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For a human-centred migration policy

Following a process of consultation and compilation of various analytical texts and positions of civil society actors and national and European institutions, and the organisation of 4 meetings in hybrid mode:

- 1) 17 June 2022 in Rabat, Morocco on the theme "Protecting the economic, social and cultural rights of migrants",
- 2) 27 June 2022 in Beirut, Lebanon on the theme "Towards a human-centred approach to migration policies",
- 3) 27 June 2022 in virtual format on "International responsibility for the protection of migrants: For the right to life",
- 4) 29 June 2022 in Brussels, on the theme "Legal migration to the EU: Views from the Mediterranean",

a Consortium composed of the *Forum des Alternatives Maroc* and the *Association Amel* from Lebanon, with the support of the *Med Dialogue for Rights and Equality* programme and the participation of the *European Policy Center* as dialogue facilitator, aimed at finding ways of advocating for the humanisation of migration with a rights-based approach. The process focused mainly on three axes:

- What are the possibilities for promoting greater legal migration, and for moving safely from countries in the Mediterranean region to the EU?
- How to develop a more equitable governance of migration, in line with local needs and development aspirations of the countries in the Mediterranean region?
- What initiatives should be implemented to promote a humane and people-centred approach to migration?

These elements emerged in the consultation as the axes on which a new approach to legal immigration in the Mediterranean context could be based.

1) Promoting legal migration and safe routes to the EU

Migration is an essential component of Mediterranean history and culture. However, consolidated legal and safe channels remain limited to highly skilled work programmes, university programmes and family reunification¹. Legal pathways to international protection are also limited and subject to the discretion of Member States. Without legal channels, irregular channels remain, for many, the only viable alternative.

The first conclusion was that there is a need to extend legal channels of access to the EU and the obstacles to this extension. Increased opportunities for labour mobility could be a "triple win": for the EU, for third countries and for mobile people. They could fill labour shortages in key sectors of European economies. They could give mobile people in Mediterranean countries, and young people in particular, access to employment and the opportunity to develop professional skills. They could also facilitate the creation of human capital and foster regional development.

Geographical proximity and pre-existing economic links argue for stronger migration cooperation between the EU and non-EU Mediterranean countries. The young demographics of these countries and the diversity of skills in their labour force are motivating factors for global initiatives, given the ageing of the European labour force. It should be recalled that in recent years, the EU has launched several pilot projects offering training and employment opportunities to young people in the region and several projects are encouraging success stories (including Digital Explorers and PALIM in the ICT sector and WAFIRA for seasonal workers in the agri-food sector).

The success of these pilot projects should not encourage the EU, as it did in April 2022 (EC Package *Attracting skills and talents to the EU*²), to adopt legislative and operational measures aimed at "chosen migration" to "attract skills and talents to the EU". This option is dangerous both for the EU and for the countries of the South, which are drained of their skills and do not contribute to the development of these countries, the only guarantee against irregular migration. Moreover, this approach of the EU can generate human rights violations.

For a new approach to be successful, certain conditions are necessary:

- a. The success of mobility programmes depends on a variety of stakeholders, including the private sector, non-governmental agencies and civil society organisations, both from third countries and the EU, when policies and programmes are developed and when they are implemented. In this respect, we stress the need to set up platforms to bring together experts and key stakeholders from both sides of the Mediterranean to discuss and identify ways to ensure that the EU legal migration framework delivers on its promises.
- b. The uneven development of territories requires the involvement of local authorities, particularly in border areas.
- c. Programmes and partnerships need to be adapted to the skills available and the needs of employers in the countries of origin and in the EU. Data remains scarce, with a lack of clarity on the skills of the third country workforce. Data collection and "skills mapping" are therefore needed. At the same time, programmes need to be accessible and predictable for employers

¹ See: https://ec.europa.eu/commission/presscorner/detail/fr/ip_22_2654 and <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2022%3A657%3AFIN&qid=1651223944578>

² See note 1.

and future employees. Data collection and project monitoring are also essential to ensure rigorous evaluation of programmes, including the identification of rights violations.

- d. Ending the current fragmented approach which leads to a lack of coordination and weakened cooperation with third countries, and further limits the potential for legal migration to the EU.

2) Increasing solidarity with countries hosting migrants and refugees

In a context of increasing economic uncertainty and growing geopolitical instability at the international level, the second lesson of this process is that the EU should integrate a sustainable, inclusive and balanced approach based on solidarity, human rights and the development of sustainable and socially and culturally sensitive international partnerships.

- a. The EU needs to go beyond economic considerations. Strengthening legal migration and migration cooperation between the EU and third countries should lead to the development of policies that promote economic aspects, but also address social needs. As such, the social and economic reality of third countries must be assessed before launching new partnerships or extending existing ones: from the state of their educational institutions to the social needs of their national and resident populations, including the migrants and refugees they receive. This is all the more true in the current context, where Mediterranean states are undergoing a profound transformation from being countries of migration and transit to being countries of destination and settlement for migrants and asylum seekers. Food insecurity, economic uncertainty and political instability, particularly in the Middle East and North Africa, will lead to further displacement in the future. UNHCR³ has therefore stressed the need for greater international solidarity and shared responsibility.
- b. In this context, we advocate the need for increased solidarity and responsibility sharing in the framework of enhanced cooperation between the EU and third countries in the Mediterranean region. Reflecting broader trends and challenges, non-EU Mediterranean countries are currently hosting significant numbers of refugees or receiving large numbers of migrants, a phenomenon that is expected to continue in the coming years, as suggested by the UNHCR Global Trends Report⁴.
- c. The EU should develop durable solutions with increased humanitarian support and better sharing of resources and responsibilities, including through the development of international protection pathways such as resettlement, but also humanitarian corridors and community sponsorship programmes.
- d. Instead of forcing southern countries to assume the role of guardians of Europe's borders, the EU should double its efforts to better manage migration locally, beyond humanitarian support, by strengthening social protection and good governance policies. Conditioning legal migration on short-term EU security objectives exacerbates rather than solves problems.

3) Humanising migration and promoting a people-centred approach to mobility in the Mediterranean region

The third point to remember and the main conclusion drawn is the need to rethink the current EU approach to migration and to put human beings and human rights at its centre.

³ The United Nations High Commissioner for Refugees.

⁴ *UNHCR Global Trends Report, 2021.*

The latest tragic events of 24 June 2022, when dozens of migrants and asylum seekers died while trying to cross the border between Morocco and Spain in the town of Melilla, have once again exposed the human cost of current policies at the EU's external borders. As highlighted by IOM and UNHCR in a joint statement⁵, the incident has also highlighted the need for safer alternative routes to prevent the risks associated with unsafe crossings.

The EU should drastically reconsider its approach:

- a. In the face of insufficient legal channels, irregular channels are the only route for too many people planning to reach the EU. The lack of legal channels is a driving force behind irregular migration and the use of criminal smuggling networks. The lack of legal channels is a major contributor to irregular migration - as recognised by the European Parliament - which in turn creates the demand for smuggling businesses. This is supported by research and, more recently, by the Parliament's own impact assessment of the New Deal. Irregular migration occurs on a much smaller scale than regular migration. Nevertheless, its relevance lies in the lives lost on dangerous journeys and the extreme vulnerability of people during their journey through transit countries and on arrival⁶.
- b. Partnerships with third countries to reduce irregular arrivals and keep those who are unable to reach the EU regularly - including asylum seekers - in third countries should be reconsidered. These "security" partnerships contribute to gross human rights violations. This is manifested in the degrading treatment and torture to which migrants and refugees are exposed in detention centres where migrants and asylum seekers are forcibly returned through cooperation between some Member States.
- c. The case of Libya is blatant and serious in this respect: the Libyan coast guard, supported by the European Union, violates the rights of migrants. It is therefore urgent to :
 - Suspend current cooperation agreements with the Libyan authorities, including programmes and activities in support of migration and border management in Libya,
 - Make any support to the Libyan authorities conditional on compliance with evacuation obligations organised by IOM, UNHCR and other organisations from Libya;
 - Demand the prompt release of all migrants, refugees and asylum seekers who are arbitrarily detained,
 - Stop forced returns from Libya, especially to countries where the lives of returnees may be at risk,
 - Support the demand of NGOs and humanitarian organisations for independent access to provide assistance and protection to vulnerable populations.
- d. Humanising migration means, among other things, avoiding detention, setting up effective rescue missions in the Mediterranean and also stimulating opportunities for legal and safe migration while avoiding negative conditionalities;

⁵ See: <https://www.unhcr.org/news/press/2022/6/62b738274/unhcr-iom-deplore-loss-life-nador-melilla-crossing.html>

⁶ *Legal migration policy and law*, European added value assessment PE 694.211 - September 2021. The report actually concludes: "The lack of legal pathways substantially contributes to irregular migration - as acknowledged by the European Parliament- which in turns creates the demand for smuggling businesses. This is corroborated by research and, more recently, by the Parliament's Substitute Impact Assessment of the New Pact. Irregular migration is happening on a much smaller scale than regular migration. Still, its relevance lies in the lives lost in dangerous journeys and in the extreme vulnerability of people during their journey across transit countries, and at their arrival. (page 11).

- e. It is essential that the EU overcomes the perception of migration as a threat and sees it as what it really is: an opportunity.
- f. Regarding Frontex (the European Border and Coast Guard Agency), we welcome and support the decision of the European Parliament's Budgetary control Committee⁷ which blocked the discharge of Frontex's budget following "the agency's failure to meet the conditions set out in the Parliament's previous discharge report, but also the findings of the European Anti-Fraud Office regarding acts of harassment, misconduct and refoulement of migrants involving Frontex. The Committee's MEPs said that nothing has been done about the reported violations of fundamental rights in Greece and that the operations in Hungary were continued regardless of the ruling by the Court of Justice that refugee return operations in Hungary in 2020 were incompatible with EU law. We believe that there is an urgent need for a more fundamental rethink of the agency's mandate and the way it fulfils it. Structural reforms must be put in place as soon as possible to ensure transparency and respect for human rights. In this respect, it should be noted that the budget of Frontex has increased considerably between 2005 and 2022⁸. This budget, or a considerable part of it, could finance a humanitarian, safe and legal approach to migration;
- g. Member States and the EU should continue their cooperation with third countries in line with their international commitments under the Global Compact for Migration and Refugees. In this way, a new and more balanced understanding of migration would emerge, also facilitating the development and standardisation of evidence-based and mutually beneficial partnerships and policies between the EU and third countries, thereby strengthening the rights and protections of migrants and asylum seekers.
- h. In this new approach, we expect the EU to treat unaccompanied minors with respect for their rights, in line with international standards and commitments undertaken by Member States. In this respect, it should be recalled that current conflicts, violence and other crises around the world have resulted in the displacement of 36.5 million children by the end of 2021, according to UNICEF estimates - the highest number recorded since the Second World War⁹.

4) The responsibility of the countries of the South

The southern Mediterranean is the tragic scene of persecution, armed conflict, violence and human rights violations. This situation engages the responsibility of the Southern States, which we call upon to :

- a. The implementation of a genuine policy of respect for the rights and integration of migrants,
- b. Introduce in their Constitutions all the guarantees against discrimination, ill-treatment and unfair trials, and respect the international law and conventions signed by these countries,
- c. Adopt national laws that are consistent and coherent with international law in this area,

⁷ See: <https://www.europarl.europa.eu/news/en/press-room/20220328IPR26301/meps-withhold-discharge-of-eu-border-control-agency-frontex-accounts>

⁸ In 2005 the budget was six million euros, in 2022 it was 754 million euros. Source: <https://frontex.europa.eu/about-frontex/faq/key-facts/>

⁹ This figure includes 13.7 million refugee and asylum-seeking children and nearly 22.8 million children displaced within their own countries due to conflict and violence. Source: <https://www.unicef.org/press-releases/nearly-37-million-children-displaced-worldwide-highest-number-ever-recorded>

- d. Guarantee migrants in an irregular administrative situation in the event of arrest, pre-trial detention or trial effective access to justice (access to competent lawyers and interpreters, access to consular authorities, access to asylum procedures, access to healthcare, etc.),
- e. Develop training programmes and launch awareness-raising campaigns for staff of administrations dealing with migration issues (law enforcement bodies, border police, prison staff, judges, health care staff, schools and the Ministry of Education, etc.),
- f. Agree and implement binding regional mechanisms (particularly at the level of the African Union) for the respect of migrants' rights,
- g. Capitalise on positive experiences and generalise them (such as the Moroccan experience of "exceptional" regularisations of migrants, overcoming both its limitations and its exceptional nature), to make it an approach that respects freedom of movement without calling into question the rights of States to control the flow of their borders.

5) In terms of transversality to those three axes mentioned above, we recommend :

- a. Access to information and transparency in migration management,
- b. Capacity building of actors involved in migration issues and particularly NGOs to interact and engage effectively with the international human rights protection system, including through the Universal Periodic Review mechanism,
- c. Launch awareness and communication campaigns towards law enforcement officials and treat migrants based on a "Law" approach with a profound change of paradigms and concepts, and use a positive discourse on the migration issue, based on dignity and rights, appropriating the lexicon used by the UN international system, notably IOM;
- d. Pay particular attention to the gender dimension as women remain a vulnerable group that is highly exploited in the context of migration,
- e. Fight impunity for traffickers and mafias, but also for states that are not in compliance with international conventions, either in terms of ratification or in terms of implementation of international obligations.

31 August 2022