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# A review of post-Lampedusa: What type of EU migratory cooperation with third countries?

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## Abstract :

After the dramatic events in Lampedusa and in view of the post-Stockholm programme EU cooperation with third countries will emphasise strengthening third countries' borders and the processing of asylum requests outside of Europe via the externalisation of European procedures or the regional protection programme. The place granted to resettlement programmes or to the development of humanitarian visas does not seem quite as certain.

Long term the global approach to migration faces the challenge of having to satisfy the needs of the European labour market, those of the migrants who are seeking a more stable status and the development ambitions in the countries of origin. Financing all of this work appears to be difficult and since the paths of political conditionality seem uncertain, the EU will undoubtedly have to find a better way to regulate flows of people and the migrant remittances.

Since EU internal solidarity seemed difficult to promote after the dramatic events off Malta and Lampedusa in October 2013, the European Council of December 2013 welcomed the conclusions of the Task Force Mediterranean led by the European Commission which emphasises the strengthening of the Union' external borders and cooperation with third countries. The Commission proposed operational measures covering all of the countries of origin thereby aiming, short term, to step up the control of migratory flows and more long term, to address the deep causes of migration. Cooperation with third countries, which is leading to the externalisation of the European migratory policy, might provide an opportunity to promote economic development and the values of the respect of fundamental rights of which the European Union is the standard bearer. However in order to win solidarity from third countries in terms of addressing the migrant issue, whilst dealing with people in a dignified manner, the EU will have to provide itself with the financial and regulatory means for this policy and pay more attention to third countries' expectations.

## I- AN EXTENSIVE COOPERATION PROGRAMME WITH THIRD COUNTRIES

In view of short and mid-term action to limit migrant

flows the EU's declared goal is to dissuade illegal migrants from setting off on perilous journeys.

Hence the EU is planning to support third countries' border control infrastructures, particularly in the south and east of the Mediterranean. Information campaigns about the dangers linked to illegal immigration will be developed. Moreover work to strengthen the capacities of these countries, notably via the provision of European Liaison Offices (ILO), is due to be supported, notably by Turkey and Morocco. A new generation of Euromed police programmes are due to be implemented this year and the WAPIS programme WAPIS (West African Police Information System), led by Interpol, is due to be strengthened. FRONTEX's Atlantic Seahorse Cooperation Network programme with third countries which presently involves Spain, Portugal, Senegal, Mauritania, Cap Verde and Morocco in the fight to counter illegal immigration, is due to be extended to Libya and Egypt. Mobility partnerships between the EU and third countries like Tunisia, Jordan, Egypt, Libya, Algeria and Lebanon, which aim to set up legal migration in exchange for the latter countries' commitment to countering illegal immigration, are also due to be finalised or negotiated. However the Task Force Mediterranean highlights the importance that for the effective implementation of this cooperation the good will of the third countries and the necessary consideration by the EU of their expectations are required.

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In terms of asylum, regional protection programmes financed by the EU aim to help third countries improve their local infrastructures and their administrative and legal capabilities in hosting asylum seekers and the processing of their requests. Some programmes have already been established in North Africa (with Libya, Tunisia and Egypt) and in the Horn of Africa (Kenya and Djibouti). They are due to be enhanced by the inclusion of the countries of the Sahel. In September 2013, the EU, encompassing the Commission and the Member States, made 1.8 billion € available in support of 7 million people affected by the Syrian conflict and seemed to be the spearhead of emergency reconstruction aid in support of this region. More specifically however the European Commission is elaborating a regional protection programme to include Lebanon, Jordan and Iraq to address the consequences of the conflict in Syria and to limit the risks associated with the destabilisation of the neighbouring countries which at present are hosting 2.3 million refugees. The experience of the regional protection programmes shows however that when launched in countries that are not exemplary in terms of Human Rights' protection (Ukraine, Belarus) they are not always implemented in the spirit of protecting the fundamental rights that they are supposed to disseminate.

The Task Force and the European Council of December 2013 also highlighted the importance of resettlement programmes that aim to offer people who have been recognised as refugees outside of Europe by the HCR the possibility of settling legally long term in a Member State, without having to start off, in the absence of visas being delivered by Member States, on a hazardous journey. When we realise that in 2012 only 4,500 people benefited from resettlement in another Member State and that in December 2013 the European Union had only taken in 12,340 people fleeing the Syrian conflict ie 0.54% of the total number of people displaced by this conflict, mainly for humanitarian reasons, and not based on conventional protection, the challenges seem enormous.

In the first half of 2014 the Commission is planning to organise a conference with the HCR on the resettlement of the most vulnerable populations. Undoubtedly it would mean that the European Union, which

took 17% of all refugees in the world in 2012 has to fully accept its global share of processing and taking in asylum seekers.

Moreover in view of the European strategy that will replace the Stockholm Programme (2010-2014), the Commission will make proposals that aim to define a joint response to the award of humanitarian visas to people seeking protection. This humanitarian protection might be less of a constraint for Member States than the existing conventional and subsidiary protection, since the rights offered to people benefiting from it would in all likelihood be more precarious.

The Task Force is also planning the launch of a feasibility study on the possibility of asylum seekers accessing joint European procedures to process their request outside of the Union. The European Asylum Support Office, EU Agency for Fundamental Rights, FRONTEX, the HCR, the International Labour Organisation and the International Migration Organisation would all be involved.

The EU's selection of people who really need international protection would then be undertaken closest to the zones of conflict and the externalised application of European procedures and criteria would provide a guarantee for the asylum seekers of the respect of their fundamental rights in the processing of their request.

Beyond this, in order to address the deep causes of these flows like poverty, Human Rights infringements, conflict, a lack of economic prospects, poor working conditions and notably under employment, the European Council is asking for appropriate support from the countries of origin and transit via development aid as part of the European Neighbourhood Policy in particular and a global approach to migration.

Hence since 2005 the European Union has been trying to develop a global approach to migration which counts on a triple win in which European labour market requirements would be satisfied, the migrants would enjoy a more stable status and development in the country of origin would be given support. The organisation of legal immigration should therefore help towards reducing illegal migratory pressure.

Since 2010, a European immigration portal provides

information on Member States' labour market requirements. Various directives on researchers, students and highly qualified staff aim to secure certain rights linked to the residence of these people thereby helping towards an improved recognition of their diplomas and fostering circular migration.

A directive on seasonal workers that is under discussion at present should also help to develop circular migration.

During the period 2014-2020, European development aid for migration will notably pass via a new programme, Euromed Migration and will represent 7% of the thematic actions in the Development Cooperation Instrument (DCI), i.e. 1.37 billion €. It will be directed in particular towards the development of professional and university training adapted to the requirements of the countries of origin. Moreover the measures taken to foster migrant remittances which represent more than three times official development aid (406 billion \$ in migrant remittances against 126 billion \$ in world ODA in 2012). Mobility partnerships are also becoming a part of this global approach to migration.

## **II. HOW CAN THE EUROPEAN UNION GUARANTEE THE IMPLEMENTATION OF ITS COOPERATION PROGRAMME WITH THIRD COUNTRIES?**

Achieving the declared goal of improving the control of migratory flows undertaken in the respect of their fundamental rights will indeed require major support from third countries' asylum and border control systems.

Should aid be conditioned according to third countries' results in the fight to counter illegal immigration?

Of course European financial support like that which is supposed to help towards re-integrating migrants in their countries of origin are sometimes seen by the latter as pull factors and the conditions governing their award could be better regulated.

However as far as border control negotiations are concerned, the EU is not always in a position of strength vis-à-vis third countries, which do not see the urgency of controlling borders as the EU does,

since they benefit from migrant remittances and have to bear the financial burden of their re-admission.

The re-admission agreements with Morocco, Algeria and China are struggling to become a reality because these countries deem the incentives offered by the EU inadequate. Those with Ukraine, Russia and Turkey were really completed once the EU had committed, on their request, to negotiate a relaxation in their visa regimes. In an extremely weakened State like Libya, which has many other concerns rather than its borders, what might the impact of a suspension of European aid be due to a lack of efficacy in its border controls and the fight to counter migrant trafficking?

In view of the extension of the Seahorse Mediterranean Maritime Surveillance Programme, the Task Force notes that it will be necessary to "convince" Tunisia, Algeria and Egypt to take part in this network. Conditioning aid may meet with limited success except in an extremely small number of cases.

If it wants to involve third countries in the fight to counter illegal immigration the European Union will have to pay the price. The Task Force Mediterranean is proposing development aid in addition to the "Asylum and Migration Fund" (3.1 billion € for the period 2014-2020) and the "Internal Security Fund" (3.7 billion €), particularly from the future neighbourhood instrument (15.4 billion € in all), the EDF (European Development Fund) (30.2 billion € in all) and even from the Stability Instrument (2.3 billion € in all), to help people living in refugee camps. As all of these funds will probably be insufficient the Task Force is also calling for additional financing from the Member States.

But for the third States to really become involved in European objectives to control migratory flows it is undoubtedly important for them to be convinced that their interests are truly being taken on board.

In this regard migratory financing should not be mixed up with development aid, since the latter should not be used to finance border control infrastructures that do not have any national economic impact.

Moreover requests from third countries focus on extended legal immigration possibilities to the European Union, notably by the flexible award of visas. In the knowledge that development will not lead – at first at

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least – to a reduction in migratory flows towards the EU and that the latter which is ageing needs migrants, particularly highly qualified people in order to maintain its growth prospects, work to regulate legal migratory flows, that is cheaper than development aid and border controls, is due to continue. This means strengthening the efficacy of the global approach to migration which is sometimes seen as an instrument that is used excessively for “selective” immigration in the EU and to improve the advantages that migrants and third countries can benefit from.

Research should therefore continue in two specific areas:

- That of highly qualified migrants: indeed at present Europe’s appetite for highly qualified migrants does not guarantee strong commitment in the fight to counter brain-drains. This is notably reflected in an ethical code of conduct in the “Blue Card” directive which is not extremely binding. Moreover Member States do not always implement the facultative measures in this directive when they find themselves in competition with each other to attract the highly qualified. As part of the present negotiations for a directive on intragroup posting, the Member States, which are particularly concerned about controlling migrant entries and promoting competition between the various social systems, are encountering great difficulties in harmonising their reception conditions for highly qualified migrants. They will therefore have to overcome their differences to make safe the rights of these migrants across the entire Union and make circular migration more attrac-

tive, so that the results produced by these migrations are maximised for the countries of origin notably via fulfilling reintegration strategies.

- Moreover migrant remittance terms, which represent 9 to 24% of some developing countries’ GDP, should also be improved from the point of view of reducing costs and increasing their impact on development. This would notably mean improving regulatory frameworks in order to step up competition between money transfer operators and to limit informal transfers which are sometimes opaque; it would also involve promoting the provision of bank services in the south and the development of banking activities in the countries of origin using the country of residence as a base; and finally to support financial innovation (e-banking) thereby helping towards the creation of systems to finance work that will help third countries develop.

Hence the European Union will only be able to ask for solidarity on the part of third countries in addressing the migrant issue if it shows the example and is generous towards them, by constantly supporting them in a more effective manner in terms of their asylum system and their development process.

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