement, it only refers to International Law and that it is up to each state to follow these conventions (European Community 2009:4). Hence, within that statement, the EU has not agreed to any obligations to be responsible for the
readmitted asylum seeker’s and refugee’s safety and the respect of human rights for asylum seekers, refugees and migrants.

Criticisms have been voiced out against the readmission agreement between EU and Pakistan. When the readmission agreement was about to be signed in 2010, critical opinions were expressed on the concerns that the agreement:

- “cannot guarantee adequately the protection of personal data…”
- “does not include strict safeguards and mechanism concerning the violation of fundamental rights”.
- “contains numerous loopholes and ambiguities, particular regarding definitions, travel documents, deadline for answering to requests for readmission, transit operations, the burden of proof and the possible retroactivity”.
- “aims at returning people to a country which does not comply with relevant human rights standards, which has not signed the 1951 Geneva Convention and where the current situation does not allow a safe return. Furthermore, Pakistan has already troubles in welcoming a huge number of displaced people” (European Parliament 2010:8).

All the concerns expressed above should have been a platform for developing deeper discussions of human rights standards and human rights principles before an agreement could be signed. But the agreement has been signed without any further statements or explanations for the critical statements that were brought up. The EU asylum and migration policy is more concentrated to exclude migrants and refugees from entering the European territory, than actually trying to protect and help them. The policy is rather outlined to protect the organization of EU and its member states from the external “threat” of migrants, rather than protecting asylum seekers, refugees and migrants. In the case of Ukraine and Pakistan, the European Community and the European Commission have noted in the background material for entering into the readmission agreements the necessity for better asylum systems and the weaknesses in the reception of asylum seekers, refugees and irregular migrants. However, these arguments have not hindered the Commission from concluding readmission agreements with both Ukraine and Pakistan.

When signing readmission agreements with countries outside EU, the EU should analyze the countries’ capacity to readmit asylum seekers, refugees and migrants. The EU has in some way evaluated both Ukraine and Pakistan in the Country Strategy Papers that they
have published for the respective countries. These countries are situated in different areas and have different levels of economic development such that any given support must be specifically developed according to the situations of each country. But, in both cases, the Commission has entered into agreements with countries that does not have the capacity to receive returned migrants from EU, and do not have the capacity to implement asylum and migration policies as the EU requires. Both Ukraine and Pakistan lack the respect for human rights for both their own inhabitants but also for refugees, asylum seekers and irregular migrants in their countries. The recent World Migration Report of 2010 from International Organization of Migration (hereafter IOM) also brings attention to the problem of general migration policies. They give suggestions to governments to promote more specific migration policies for each country. IOM acknowledges that “[t]here are enormous divergences in existing capacities - for example, between some developing and developed countries. But it does not advocate a standardization of capacities across States, since a ‘one-size-fits-all’ approach is not appropriate for the different migration realities of different countries around the world” (IOM 2010:10).

In the policy paper entitled “Strengthening the Global Approach against Migration: Increasing coordination, coherence, and synergies” the European Commission of discusses the matter of helping third countries and neighbouring countries in the management of policies for readmitting individuals. It is also stated in the paper, that “all return operations are conducted with dignity and in line with human rights standards” (European Commission 2008:6). In this part of the paper, the European Commission states that the maintenance of human rights is of importance in the return of individuals on the basis of readmission.

In this regards, a question that can be asked in the case of Ukraine is why the EU signed a readmission agreement with Ukraine when they already knew the situation of lack of human rights institutions, the problem of torture and the existence of discrimination of minority groups. It is in these cases where the externalization approach becomes clear. When the EU returns a person to a third country with which they have signed a readmission agreement, it should be in their intention to also follow up and be able to secure this person a safe standard of living in the third country, one would think. If the EU finds any reasons to doubt the security level in the readmitting country, the EU should not return the person because it cannot assure the persons safety. As discussed in the background papers, prior to entering into readmission agreement, the EU has mapped out the lack of a functional human rights system with full working institutions. Hence, how can EU then sign a readmission
agreement with Ukraine if Ukraine cannot ensure human rights for its own population? And how will they be able to ensure human rights for migrants, asylum seekers and refugees? In the readmission agreement and in the background papers, the EU refer to different human rights instruments, however there are no deeper discussions on how to ensure that the human rights are pursued in Ukraine.

6.3 Differences between the two readmission agreements

There are some distinguished differences between the agreement with Ukraine and that of Pakistan. One difference directly connected to the agreements is the different references to human rights instruments in the agreements. In the agreement with Ukraine, different specific human rights instruments are specifically expressed. For example, it is referred to: Universal Declaration of Human Rights of 1948, European Convention of 1950 for the Protection of Human Rights and Fundamental Freedoms, both the Convention of 1951 and the Protocol of 1967 on the Status of Refugees, the international Covenant on Civil and Political Rights of 1966 and international instruments of extradition (European Commission 2007:4). However, in the agreement with Pakistan, the only reference was to International Law (European Community 2007:48, European Community 2009:4).

Another difference between the two agreements is their aims. In the agreement with Ukraine it is noted that the contracting parties “[desiring] to establish, by means of this Agreement and on the basis of reciprocity, rapid and effective procedures for the identification and safe and orderly return of persons who do not, or who do no longer, fulfil the conditions for entry to and stay on the territories of Ukraine or one of the Member States of the European Union, and to facilitate the transit of such persons in a spirit of cooperation” (European Community 2007:1). In the agreements with Pakistan, it is referred to combat illegal immigration “[desiring] to strengthen their cooperation to combat illegal immigration effectively” (European Community 2009:3). Thus, in the agreement with Ukraine it aims to establish effective returns for those who do not, or no longer fulfil the conditions for entry to and stay in Ukraine or in a EU country. However, the agreement with Pakistan aims to cooperate in the combat illegal immigration.

Ukraine and Pakistan also have different relationships to the EU. Pakistan is at a farther distance and has no direct border connection in the fringes of the EU as Ukraine has. Pakistan is in this case not seen as an equal direct threat to EU within the field of migration.
However, as noted above, the EU has an interest of combating illegal immigration and considers Pakistan to be a migrant-sending country of irregular migrants.

Ukraine is a neighbouring country and has a dependent relation towards EU. Ukraine gets great economic and technical support from EU and Ukraine and the EU has previous cooperation within other areas. Ukraine also has the possibility to become a member of the EU. Christina Boswell has stated that the EU is a great power relative to its neighbours (Boswell 2003:). The neighbouring position makes it easier for the EU to implement different policies, and especially migration and asylum policies in Ukraine. However, as stated earlier, the implemented asylum and migration policies might not always be very appropriate for Ukraine since they do not have the capacity to function with the new policies. Hence, signing an agreement with Ukraine, a country that cannot ensure human rights for its citizen, risks the possibility that it will not put any greater effort to try to help returned migrants from EU. Examples of torture and other ill-treatment have been observed by NGO’s, such as Amnesty International and Human Rights Watch. They have criticized Ukraine for not being able to ensure basic human rights. But they have also criticized the EU for entering into a readmission agreement with a country that they know will not be able to take care of the returned migrants (HRW 2010:).
7. Conclusion

“The return of persons not in need of international protection is certainly one of today’s most difficult global challenges” (UNHCR Background Paper 1 2001:1).

The quotation above summarises this thesis in a good way. Firstly, to distinguish who are in need of international protection, i.e. who can be labelled a refugee (in need of international protection) or not is a great challenge. Then, returning individuals that are not given the status of refugee (and coincidentally ensure human rights principles) is also a great challenge in today’s European Union.

This thesis has studied the readmission agreements from a human rights perspective. It is clear that the EU cannot receive all migrants, refugees and asylum seekers that seek protection in Europe. The readmission agreement has then been devised as a tool to return those individuals that are not considered in need of international protection and those whose asylum claims are denied. The problem concerning the readmission agreement as we have seen in the cases of Ukraine and Pakistan is that the countries that the EU sign agreements with do not have the capacity to receive the returned people in a proper manner and they cannot guarantee the safety of these returned peoples.

Answering the first research question of this thesis -- to what extent and how is human rights embedded in the readmission agreements, the conclusion can be drawn that there has not been sufficient discussion about human rights in the agreements. In the agreement with Ukraine, they refer to several human rights instrument and conventions. However, there is no subscribed discussion about human rights consequences and how and to what extent the EU can guarantee the returned persons’ safety. In the case of the agreement with Pakistan, there is not even a reference to any human rights instrument, it only make reference to the application of International Law with no further specification or clarification. Hence, the EU has shouldered neither the responsibility for the return of people’s safety nor the responsibility to ensure human rights in Pakistan.

On the second research question -- on whether or not human rights are an issue in the material that constitutes the basis for the decisions to enter into readmission agreements, the
thesis has shown that human rights issues are discussed in the background material, but not enough. The European Commission has brought up different human rights dilemmas that exist in Ukraine and Pakistan. It is, for example, described how exposed asylum seekers, refugees and migrants are. The difficulties with discrimination of minorities and torture in the country were also described. However, something that does not exist is once again the safeness of returned asylum seekers, refugees and migrants. The European Commission has not further explained or discussed how and to what extent these basic human rights issues can be properly addressed when it entered into a readmission agreement with Ukraine. There does not exist any “risk” analysis of what can happen with the returned asylum seekers and migrants in Ukraine and Pakistan. Neither does the EU explain its responsibility towards the asylum seekers and migrants and towards the state of Ukraine.

The consequence of the establishment of the readmission agreements is that asylum seekers, refugees and migrants risk are subjected to situations of orbit or chain refoulment. In the case of Ukraine, such situations have been reported. However, in the case of Pakistan, although none has been reported, there are reasons to believe that asylum seekers, refugees and migrants will face similar situations.

Referring to the fourth research question, there exist differences between the two agreements. Firstly, Ukraine has signed and ratified more treaties and convention than Pakistan. However, Ukraine is still having a hard time implementing the human rights instruments into its domestic law. Ukraine is also differently located. It is a neighbouring country to the EU, which makes it an important cooperation country in the European Neighbourhood Policy. It also gets a lot of economic support from the EU and is in a dependent position relative to the EU. Pakistan, however, is at a farther distance and has no any direct border connection to the EU. Another difference between the two agreements is their different aims. The agreement with Pakistan aims to cooperate in combating illegal migration. The agreement with Ukraine rather aims to generally establish effective and rapid returns of those who do not, or no longer, fulfil the conditions for entry and stay on the territories of Ukraine and member states of the EU.

A general conclusion about the readmission agreements is that the EU cannot guarantee a safe return of individuals returned to Pakistan and Ukraine. This depends on that both Ukraine and Pakistan lack the respect for fundamental human rights and because neither Ukraine nor Pakistan has the capacity to readmit individuals returned from European member states. In this regard, based on reported consequences and because the EU cannot guarantee a
safe return for asylum seekers, refugees and migrants, it is possible that the EU has signed readmission agreements with Ukraine too early. Furthermore, it can also be concluded that the EU avoids violating human rights by transferring the responsibility of migration control on to other countries. Finally, the EU has to change their attitude towards migration and only conclude agreements with countries where they can ensure a safe return for asylum seekers, refugees and migrants.
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Appendix 1

Agreements in force

<table>
<thead>
<tr>
<th>Country</th>
<th>Mandate received</th>
<th>First Round</th>
<th>Agreement signed</th>
<th>Entry into force</th>
<th>Coupled with Visa Facilitation Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hong Kong</td>
<td>April 2001</td>
<td>October 2001</td>
<td>27 November 2002</td>
<td>1 March 2004</td>
<td>No</td>
</tr>
<tr>
<td>Macao</td>
<td>April 2001</td>
<td>October 2001</td>
<td>13 October 2003</td>
<td>1 June 2004</td>
<td>No</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>September 2000</td>
<td>July 2001</td>
<td>4 June 2004</td>
<td>1 May 2005</td>
<td>No</td>
</tr>
<tr>
<td>Albania</td>
<td>November 2002</td>
<td>May 2003</td>
<td>14 April 2005</td>
<td>1 May 2006</td>
<td>1</td>
</tr>
<tr>
<td>Ukraine</td>
<td>June 2002</td>
<td>18 November 2002</td>
<td>18 June 2007</td>
<td>1 January 2008</td>
<td>3</td>
</tr>
<tr>
<td>the former Yugoslav Republic of Macedonia</td>
<td>November 2006</td>
<td>1 December 2006</td>
<td>18 September 2007</td>
<td>1 January 2008</td>
<td>Yes</td>
</tr>
<tr>
<td>Bosnia &amp; Herzegovina</td>
<td>November 2006</td>
<td>20 December 2006</td>
<td>18 September 2007</td>
<td>1 January 2008</td>
<td>Yes</td>
</tr>
<tr>
<td>Montenegro</td>
<td>November 2006</td>
<td>15 December 2006</td>
<td>18 September 2007</td>
<td>1 January 2008</td>
<td>Yes</td>
</tr>
<tr>
<td>Serbia</td>
<td>November 2006</td>
<td>4 December 2006</td>
<td>18 September 2007</td>
<td>1 January 2008</td>
<td>Yes</td>
</tr>
<tr>
<td>Moldova</td>
<td>December 2006</td>
<td>9 February 2007</td>
<td>10 October 2007</td>
<td>1 January 2008</td>
<td>Yes</td>
</tr>
<tr>
<td>Pakistan</td>
<td>September 2000</td>
<td>April 2004</td>
<td>26 October 2009</td>
<td>1 December 2010</td>
<td>No</td>
</tr>
</tbody>
</table>

1. Visa facilitation was offered to Albania (together with the other WBalkan countries) after the readmission agreement had already entered into force.
2. Visa facilitation was offered when readmission negotiations had already started but were not progressing.
3. Visa facilitation was offered when readmission negotiations had already started but were not progressing.

Source: European Commission, SEC (2011) 206