



## The ‘right’ Mobility Partnership between the European Union, Morocco and Tunisia

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**The Mobility Partnerships between the EU and third countries do not primarily focus on migrants’ rights. This is an attempt to show what the partnerships with Morocco and Tunisia should look like from a migrant’s perspective.**

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After the popular uprisings in North Africa, Morocco and Tunisia – which are both exit, transit and destination countries – are the first countries to start consolidating the dialogue on migration, as adopted by the Council of Europe in June 2011. The European Union has previously concluded Mobility Partnerships with Cape Verde, Georgia and Moldova with the aim of facilitating mobility and including the states adjacent to the EU in governing migration. The objective of this brief will be to provide a reversed criticism of the latter by elaborating a similar-looking partnership with Morocco and Tunisia based on opposite values, focusing mainly on migrants’ rights. The ‘right’ Mobility Partnership in this policy brief refers to a rights-based approach based on human rights, migrants’ rights, the right of the child, the right to asylum and mobility and not the least the right to self-determination.

It is likely that an actual Mobility Partnership between the EU and Morocco and Tunisia would look like the suggested partnership in terms of structure and wording. However, the content will most certainly not emphasize migrants’ rights.

### POLICY RECOMMENDATIONS

If a common EU approach to mobility and migration is to provide added value with regard to migrants’ rights, then:

- Member states should show internal solidarity and shared responsibility for arriving migrants and refugees.
- The management of the flows of undocumented migrants should not carry more weight than how these migrants are treated.
- The Mobility Partnership should indeed be based on bilateral best practice adopted across the 27 EU member states.
- Moroccan and Tunisian malpractices such as the criminalizing of migrants should be stopped.
- Obligations of non-refoulement should be respected.
- Algeria should be included in the dialogue.



## How to read this paper

While using the exact same structure and wording as in the existing Mobility Partnerships, all statements below underline what the EU and the partner countries are actually *not* doing. In other words, while the wrapping might be the same, the content is in most cases the exact opposite to existing practices, given the perspective on migrants' rights. For example, not all EU members are signatories to mobility partnerships, and the partnerships themselves have been criticized for being restricted to existing or planned bilateral activities. There has furthermore been a lack of internal solidarity among the 27 EU Member states regarding arriving migrants and refugees. Best practices, such as the French-Tunisian bilateral agreement on migration and development, are not adopted across member countries, and visa facilitation measures have mainly targeted highly skilled migrants. The EU agency for border security, FRONTEX, does not survey illegal European fisheries in African seas, and push-backs of southern Mediterranean migrants to unsafe third countries have been practiced by European states, despite their obligations in respect of non-refoulement. Additionally, Algeria is not included in the dialogue, while Morocco and Tunisia do not respect the rights of migrants or grant access to asylum procedures in a coordinated approach with the EU.

### **Based on bilateral best practice multiplied by 27, subtracting southern Mediterranean malpractice, and adding the values of a common EU approach.**

From a migrant perspective, the current policy brief proposes the following:

All members of the European Union will be signatories and participate in the Partnership through shared responsibilities and solidarity. First countries of arrival need help from Northern countries to discharge the responsibility for the rights of migrants and asylumseekers, while a common EU refugee system will be developed.

**ACTING** within the framework of the Geneva Convention, the Universal Declaration of Human Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention of the Rights of the Child and the Recommendations of the EU Commissioner for Justice, Freedom and Security and National Human Rights Commissions; and taking into account the support for rule of law, democracy and civic freedoms as well as the UN Settlement Plan for Western Sahara.

**NOTING** the benefits of including Algeria, which has been left out of the dialogue, but also Egypt and particularly Libya in the dialogue for migration, mobility and security, since opportunities are needed by their people, while the treatment of migrants in these countries poses concern for the signatories.

**REMINING FRONTEX** that it should rescue migrants at sea while also surveying illegal European fisheries in African seas.

**CONFIRMING** their commitment to stop criminalizing the phenomenon of migration on both shores of the Med-

iterranean Sea and to develop better asylum processes in Morocco and Tunisia while working for migrants' rights.

**RECALLING** the added value of public and formal re-admission agreements, while developing common standards and procedures in member states for the voluntary or non-voluntary return of undocumented (and other) migrants, thus confirming the obligations of non-refoulement.

**RECOGNIZING** the importance of the transferability of social security rights such as pension, health care and maternity leave as well as non-double taxation agreements and low transfer costs for remitting money.

**REAFFIRMING** the strong commitment to regime transparency, governance, security and democracy, while also confirming the commitment to alleviating the burden of the transit countries from the pressures of migration towards Europe and thus fighting the root causes of migration through increased development aid and cooperation with third countries.

**HAVE DECIDED** on a Mobility Partnership that goes beyond new and planned bilateral activities. It will mainly focus on a common approach to migration such as Common Visa Application centers in Morocco and Tunisia, and updated assessments of labor-market needs in each of the member countries coupled with visa arrangements. The incentives offered to the southern Mediterranean partner countries for cooperation, such as entry visa facilitation, preferential entry quotas for economic migrants, special trade concessions, technical cooperation, development aid and more, will not merely be conditioned to the partner country's cooperation in terms of managing migration flows and the EU external borders, but more particularly to the respect for migrants' rights. Cooperation over the control of migration flows will not

constitute an overriding means of regime legitimacy in the international arena.

To this end, they will **ENDEAVOUR** to develop further their dialogue and cooperation on migration issues, in particular along the following lines:

### **Mobility, visa facilitation, integration, asylum**

1. To promote a better framework for documented mobility, including not only high-skilled migrants, but also labour migrants through updated labor-shortage lists coupled with visa arrangements in the EU member states and pre-departure language courses. Workers who have stayed for a long period in the EU, have developed strong ties within European communities, and who risk falling out of legal status (as is the case for long-term seasonal workers in Italy and Spain) will have their residency permit extended.
2. Young people will be targeted, with an extension of the ERASMUS program to Morocco and Tunisia, as well as internships and young professional programs; this will also be accelerated through the recognition of Moroccan and Tunisian qualifications, not to mention further cooperation and twinning of universities and training centers for trans-Mediterranean double degrees. Scholarship programs and research cooperation will be further supported, based on local needs.
3. Secondments and internships will be offered for public servants on both sides of the Mediterranean in matters ranging from border control to governance.
4. To develop and facilitate visa issuance amongst other things through Common Visa Application centers in Morocco and Tunisia in both the capitals and the regions. More categories of visas will be introduced to targeted groups, not only be highly skilled migrants, while the length of stay will be increased. Re-entry visas will be issued in parallel with projects aimed at facilitating circular migration.
5. To facilitate the reception of asylum-seekers and share the responsibility among EU member states, an optimal mobility partnership would seek to prevent arbitrary geographical factors from affecting the responsibilities of member states in an unfair manner. For example, Denmark made 1,725 asylum decisions in 2008 compared to the 30,915 made in Greece, leading to the main responsibility of asylum being placed on those same states that are failing to control their external borders. It is the combination of the 'country of first arrival' concept and countries' geographical location that causes this problem.

6. Taking into account the European Pact on Immigration and Asylum and the Geneva Convention on Refugees in order to allow access to asylum both in EU member states and in Morocco and Tunisia, all refugees should have access to asylum mechanisms in the latter countries, and not simply be categorized as economic migrants, as is the case in Morocco today. Asylum processes in Morocco and Tunisia should furthermore be coupled with resettlement arrangements within the EU.

### **Migration and development**

7. To support the capacity to monitor migration, but especially the capacity to educate and employ the population.
8. To prevent brain drain and brain waste through actual voluntary return policies, with an emphasis on the distinction between voluntary return and forced removal as noted in the April 2002 Green Paper on a Community Return Policy. A policy of voluntary return should be developed along the lines of what the French Office for Immigration and Integration (OFII) is proposing. Migrants will have the possibility to return at any time and with local financial and technical aid for reintegration at the migrants' disposal, this being coordinated as a community issue extending OFII's work in the Maghreb.
9. To promote sustainable reintegration by respecting the time dimension and return process of migration in order to avoid a negative impact on the professional reintegration of the returnees to the Maghreb.
10. To engage diaspora groups in local initiatives, developing an EU-coordinated knowledge of migrants by enhancing cooperation with and among Moroccan and Tunisian communities in the EU, and streamlining bilateral pools of initiatives to the multilateral level.
11. To ensure low transfer costs for remitting money through the creation of an EU common portal on remittances, while a review of the Payment Service Directorate (PSD) regarding extra-EU funds will be undertaken.
12. To alleviate the burden of the transit countries from the pressures of migration towards Europe through increased development aid and cooperation with third countries. Migration will be integrated into the development projects of the European Union, while development will be introduced into European politics of migration. This should stop the implementation gap between 'the Global Approach on the question of Migration' (e.g. the projects under EU-UN Migration for development) and 'The European Pact on Immigration and Asylum'.



## Border management, high-risk migration and trafficking of human beings

13. To strengthen cross-border cooperation, FRONTEX should rescue migrants at sea through increased cooperation with the Spanish, Maltese, Italian and Greek authorities in order to avoid disasters such as the 61 persons found dead aboard a boat in the Mediterranean in May 2011 due to the repeated disregarding of distress calls, and the 1551 people who have died at sea since the beginning of the Arab Spring. FRONTEX should also fill the role of surveying illegal European fisheries in African seas.
14. To sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families with the objective of improving migrants' rights, especially people living in transit and those exposed to violence and exploitation.
15. To stop the criminalization of migrants, regretting the fates of the 17 dead Tunisian migrants aboard a boat in the Mediterranean in June 2009, but especially condemning the six year prison sentence for the six survivors on the boat. Furthermore, records of beating and exploitation in the detention facilities in Morocco have been underlined by Human Rights Watch, implying a regular revision of the EU list of 'safe third countries' while ensuring increased transparency in the field related to the treatment of migrants. This will promote reflections on the readmission of third country nationals to 'safe third countries', as, for example, underlined in the framework of the Spanish-Moroccan readmission agreement signed in 1992.
16. To enhance the security of people crossing borders both into Morocco and Tunisia and into the EU, and to avoid border-induced displacements and migrant's expulsions to desert areas without food, water and medicines, such as Doctors Without Borders noted was being undertaken by the Moroccan authorities in 2006.
17. To improve joint operational measures for cross-border crimes and human smugglers and to ensure the rights-based operational management of outsourced matters by private security firms. Increased governance and monitoring will be introduced in the case of private outsourcing, such as should have been undertaken in the cases of the UK outsourcing to G4S that led to the death of an Angolan national during deportation in late 2010, and the Italian outsourcing to Finmeccanica, with Human Rights Watch characterizing the Libyan camps in 2009 as corrupt and ranging from negligent to brutal. An ideal mobility partnership would also ensure that border technologies do not preempt migrants' access to asylum procedures.
18. To develop common standards and procedures in member states for returning undocumented (and other) migrants, particularly avoiding swift repatriations or 'simplified procedures' which have been practiced by the Italian authorities in the case of push-backs to Libya, in disregard of their obligations concerning non-refoulement.

## Implementation

18. The provisions of this joint declaration are designed to create legal rights and obligations under international law.

## FURTHER READING

- Joint Declaration on a Mobility Partnership between the European Union and the Republic of Moldova. [http://www.iom.md/attachments/086\\_EU-MD%20Mobility%20Partnership%20Declaration.pdf](http://www.iom.md/attachments/086_EU-MD%20Mobility%20Partnership%20Declaration.pdf)
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*The opinions expressed in this policy brief are those of the authors alone and do not necessarily reflect the official opinion of the Danish Institute for International Studies.*