



European Economic and Social Committee

REX/478

New Migration Partnership with third countries

OPINION

European Economic and Social Committee

**Establishing a new Partnership Framework with third countries under the
European Agenda on Migration**
[COM(2016) 385 final]

Rapporteur: **Cristian PÎRVULESCU**

Consultation	Commission, 17/08/2016
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for External Relations
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Outcome of vote (for/against/abstentions)	225/4/2

1. **Conclusions and recommendations**

- 1.1 The European Agenda on Migration should be designed so as to take into full consideration the humanitarian dimension of its scope, and the EU should not forget its fundamental commitments and legally binding rules to protect lives and human rights, especially of people in danger.
- 1.2 The European Economic and Social Committee (EESC) supports the vision emerging from the Valletta Summit, which took place in November 2015, the key aim of which was to provide a long-term response to migration, addressing the root causes of migration and creating a dialogue with third countries based on cooperation and shared responsibility. The EESC hopes that the Euro-African Dialogue on Migration and Development (the "Rabat Process") and the Khartoum Process will contribute to the swift implementation of the Valletta Action Plan.
- 1.3 The EESC supports the tailored and specific agreements with each country, with full respect of human rights. Flexibility provides the right perspective and combination of actions and incentives.
- 1.4 While the need for policy coordination and streamlining is clear, it seems that the Agenda on Migration is becoming an overarching policy, superseding other policies in pursuit of its actions and objectives (e.g. neighbourhood, development assistance and trade). While it acknowledges the importance of the migration policy, the EESC also considers the other policies to be equally important and worth pursuing, and recommends that participation in the migration policy is not used as a condition for cooperation in other policy areas. The primary aim of coordination is to promote synergy, complementarity and comprehensiveness between the various policy areas.
- 1.5 A distinction should be made between lack of cooperation with third countries based on lack of political will and lack of cooperation based on lack of capacity and resources. They both need to be addressed but via different means. In order to ensure sustainability and resilience, the focus should be on building capacity first. Under no circumstances should assistance be conditional on readmission and border controls.
- 1.6 The economy is central to addressing the root causes of migration, but this should not mean ignoring the political, institutional and administrative dimensions of stability and prosperity. The strategy needs to be readjusted so as to include more committed and targeted support in three areas: conflict resolution and state building, promotion of democracy and human rights, and civil society development.
- 1.7 In order to treat the root causes of migration in the long term, a country needs a viable and legitimate government, strong representative institutions, effective parties, mass media and civil society organisations. The EU should consider giving proper attention and support to democratic assistance and not treat democracy issues just like the "general business environment", since it is mentioned in the third pillar of the External Investment Plan.

- 1.8 The development of legal migration channels and institutional capacities to support legal migration should be a priority within the Partnership Framework with third countries, for the EU, Member States and third countries.
- 1.9 Civil society organisations play a significant role in making the resettlement, travel and reception of migrants and refugees more safe and humane. The proposal should reconsider the role of and support for their activities, from local organisations in the countries of origin and transit to those participating in the rescue operations and managing reception and integration. Moreover, civil society organisations should be involved in the monitoring and evaluation of the actions of all competent authorities involved in managing migration.
- 1.10 The EESC encourages public authorities, at national, regional and local level, to take part in the implementation of the migration and asylum policy, according to international legal obligations and with the aim of protecting human rights and facilitating integration.
- 1.11 The EU and Member States, directly or indirectly, must respect human rights and observe the principle of non-refoulement, on the basis of the Geneva Convention, when carrying out these actions and procedures.
- 1.12 The EU has to be certain when granting "safe country" status to countries of origin and transit, so as not to violate the principle of non-refoulement¹.
- 1.13 The Commission has set out its strategic vision on how EU external action can foster the resilience and self-reliance of forcibly displaced people in places that are as close as possible to the refugees' country of origin. While this vision has certain advantages, it should be noted that the EU, as a responsible and resourceful international actor, also has its own moral and legal obligation to help those who seek international protection, in accordance with international treaties.
- 1.14 The EESC supports the increasing rates of return and readmission, with a preference for voluntary return and a focus on reintegration. Voluntary return with a focus on reintegration should be one of the main strategic choices that the EU and Member States make in managing the migration process.
- 1.15 In all the compacts and agreements, the EU should ensure that mainly positive incentives are used, that assistance is well designed and organised, and that it also addresses the institutional and administrative capacities of the government, promotes democracy and human rights and includes civil society organisations in all processes, especially local and national ones.
- 1.16 The EESC encourages the EU institutions, the Member States, and governments of third countries to involve and support the diaspora groups as much as possible. They could be a valuable resource for the long-term development of the countries of origin and transit and also bring a valuable contribution to European society and economy. The promotion of diversity and

¹ See EESC Opinion REX /457 Establishing a European list of safe countries of origin, Rapporteur: José Antonio Moreno Díaz, adopted 09/12/2015, [OJ C 71, 24.2.2016](#).

openness to the world has been a pillar of European society and the migration policy has to be in line with these two principles.

- 1.17 The EESC encourages the Member States to participate fully in efforts to coordinate EU policy on migration. Solidarity and cooperation between Member States are two prerequisites for an effective implementation of the Partnerships Framework with third countries.
- 1.18 The EESC encourages the European Commission to establish its planned platform of dialogue to include input from business, the trade unions, and other social partners, to maximise the benefits of migration for the European economy and the migrants themselves². The EESC is ready to cooperate for its establishment and proper functioning.

2. **Background (based on the EC Communication)**

- 2.1 Much has been achieved since the adoption of the European Agenda on Migration, not least beyond the EU's borders. Hundreds of thousands of people have been rescued at sea³. The Valletta Summit in November 2015 brought migration issues to the heart of the EU's relations with African countries.
- 2.2 However, much more needs to be done. The EU is still faced with a humanitarian crisis. Third countries and EU partners are housing refugees, many of them unaccompanied minors forced to leave their homes and economic migrants who aspire to come to Europe.
- 2.3 The ultimate aim of the Partnership Framework is a coherent and tailored engagement by which the Union and its Member States act in a coordinated manner, bringing together instruments, tools and leverage to establish comprehensive partnerships (compacts) with third countries so as to better manage migration in full respect of our humanitarian and human rights obligations.
- 2.4 Immediate action should be taken with key partners in the following areas, where specific and measurable targets should be set: working with key partners to improve the legislative and institutional framework for migration; concrete assistance for capacity building on border and migration management, including providing protection for refugees; increasing rates of return and readmission with a preference for voluntary return and a focus on reintegration; stemming the irregular flows while offering legal migration channels, including increased resettlement efforts.

3. **General comments**

- 3.1 The EESC believes that well-managed migration is an opportunity for the EU, the countries of origin and for the migrants and their families. Migration is an inherent feature of human society. In the recent history of the European peoples, migration is very important.

² A European Agenda for Migration, COM(2015) 240 final, pp. 15-17.

³ In the Italian "Mare Nostrum" Operations alone 140 000 people were rescued from the Mediterranean Sea. Since 2015, EU operations in the Mediterranean have contributed to saving more than 400 000 people.

- 3.2 Problems occur when people do not leave voluntarily; where many migrants are forced to leave their place of residence as a result of extreme poverty, war or natural disasters. These people are very vulnerable. If European countries fail to launch management procedures and laws to make it easier for migration to be channelled through legal and transparent procedures, many people migrating through irregular routes, often at serious risk to their lives, are exploited by criminal networks involved in smuggling and human trafficking.
- 3.3 When developing policies and laws to organise migration and border controls, the EESC warns that they should comply fully with the Conventions on Human Rights and the Charter of Fundamental Rights of the EU.
- 3.4 The Commission's proposal brings much-needed coordination and harmonisation to the procedures and instruments used to manage the increasingly complex migration process. Given the nature and dynamic of recent migration trends, it is salutary to have a review and a clearer agenda of priorities.
- 3.5 The EESC considers that the focus on saving people at risk while travelling is fully justified. This should be an absolute priority for both the EU and Member States. Even though lives are still being lost at sea, the Committee praises the role of ordinary people, civil society organisations, and military and civilian personnel involved in the rescue operations.
- 3.5.1 As well as the stated short-term objectives of the compacts: to save lives in the Mediterranean sea; to increase the rate of returns to countries of origin and transit; to enable migrants and refugees to stay close to home and to avoid making dangerous journeys, the EESC also encourages the EC to include the protection of migrants along the so called Balkan route, whose lives and safety could be in danger, and the creation of legal routes for migration.
- 3.6 The EESC reiterates that the EU and its Member States constitute the world's largest development and humanitarian donor and that the EU provides significant support to refugees, internally displaced persons and host communities, for example in the Horn of Africa and Lake Chad areas (Kenya, Somalia, Uganda, Ethiopia and Sudan).
- 3.6.1 The Agenda on Migration should be designed to take full consideration of the scope of the humanitarian dimension. The EU has difficulty managing the current migrant and refugee flows. However, it should not forget its fundamental commitments and legally binding rules to protect lives and human rights, especially of those in danger.
- 3.7 The Agenda on Migration will be successful only to the extent that third countries are willing and able to work closely with the EU and the Member States. Each country has its own profile with regard to migration. A number of them are countries of origin and experience conflict, tensions and severe deprivations, while other are transit countries, more stable but also more vulnerable. Some of them have to face a disproportionate number of refugees and migrants seeking safety and assistance on their territories, most notably Lebanon, Turkey and Jordan. Their willingness and capacity to implement measures derived from this migration partnership depend on various and complex historical, political, economic, security and cultural factors. It is therefore necessary to find the right perspective and combination of actions and incentives in

relation to each of them. At the same time, the compacts should have a common focus, one that encourages the institutional, democratic, social and economic development of the third countries.

- 3.8 The Agenda on Migration needs further strengthening and more coordination with other relevant policies areas. In the Commission's proposal, three such policies are envisaged: neighbourhood, development assistance, and trade. In the European Neighbourhood Policy, broadly half the available funding will be devoted to migration-related issues. In the development policy, the proposal envisages the introduction of positive and negative incentives which reward those countries that fulfil their international obligation to readmit their own nationals, and those that cooperate in managing the flows of irregular migrants from third countries, as well as those taking action to adequately host persons fleeing conflict and persecution. Consequences for those who do not cooperate with readmission and return policies are also envisaged. With regard to trade policy, where the EU can give preferential treatment to its partners, the EC proposes that cooperation with migration policies should be a factor in the evaluation of trade preferences under "GSP+".
- 3.9 Aside from these, all policy areas, including education, research, climate change, energy, environment and agriculture, should in principle be part of a package, are envisaged to be migration sensitive, and bring maximum leverage to the discussion.
- 3.10 While the need for policy coordination and streamlining is clear, this strategy raises some concerns. It seems that the Agenda on Migration is becoming an overarching policy, superseding other policies in pursuit of its activities and objectives. This could affect these other policies, each of which is legitimate in its aims and scope. The neighbourhood policy should bring stability and prosperity to the EU border, and a disproportionate focus on migration might sideline other relevant areas. The development policy also has wide ranging objectives, including relief for vulnerable communities and building better economic and social prospects for tens of millions of people. Trade policy also has a significant developmental dimension, bringing more opportunities for EU citizens and third country citizens alike.
- 3.11 While acknowledging that the migration agenda is important, the EESC also considers each policy equally important and worth pursuing. The aim of coordination is primarily to promote the synergy, complementarity and comprehensiveness of the various policy areas.
- 3.12 Related to this, the specific framing of policy coordination suggests the possibility of a conditional and coercive approach - third countries should cooperate with the EU and member countries in the readmission and return of their own nationals, managing migrant flows on their territories and across borders, and hosting people fleeing conflict and persecution. Otherwise, access to EU funding and assistance and to the EU market could be jeopardised. This option could prove problematic and ultimately ineffective. The cooperation of third countries in the migration agenda is driven by internal concerns and internal capacities. A distinction should be made between lack of cooperation based on political will and lack of cooperation based on lack of capacity and resources. They both need to be addressed but by different means. In order to ensure sustainability and resilience, the focus should be on building capacity first. It is also very

important to make a distinction between development assistance and migration cooperation. The latter should not be made conditional on the first under any circumstances.

- 3.13 When addressing the "root causes" of migration, the Commission proposal refers almost exclusively to the economy. It also emphasises the role of private investors looking for new investment opportunities in emerging markets. As stated in the proposal: "Instead of letting irregular migrants risk their lives trying to reach European labour markets, European private and public resources should be mobilised for investment in third countries of origin".
- 3.14 The Commission also envisages an ambitious External Investment Plan, with three pillars: "the first pillar would enable using scarce public resources in an innovative way to mobilise private investment by offering additional guarantees and concessional funds. The second pillar would focus on technical assistance, helping local authorities and companies develop a higher number of bankable projects and make them known to the international investor community. The third pillar would target the general business environment by fostering good governance, fighting corruption, removing barriers to investment and market distortions."
- 3.15 In addressing the root causes of migration, the economy is central. It should be closely connected with the political, institutional, administrative and social dimensions of stability and prosperity. The lessons learnt from decades of assistance and development work show that institutions are fundamental and if the proper framework and infrastructure is missing, the envisaged dynamic will not be triggered. Private investors would not invest in countries of origin and transit if they were unstable. Financing for investment, development and other policy areas should remain distinct but have complementary objectives.
- 3.16 Many of the third countries, especially those that became countries of origin for refugees and migrants, have fundamental problems with stability and effectiveness of government. Their infrastructures and economies are weak and their administrative systems underdeveloped. Thus, a renewed effort towards conflict resolution and state building should be considered. This is not only the case in Syria and Libya, but also in many other countries. Acknowledging this fact could help prioritise measures and actions and target the very reasons people ultimately flee from or transit through those territories. Narrowly defined interventions, for example training border guards or transferring technology to them, breaking up smuggler networks, or providing incentives to return, will have a positive but limited impact. Migration is a phenomenon that correlates with state weaknesses and failures of different natures and degrees.
- 3.17 The inclusion in the third pillar of the External Investment Plan of governance as a "general business environment" is not sufficient to capture the range of issues that need to be addressed. In order to treat the root causes of migration in the long term, a country needs a viable and legitimate government, strong representative institutions, effective parties, mass media and civil society organisations. The EU should consider giving proper attention and support to democratic assistance. This is relevant not only in the framework of migration but also in other policy areas like neighbourhood and trade.
- 3.18 In the Commission proposal, the role of civil society is insufficiently acknowledged and supported. Civil society organisations have a significant role to play in making the resettlement,

travel and reception of migrants and refugees safer and more humane. From refugee camps to migrant routes, including the sea, to reception sites in the EU, they make a valuable if not indispensable contribution. The proposal should reconsider the role of and support for their activity, from local organisations in the countries of origin and transit, to those participating in the rescue operations and managing reception and integration. Moreover, civil society organisations should be involved in the monitoring and evaluation of the actions of all competent authorities involved in managing migration. Their work and feedback could bring the whole process closer to the human rights standards that the international and EU treaties recognise and protect.

4. **Specific comments**

- 4.1 In organising all activities and procedures, the EU and Member States, directly or indirectly, should respect human rights and observe the principle of non-refoulement, on the basis of the Geneva Convention.
- 4.2 The EESC is deeply concerned about the agreement between the EU and Turkey and its impact on the fundamental rights of the individuals subject to it. The EU-Turkey Statement is contested by civil society groups and human rights advocates, as it treated Turkey as a "safe country". The EU has to be certain when granting "safe country" status to countries of origin and transit, so as not to violate the principle of non-refoulement.
- 4.3 The Commission has set out its strategic vision on how EU external action can foster the resilience and self-reliance of forcibly displaced people in places that are as close as possible to the refugees' country of origin⁴. While this vision has certain advantages, it should be noted that the EU, as a responsible and resourceful international actor, also has its own moral and legal obligation to help those who seek international protection.
- 4.4 The operational steps aimed at fighting against migrant smuggling are welcomed. The smugglers impose very high costs for helping migrants and expose them to serious risks. At the same time, combating smuggling will not solve the structural issues of migration. Again, creating legal routes for migration is key and it would decrease the dependence of migrants on smuggling networks.
- 4.5 A coordination mechanism needs to be introduced between the EU level and that of the Member States to deliver the compacts. If some Member States have historical ties with the third countries, they could be mobilised to ensure better cooperation.
- 4.6 The EESC welcomes the upcoming proposal for a structured resettlement system providing a common approach to safe and legal arrival in the Union for persons in need of international protection via resettlement, as a direct demonstration of the EU's commitment to helping countries under the heaviest pressure⁵. The Valletta Action Plan included a commitment by the

⁴ COM(2016) 234 final of 26 April 2016.

⁵ See COM(2016) 197 final of 6 April 2016.

EU and Member States to launch pilot projects that pool offers for legal migration. However, the proposal should be much clearer and identify specific projects to be implemented.

- 4.7 The EESC welcomes the reform of the Blue Card⁶ presented on 7 June 2016, which aims to attract highly skilled migrants to the EU labour market.
- 4.8 The EESC welcomes the design of the compacts aimed at increasing the effectiveness and sustainability of the return process and providing adequate financial support to readmitting countries and in particular to the communities that will reintegrate those who return. Providing incentives for authorities and individuals is indispensable in ensuring an effective process.
- 4.9 The EESC supports the increasing rates of return and readmission with a clear preference for voluntary return and a focus on reintegration. This should be one of the main strategic choices that the EU and Member States make in managing the migration process. It increases the chance that those involved will all cooperate and, importantly, turns migration into a possible engine of local development.
- 4.10 The efforts of the EU and the Member States should be coordinated at global level. The EESC agrees with the recommendation of the European Commission to support the establishment of a UN-supported global resettlement scheme to enable rapid and efficient resettlement to safe countries. The EU has both the resources and the experience to make a difference including via a push towards a more global and multilateral process for managing migration.
- 4.11 The EESC broadly supports the direction of the specific partnerships with third countries: concluding compacts with Jordan and Lebanon, taking EU-Tunisia cooperation to the next level; launching and agreeing compacts with Niger, Nigeria, Senegal, Mali and Ethiopia; and supporting the Libyan Government of National Accord. In all these compacts and agreements, the EU should ensure that mainly positive incentives are used, that assistance is well designed and organised, and that it also addresses the institutional and administrative capacities of the government, promotes democracy and human rights and includes civil society organisations in all the processes, especially local and national ones.

⁶ COM(2016) 378 final.

4.12 The EESC acknowledges the efforts on all sides to make the Partnership Framework operational and effective, as presented in the First Progress Report published by the European Commission⁷. The launch of projects funded by the EU Trust Fund for Africa in the five priority countries is a sign that cooperation is possible. The EESC encourages the EU institutions to work towards a quick adoption of the Regulation on the European Fund for Sustainable Development, a key instrument in promoting sustainable development, inclusive growth, economic and social development and regional integration outside Europe.

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⁷ COM(2016) 700 final.