November 2019

2019 was marked by the growing influence – above all in the media – of the no-fly movement. In August 2019, young climate activist Greta Thunberg's decision to sail across the Atlantic to attend a UN meeting was widely commented on, with the crossing from Plymouth to New-York echoing the big European emigrations towards the New World.

Yet, over the past thirty years, hundreds of thousands of travellers – often as young as the Swedish activist - have been denied the possibility to travel by plane. Each year, they are forced to cross seas and continents by boat and on foot because administrative barriers and multiple controls prevent them from accessing airports. Access to international flights remains a privilege of the rich, which only the latter can decide to renounce to. Up until the 1980s, travelling to Europe from Africa, South-East Asia or the Middle East was not such an odyssey: financial support of relatives was enough to buy the flight ticket which, albeit expensive, was not as costly as the enormous amounts now required to embark on a rudimentary boat or at the back of a truck. Visas applications are usually rejected for those deemed a 'migratory risk': the compulsory requirement to hold a visa therefore constitutes the main cause of death for those willing to exercise their right to emigrate.

Bringing social justice struggles together or mobilising for a durable and egalitarian globalisation therefore requires that air traffic dynamics are reversed: the decrease in North-South flights will remain a Eurocentric approach if it is not combined with indiscriminatory access to airlines covering South to North routes. For everyone to be able to freely choose whether to leave or stay, there should be visas for all or none at all (visa-free system).

PHOTOGRAPH : **MELILLA SOUTHERN BORDER OF EUROPE, APRIL 2015.**

VISAS: INEQUALITIES & TWO-SPEED MOBILITY SCHEMES

migreurop

Visas and remote control

A visa is a travel authorisation issued by a State authority to a foreign national which allows him/her on its territory. Visas determine under what conditions the holder may enter, leave and remain on the territory (length, right to study, to work or to travel inside the territory); it cannot guarantee access to the territory per se which depends itself on a series of decisions made upon departure (authorisation to embark, authorisation to exit the territory) and arrival, especially at border-crossing points.

Since the Amsterdam Treaty entered into force on 1 May, 1999, Member States of the Schengen area have had a common short-term visa policy comprising several elements: first, the establishment of two common lists, that of third countries whose nationals cannot enter Schengen without a visa, and that of third countries whose nationals are exempted from visa obligations; second, the common minimum procedure and delivery standards of 'Schengen visas' by consular posts concerned, as developed in the 2009 Community Code on Visas (CCV).

The Schengen visa acts as a de facto border and migration control device 'at a distance'. According to the CCV, consular posts shall assess the level of 'migratory' and security risk for Schengen States as part of the examination of each individual Schengen visa applications. Consular posts of Schengen States are thus acting like a 'remote police force' tasked with implementing border and migration control even before the person leaves his/her country of origin. Much literature and research have stressed the level of discretion that such control allowed especially in relation to the documents required to substantiate an application, given that European rules only set minimum standards.

The Schengen visa system keeps evolving: the two lists - distinguishing between third-country nationals in need of a visa or not – have been regularly amended. Moreover, two trends are to be noted which have increased not only the arbitrariness or the discretion of decision-making processes, but also the magnitude of obstacles against mobility i.e. the very backbone of European visa policy.

First, the examination of visa requests has been, over the past fifteen years, more and more outsourced to external service providers from the private business sector – although only as regards the administrative elements of applications. By increasing the number of intermediaries, it has made the visa application process even more complex and expensive. In particular, the procedure reinforces the hybrid collaboration between public and private actors in the field of border and migration control, a general trend since the late 1980s and the establishment of sanctions against international carriers – esp. airlines – found guilty of letting someone embark or travel without the required travel documents.

Second, the use of biometrics and electronic files has grown in scale. Since 2011, all Schengen visa application files – whether successful or not – are stored for a duration of five years in the Visas Information System (VIS) which, by 2018, stored over 31M such applications. Each application stored in VIS also includes biometric data of all visa application aged 14 and over (photograph and finger-prints). Although it mostly used to check the identity of Schengen visa holders crossing a border, information available in VIS indicates that state authorities also use it to identify people at the border as well as on the territory. In other words, VIS facilitates biometric and electronic traceability of foreigners inside Schengen.

Throughout the years, the European visa policy has become much more than a means to organise the issuance of travel documents and residence permits: it has turned into an element of the 'remote' border and migration control in third countries via the outsourcing to private operators, and a means to track foreigners within the Schengen area.
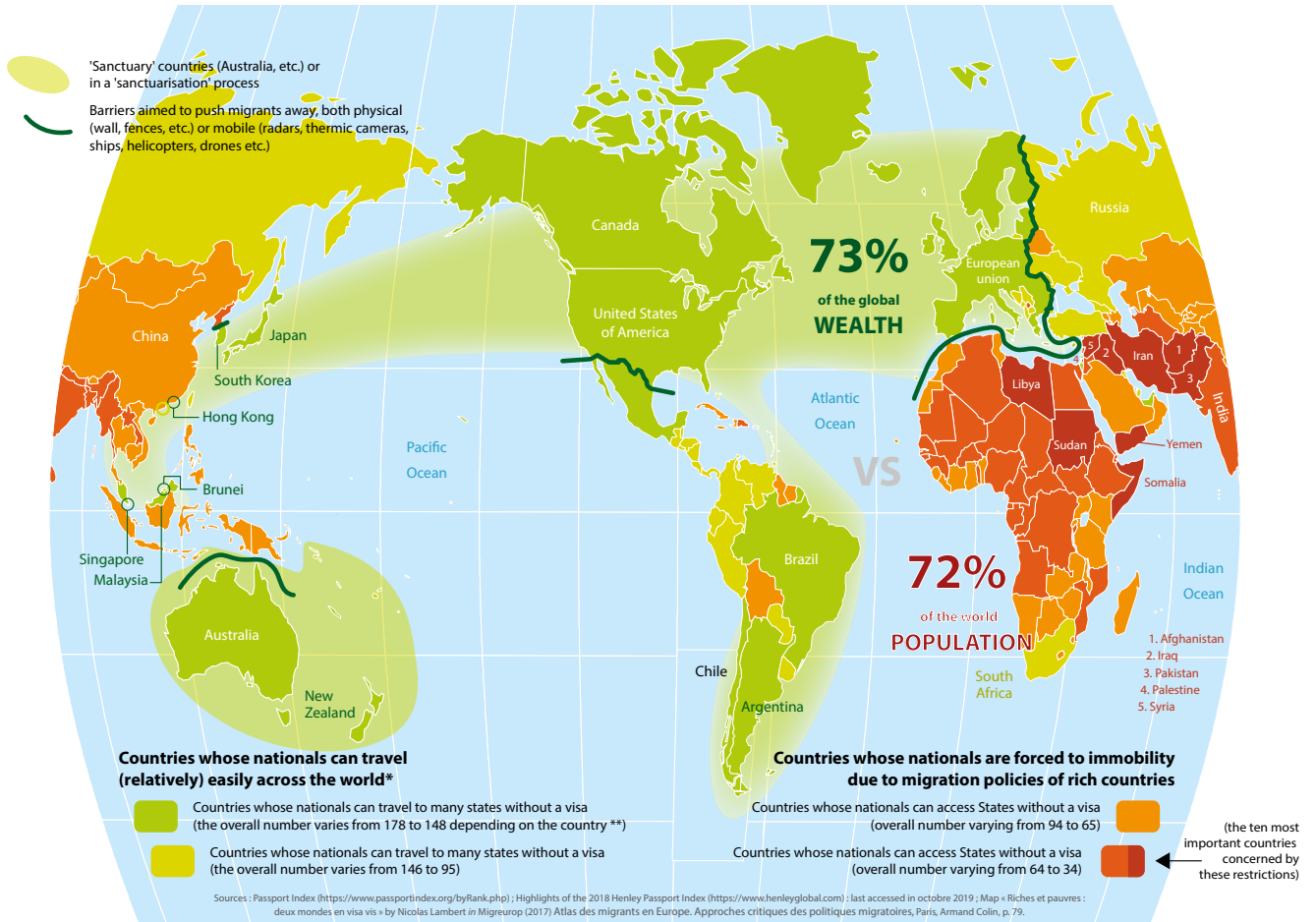
The recent proposal by the European Commission, in 2018 - aiming to enlarge the scope of data stored in VIS to data regarding long-term visa applications - seems to suggest that this role is due to expand considerably.

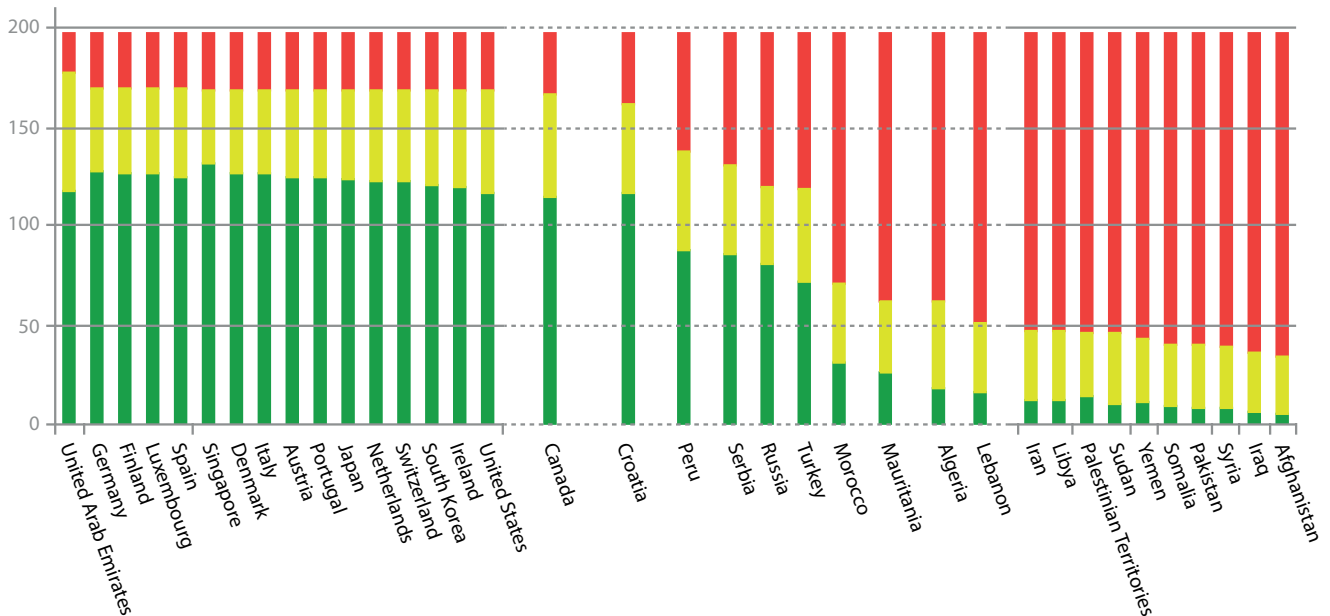# The airport transit visa, a tool to 'combat' asylum

The airport transit visa (ATV) is part of the measures adopted in the 1990s by the European Union to prevent access to the European territory. It is presented as 'the authorisation to transit through the international areas of Member states.' ATV thus restricts free transit within the Schengen area for a large number of people travelling to a State outside of Schengen. A list comprising of 12 nationalities falling under the ATV obligation is common to all Schengen countries. Each country can add other countries on its list. According to the Community Code on Visas, Member states can resort to ATVs '[i]n urgent cases of mass influx of illegal immigrants.' Over the past few years, France has enlarged its list to 17 extra nationalities, including some Russian nationals, people holding a passport issued by Guinea or a travel document for Palestine refugees issued by the UNRWA (*United Nations Relief and Works Agency for Palestine Refugees in the Near East*) or by the Egyptian, Lebanese or Syrian authorities.

Such strategy aims to prevent exiles from departing by imposing another administrative constraint to their mobility. Indeed, airlines usually block non-ATV holders before boarding because they fear they might get financially sanctioned if they transport foreign nationals who do not meet travel condition requirements. However, in practice, obtaining such a visa is very difficult, if not impossible, to obtain, particularly for people coming from countries considered as 'at risk' who are seen as likely to seek asylum. In France, the correlation between the ATV obligation and the origin of asylum-seekers at the border was confirmed by the Ministry of Interior in 2006 and reiterated since then many times during annual meetings on transit zones. In 2013, when Syria was added on the list, the Ministry of Interior argued that France had faced an increase of 333% of Syrian asylum seekers (180 applications in 2012, 54 in 2011). The ATV is thus used to impede the right of asylum at the border.

Not all humans inhabit the world in the same way

'Sanctuary' countries (Australia, etc.) or in a 'sanctuarisation' process

Barriers aimed to push migrants away, both physical (wall, fences, etc.) or mobile (radars, thermic cameras, ships, helicopters, drones etc.)

73% of the global **WEALTH**

VS

72% of the world **POPULATION**

1. Afghanistan
2. Iraq
3. Pakistan
4. Palestine
5. Syria

Countries whose nationals can travel (relatively) easily across the world*

Countries whose nationals can travel to many states without a visa (the overall number varies from 178 to 148 depending on the country **)

Countries whose nationals can travel to many states without a visa (the overall number varies from 146 to 95)

Countries whose nationals are forced to immobility due to migration policies of rich countries

Countries whose nationals can access States without a visa (overall number varying from 94 to 65)

Countries whose nationals can access States without a visa (overall number varying from 64 to 34)

(the ten most important countries concerned by these restrictions)

Sources : Passport Index (https://www.passportindex.org/byRank.php) ; Highlights of the 2018 Henley Passport Index (https://www.henleyglobal.com) ; last accessed in octobre 2019 ; Map « Riches et pauvres : deux mondes en visa vis » by Nicolas Lambert *in* Migreurop (2017) Atlas des migrants en Europe. Approches critiques des politiques migratoires, Paris, Armand Colin, p. 79.

* The number of countries where foreign nationals can access as long as they are passport holders also include countries issuing visas at the border. Countries requiring travelers to hold a visa before departure are therefore not counted in.

** Countries are listed in 4 categories according to an equal population discretisation, which results in almost the number of countries for each category (i.e. almost 50 countries).

Countries whose nationals can travel almost freely across the world ('top 10')

Countries whose nationals cannot easily travel across the world ('down 10')

Passport holders ...

- Number of countries to which nationals can travel only if they have a visa
- Number of countries to which nationals can travel and are issued a visa upon arrival
- Number of countries to which nationals can travel without a visa

Sources : Passport Index (https://www.passportindex.org/byRank.php), last accessed in October 2019.

- The situation of the countries facing the most difficulties is very slighlty improving (e.g. Afghan nationals with a passport can travel in 34 countries today, as opposed to 24 in February 2018; Syrians can travel to 39 countries today as opposed to 28 in February 2018, etc.)
- The opposite trend is to be noted on the other hand for nationals from the wealthiest states who are required a visa in an increasingly number of states (7 countries for France in 2019; 6 countries for Italy, in 2019, etc.)
- Countries whose nationals can travel more easily based on their passport only include the UAE (with 45 countries not asking any visas to their nationals any more) on the top list; Qatar jumping up in the scale (24 countries); Ukraine (+23), Georgia (+22) followed by Indonesia (+20), China and Saudi Arabia (+19).

Privatisation of visa processing at all cost: the case of Senegal

In the early 2000s, Senegalese who wanted to apply for a visa for France had to sleep outside the French Consulate in the hope they could get in the building and register their application the next day. To do so, people had to register on a list and to remain careful so that the list did not get modified or torn up by others – all of which favoured attempts at corrupting security agents. No specific premises were made available at the time for people waiting, who had no choice but to stand hours long outside, in the sun or in the rain, with no certainty they would be seen by an officer.

In 2001, as a response to criticism, French consular authorities decided to outsource the management of access to their services to a private company, Africatel AVS. The system that unfolded obliged visa applicants to book an appointment by phone to be able to register their application, and had no other choice but to buy a specific credit card worth 5,000 CFA Francs (about EUR8 for 12 min phone communication) to do so. No matter how much the cost, there was no certainty as to whether the booking would be successful: saturated phone lines, no credit available anymore before even speaking to an operator. If lucky, any person able to book an appointment would not be reimbursed the credit that remained on the card, or able to re-use it. That is where the role of the sub-contractor terminated, handing in then to the consulates which would see applicants during a set appointment.

In March 2014, another private company, VFS global, won the juicy visa market for France, with an enlarged set of competences: in addition to the management of appointments, VFS is now in charge of the entire procedure – except for the final decision stage – until the applicant is returned his/her passport stamped with a visa.

In a society where 42% of the population is illiterate, the whole visa application procedure is now conditional upon two elements: first, knowing how to read and fill-in a form (in French) and second, having Internet access. Once the online part is complete, one should click on a link in order to book an appointment on an online platform. The 'standard' procedure often results in applicants being called in after their planned departure date. That is the reason why a 'premium' service, with extra costs, has been set up to speed up the booking procedure: out of necessity, many opt for it, although this does not influence in any way the examination process and, quite obviously, the final decision.

The waiting lines in front of the French consulates have been replaced with waiting lines in front of VFS offices where hundreds of people who have been given an appointment to register their visa application to different countries all come to the same outsourced service-provider, standing in the street without any specific infrastructure such as a waiting room or benches. Even the name calling service is left to the hands of security agents. It should be noted that the treatment varies for some privileged ones: EU citizens, who often come for their Senegalese spouse or children's visa application, can directly enter the building by showing their ID. The site is heavily secured: no entry is allowed without people being searched (cigarettes, lighter, laptops, phones, etc. are prohibited) and passing through the security scanning.

Once inside, the waiting time is not over, although 'standard' and 'premium' applicants are not placed in the same room. In the second room – where hot and cold drinks are served – the processing of files goes quicker even if the number of people is greater than in the 'standard' room, simply because there is sufficient staff to meet the processing needs. Only one desk is open in the first room, where people are expected to be patient.

Whether their application is successful or not, applicants must spend at least 40,000 CFA Francs (EUR 60) for a visa – a sum that is not reimbursed in case the application is rejected. Another 27,000 FCFA Francs may be needed (EUR42) for extra services – some optional, others not - provided by VFS such as SMS confirmation that the consulate has received the application file, being informed of when the passport is available, delivery of the passport etc. The minimum wage in Senegal was worth EUR 90 in 2019.

Beyond the economic consequences of the outsourcing of visa application which has turned sovereign competences into a business, the role of private service providers in the visa procedures results in a applicants being kept at distance, thereby restricting their ability to negotiate and/or challenge decisions made by consulates.

The bibliography is available on Migreurop website: www.migreurop.org in the section *Publications / Notes*.
http://www.migreurop.org/article2941.html