

MAJALAT - Brussels Civil Society Forum CONCEPT NOTE & RECOMMENDATIONS *Migration*

Migration expresses access to human dignity, freedom, democracy, meritocracy, personal and/or family fulfilment, or simply, the departure from a deteriorating environment. We are witnessing the multiplication of forms of movement and travel, to adapt to crisis situations and to legal, security and coercive measures, with excessive risk-taking. Today it is more a question of individual departures, often clandestine or illegal. All this in a context where border closures are becoming the general rule, with repercussions on migrants in the form of increased controls, restricted movement at borders, criminalisation, blocking and sometimes rejection or even stigmatisation.

Of all the migration regions, the Mediterranean has the most dynamic area of international mobility. They are part of a centuries-old historical depth, responding today to the economic, demographic and geopolitical disparities that can be found between the two shores. As a result, it is a structuring and transversal theme of the agendas of both the European Union countries and the countries on the southern shore of the Mediterranean.

The changing situation in the EU's southern neighbourhood in recent years in terms of migration has led the Union to address these issues in a number of resolutions and policies, reflected in the adoption of different measures in host countries in Europe and in countries from which refugees come. These measures range from mobility agreements (e.g. the EU-Tunisia mobility agreement) to integrated border management policies and agreements on asylum and migration (e.g. the European Agency for the Management of Operational Cooperation at the External Borders - Frontex Agreement with Turkey which has a significant impact on the region) to technical assistance projects provided to third countries, using various Commission funding instruments (e.g. EU4Border Security, an EU grant of €4 million (European Neighbourhood Instrument / DG NEAR) benefiting the southern neighbourhood countries). At the same time, the EU is imposing stricter and more expensive visa requirements, thereby limiting the freedom of mobility of people living in the southern neighbourhood. This approach to the migration crisis also affects aid to the region, insofar as it is explicitly linked to the level of humanitarian aid allocated to the region. It is therefore crucial to assess the impact of these forms of cooperation and their effects on civic space, freedom of expression and mobility; and to assess whether these measures lead to an effective rights-based solution to the migration crisis, addressing in particular its root causes, which are reflected in the socio-economic, cultural and many other areas.

To this end, during the 2019 business cycle, the following two discussion points were addressed :

- Social protection and migrant rights,
- The level of engagement of civil society in bilateral discussions on the issue

This concept note is the result of the discussions that took place during the thematic Workshop on Migration held in Casablanca (Morocco) in April 2019, the youth workshop (Tunis) in April 2019 and, of the subsequent reflections resulted from the South Seminar held in Tunis, in September 2019. Then, in order to refine the recommendations resulted from the Majalat activity cycle, an independent expert active in the civil society sector in the Southern Neighbourhood countries, has been recruited. The main objective of the work done by the expert was to better specify and develop the recommendations using specific provisions, policies, EU instruments, mechanisms and actions in order to make the



recommendations operationalizable and actionable specifying the targeted EU institution - and, therefore, place recommendations in perspective with EU policies in the specific thematic area discussed.

The content and political message of the report and the recommendations have not been altered. Additional points will be validated with the discussions with the participants during the Brussels Civil Forum.

Entry points

1. Social protection and migrant rights

It is on the concrete work site of migration that the reflection on human rights reveals all its asperities. This is reflected in the issue of social protection and the rights of migrants. Indeed, the rise of nationalism and the growth of security measures, have undoubtedly restricted fundamental rights in the name of the principle that "the end justifies the means". Even more worryingly, human rights are sometimes seen as obstacles to the fight against migration. It is both regrettable that respect for fundamental rights is also undermined in operations involving the use of force, in order to identify and expel migrants in so-called "irregular" situations. And, on the other hand, it is regrettable to note that in many countries, particularly in Europe, we are witnessing a form of erosion of the rights of migrants in general and of the most vulnerable groups in particular (including, among others, migrant women and minors, whether isolated or accompanied). However, neither the Dublin agreements, nor the resolutions of the Council of Europe nor the directives of the European Parliament are sufficient to guarantee the rights of these migrants, who are largely subject to constraints and practices that call into question their protection.

Social protection of migrants

Social protection is a human right and is defined as such in the Universal Declaration of Human Rights (1948), the conventions and recommendations on social protection adopted by the ILO and other important United Nations human rights instruments. However, migrants are among the most excluded from basic coverage by social security coverage. Migrants and their families face serious problems as they risk losing their right to social security benefits in their country of origin and, at the same time, they may have limited access to the social security system of the host country. Their access may also be limited due to a lack of awareness of their rights and the State's obligations. Access to social protection is a fundamental right and must be addressed not only in terms of equal treatment, but also in terms of extending coverage.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) strikes a balance between the sovereign power of States Parties to control their borders and regulate the entry and stay of migrant workers and their families, on the one hand, and the protection of the rights that Part III recognizes for all migrant workers and their families, including those in irregular situations, on the other. Moreover, although its objective is to protect migrant workers and members of their families by improving respect for human rights, no Western European country has ratified it to date. As with the Global Compact, it aims to reduce the risks and vulnerabilities faced by migrants at different stages of migration, by promoting the respect, protection and fulfilment of their human rights and by providing assistance and care.

Recommendations

1. Implement the guidelines of the Global Compact on Safe, Orderly and Regular Migration and



ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

2. Revision of the Global Compact on Migration (Marrakech Pact) and its implementation, which is a step back from the provisions presented by the 1990 UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This applies in particular to women's rights, the conditions of detention of migrants and the possibility for States to refuse the application of certain measures.

3. In terms of social protection and the fight against the exploitation of migrant workers: **creation of mechanisms at EU level for the control and protection of seasonal workers in the Southern Neighbourhood working in Europe and the region** (e.g. Moroccans working in strawberry fields in Spain)

4. Accession to the 1990 UN Convention with work on its enforceability vis-à-vis States and International Labor Organization (ILO) Conventions, in particular ILO Convention No. 143 on rights of migrant workers. In addition, the review of the EU's commitment to the climate conventions and their effective implementation (ensuring equal rights for migrants, refugees and nationals, guaranteeing the renewal of the stay and modify the criteria of exceptional regulatory policies).

2. The level of engagement of civil society in bilateral discussions on the issue

International human mobility, which has increased considerably in recent years, has not only played an increasingly important role on the political agenda because of its cross-cutting impact on other sectors, but has also seen its complexity increase (economic opportunities abroad, impact on demography, migrants' living conditions, integration, etc.).

Today, no one questions the role and importance of civil society in building the rule of law (including political pluralism, freedom of the press and the proper functioning of justice), strengthening democracy, good governance, the fight against racism and discrimination, and the defense of migrants' rights. Also, the role of mediator, which is very often taken on by civil society, remains decisive in trying to ensure that migrants in great difficulty have access to their rights. Migrants are often vulnerable because they are generally unaware of their rights, despite being promoted by various texts.

Civil society must call on all States to take into account gender issues and the situation of unaccompanied children in their migration policies and to respect their commitments under the international conventions to which they have subscribed.

Civil society can also initiate awareness-raising work with States, by organizing dialogues and putting pressure on trade unions and various professional organizations.

Civil society can work with States to make both governance and the rights of migrants and all members of their families a priority, particularly within the framework of the Global Compact on Safe, Orderly and Regular Migration and the 2030 Agenda.

In short, to advocate and act to encourage recalcitrant, reluctant or hesitant States to ratify the said Convention.

In fact, civil society organizations and non-governmental organizations have expertise and experience in the provision of humanitarian and development assistance. They are therefore able to:

1. Become a major source of information on international solidarity and exchange on migration issues.
2. Strengthen outreach and communication work for migrants.
3. Actively collaborate with the United Nations and its agencies and other relevant international organizations on migration issues.
4. Promote a strong network of associations and develop services and "products" to defend and support migrants.



5. Defend the rights of migrants who are often exposed to dangers ranging from intimidation to physical violence, to obstacles to freedom of association or judicial harassment. Also, the activists need to be supported, for example through the organization of Forums where they meet and realize that they are not alone and that multiple fights are carried out everywhere in the world.
6. Civil society can play the role of monitoring and evaluating public policies and can act as a watchdog and alarm mechanism on migration issues.

Civil society must be considered as a full partner in public policies and can represent a valuable interlocutor for the EU in addressing the issue of migration issues. Whether at the level of the countries of the North or of the South, it will bring a valid contribution to the discussions between the two shores and will make its voice heard.

Admittedly, civil society is diversified and polymorphous, with often different or even conflicting interests, which does not exclude the search for convergence and the usefulness of working together. However, there is still a need to strengthen the representation of civil society, in particular by giving women their full place, and by welcoming the younger generations.

Recommendations

1. Support cooperation programmes targeting:

- a) Alternative and traditional community media in the South and Europe to change perceptions about migration.
- b) Cultural programmes promoting the mobility of young people, artists and others.

2. Re-launch the EuroMed tripartite dialogue between the European Union, the Southern Neighbourhood Governments and independent civil society in the region (including independent trade unions).

3. Encourage member states to de-criminalise solidarity and the rescue of migrants.

4. Establish a trust fund that specifically addresses the protection of migrants and displaced persons based on a rapid, integrated, flexible and short-term approach, different from the current approach advocated by existing funds such as the Africa Fund or the MADAD Fund.

5. Expand programmes facilitating the mobility of young people in the Southern Neighbourhood, the quest for education and capacity building to include disadvantaged groups (such as women, rural residents and people with disabilities).

6. Launch a dialogue on the role that the EU could play in simplifying visa procedures (e.g. legal basis for cooperation with visa processing companies)

7. Evaluate the results of the delegated cooperation agreements and, if necessary, reframe them (targeting practices of the region's international organizations sometimes replacing civil society), in addition to the creation of a transparent mechanism.

8. Support the creation of a committee including civil society in the region to monitor the implementation of the recommendations.



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