

Rights Compliance and Protection in Third-Country Cooperation on Asylum and Migration

Five recommendations to the European Commission and European Parliament

Policy Recommendations

January 2025

Since 2015, Europe has intensified its cooperation with third countries in the field of asylum and migration. External asylum and migration cooperation has become an integral part of the EU's policy approach. While this cooperation is not part of the formal legislative reform package, it appears that for EU and Member State leaders, its successful implementation constitutes a prerequisite and backbone of **the agreed EU Pact on Asylum and Migration**. Indeed, the past year has seen an expansion of such cooperation e.g., the **EU-Tunisia MoU**, the **migration partnership with Mauritania** and the **EU-Egypt partnership agreement**.

The intensified collaboration and arrangements with third countries are presented as a panacea to achieve the expressed objective of improved access to protection along migratory routes, better managed and safer migration and ultimately reduced arrivals of refugees and migrants to European shores. However, the EU-third country arrangements are characterized by lack of transparency, democratic control and scrutiny. They are **informal and non-binding in nature** (press statements, declarations, Memorandum of Understanding (MoU's) etc), and they involve significant funding allocations channelled to non-democratic states without appropriate engagement by the European Parliament. And increasing evidence, including **research commissioned by the EU**, point to the EU's external asylum and migration policy representing fundamental rights challenges.

1

PROTECTION. Reverse policies that prevent people from seeking safety and uphold the right to seek asylum. Objectives of the EU and Member States to restrict mobility and reduce arrivals at the EU's external borders must never be at the expense of the ability of refugees and asylum seekers to seek international protection. A securitized approach to migration and border management that restricts access and bolsters border controls pushes refugees, asylum seekers and migrants onto more dangerous journeys and exacerbates protection risks. All policies and practices, including those related to securing borders, must comply with human rights law, the rule of law and the principle of non-refoulement.

2

HUMAN RIGHTS. Ensure that all EU supported actions related to forced displacement and migration are guided by an effective human rights and do-no-harm approach. A human rights approach and timely human rights impact assessment should guide interventions to ensure that the delivery of aid is conditional on the expansion of the protection space. No support must be channelled to entities responsible for human rights abuses. The collaboration with and the provision of assistance to migration management institutions by the EU and Member States in third countries needs to carefully ensure that it effectively provides protection and assistance to migrants and refugees in need without inadvertently causing harm.

3

TRANSPARENCY. Strengthen transparency, democratic control and oversight of the EU's engagement in third countries on forced displacement and migration. Insist on scrutiny by the European Parliament of spending related to forced displacement and migration across all EU funding instruments. This must include ensuring public availability of monitoring and evaluation reports and respect of the principle of freedom of information. Parliamentary control of the engagement of EU agencies - such as Frontex and the EU Asylum Agency - outside the EU's territory must also be ensured.

4

INDEPENDENT MONITORING. Insist on effective and independent monitoring of the protection implications of extraterritorial migration and asylum cooperation in line with the Better Regulation guidelines. The EU and Member States must assess the impact of their actions through systematic monitoring and evaluation and address protection implications of their external actions from the outset of rolling-out new migration partnerships. Systematic inclusion of civil society and of those affected by the policy in the monitoring should be ensured. Where this is not possible, consultations and/or access to share data and evidence with relevant EU institutions should be established and prioritized.

5

ACCOUNTABILITY. Enhance and increase accountability for rights violations. Evidence of the human rights effects of extraterritorial migration cooperation offered by actors directly engaged with refugees, migrants and host communities must be acknowledged, and timely and appropriate corrective action taken in program and policy interventions by the EU and Member States. Likewise lack of meaningful access to monitor effects of the arrangements must be sanctioned, including through suspension of arrangements and financial allocations to third countries. Improving the safety and dignity of the people affected by these migration agreements is a legal and moral obligation, aligned with EU values as enshrined in the Lisbon Treaty.