

EUROPEAN UNION EMERGENCY TRUST FUND FOR AFRICA

PARTNERSHIP OR CONDITIONALITY?



CONCORD Europe is working on a comprehensive report on the EU Emergency Trust Fund for Africa, with 3 country case analyses (Libya, Niger and Ethiopia) and extended recommendations for European institutions and member states. Considering the current crucial moment of discussion both at the political and media level, it seemed appropriate to present the preliminary findings of CONCORD Europe study seizing the opportunity of MEP Elly Schlein's invitation to continue a fruitful collaboration with the Migration Working Group of DEVE Committee in the European Parliament.

Launched in November 2015 at La Valletta and introduced as an innovative tool allowing for a more flexible response to the challenges posed by irregular migration, the EU Emergency Trust Fund (EUTF) is the main financial instrument for EU's political engagement with African partners in the field of migration. The EUTF makes predominant use (90 percent) of Official Development Assistance, mostly from the European Development Fund, and as such, its implementation should be guided by the key principles of development effectiveness.

How is the fund being used? Who is it reaching? What are the consequences? CONCORD analyses.

The increased number of refugees and migrants arriving in Europe in 2015 and 2016 sparked off a political crisis about migration management in the EU. In response to this the EU adopted an overarching *European Agenda on Migration* in May 2015, bringing together foreign policy tools and a review of intra-EU legislation to manage all aspects of migration. As a result of the new agenda a large number of new policies and legislation was formulated in 2015 and 2016.

Since November 2015, the *EU Emergency Trust Fund (EUTF)* has become the main financial instrument for EU's political engagement with African partners in the field of migration. It was completed by the *New Partnership Framework on Migration* in June 2016, which introduces conditionalities regarding cooperation with third countries in the field of migration and strengthens the externalisation of EU migration policy.

While the main focus of this paper is the EUTF, many of the observations made by CONCORD members refer to the wider EU migration policy, of which the EUTF nevertheless forms an integral part. There is an increasing concern that the EUTF is a political tool focusing on quick-fix projects with the aim to stem migratory flows to Europe. This strategy risks to fail since addressing the drivers of forced migration requires a long term, coherent and sustainable approach, respecting the basic principles of development aid.

On the basis of three country cases studies (Libya, Niger and Ethiopia) CONCORD*, adopting a fact-based approach, have assessed the nature of the EU's partnerships with African countries in the field of migration and the possible consequences of EU's policies on the ground. This paper further analyse the role of the EUTF and assess whether the Fund is used to divert development assistance to meet security objectives.

A FACT-BASED APPROACH

For the Libya case, we have found an imbalanced partnership, recently focusing on capacity-building activities intended for fragile Libyan institutions, and putting at risk migrant's human rights (see chart 1). Due to the volatile situation on the ground, EUTF projects cannot be in line with the principles of development aid and EU action in Libya lacks effectiveness. The report concludes that the EU should drastically rethink its migration strategy in Libya, ensuring that financial support is not given to the Libyan coast guard or other actors which could further risk human rights abuses. Instead any support given must effectively contribute to the country's long-term stability and to the protection of those in need.

For the Niger case, CONCORD research also highlights an imbalanced partnership, relying on conditionalities linked to migration control. Almost half of all EUTF support to Niger (see chart 1) is allocated to local authorities to reduce transit of migrants. The remaining EUTF projects focus on development and protection activities. However local actors fear that the projects have limited impact, and raise concerns about the opaque selection procedures, monitoring and evaluation processes and the overall coherence. The projects also fail to take into account the intertwining of smuggling networks and the government system which risks facilitating corruption practices and endangering human rights. In Niger, the EU's programming of the EUTF should be adjusted to improve effectiveness, contribute to better governance, mobilise and strengthen local civil society organisations (CSOs), offer local economic alternatives and protect those in need. This must also be coupled with policies to maximize the benefits of legal regional migration, and provide safe pathways to Europe.

For Ethiopia, the overall EU-Ethiopia Partnership is conditional on the fulfilment of one top priority: enhancing cooperation in the field of returns and readmission. Yet, contrary to the two-previous case-studies, EUTF projects in Ethiopia focus on development and protection measures (see chart 1), and are partially in line with the principles of development aid. There is a risk that this may however change in the near the future, as the EUTF may be used as a leverage to achieve the goal of increased returns and readmissions or could increasingly include security measures.

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Accordingly, CONCORD suggests several recommendations that concern specifically the three key countries analysed but that have also general validity for the EUTF and Migration Compacts, notably:

1. Mainstream human rights into all actions
2. Prevent diversion of ODA from its main objective of poverty eradication
3. Respect development effectiveness principles and increasing community resilience
4. End conditionality on aid for EU migration control objectives
5. Redefine the EU's current approach to the migration-development-nexus according to policy coherence for development
6. Reform the governance of the EU Trust Fund
7. Draw on lessons learnt ahead of the EU's next Multiannual Financial Framework
8. Provide regular routes for migrants and refugees

BACKGROUND

In 2015, the UNHCR reported that more than 60 million persons were living as refugees across the world, which was more than ever before. Most refugees were seeking protection in neighboring countries, which meant that Turkey, Pakistan, Lebanon, Iran, Ethiopia and Jordan were the countries hosting most of the world's refugees¹. One million, refugees and migrants made it across the Mediterranean and to the EU in 2015, which was a sharp increase from previous years. The number of children, and especially unaccompanied children arriving to the EU also increased, as did the number of deaths on the Mediterranean Sea.

In the European parliament election of 2014, nationalist parties in several member states increased their representation, and in 2015 these parties continued to grow in popularity. When the EU published its Eurobarometer in the spring of 2015, EU citizens chose migration as the most prioritized issue for the EU².

As a result of the situation and the mounting pressure from member states, the European Commission presented "**A European Agenda on Migration**" in May 2015, which sets out how the EU will manage migration by using foreign policy instruments and by reforming the EU's asylum system, by working along four pillars: reducing incentives for irregular migration; reinforcing external border control; strengthening the common asylum policy; developing a new policy on legal migration. With the European Agenda for Migration, the EU merged internal and external funding instruments and policy goals, under the banner of a "comprehensive approach". Thus, the European Agenda for Migration constituted a major shift in the EU's approach to migration and development and after its adoption a long list of policy documents, financing decisions, legislative acts were produced by the European Commission in an a very fast pace throughout 2015 and 2016. Some of the most important ones for the EU's foreign policy and development cooperation were the EUTF, the Valetta Action Plan, The EU-Turkey Statement and the EU Partnership Framework with third countries.

* This paper reflects the position of the CONCORD Migration group of experts.

1 Global Trends: Forced Displacements in 2015, UNHRC, 2015

2 Standard Eurobarometer 83, European Commission, 2015

In October 2015 the European Commission established the **EU Emergency Trust Fund** for stability and addressing root causes of irregular migration and displaced persons in Africa (EUTF)³. The Trust Fund was launched at the Valetta Summit one month later and presented as an innovative and flexible mechanism and as a key instrument to implement the Valetta Action plan⁴.

In November 2015 leaders from the EU and Africa adopted the **"Valletta Action Plan"** setting out five priority domains of cooperation: (1) addressing the root causes of irregular migration and developing the benefits of migration; (2) promoting legal migration and mobility; (3) reinforcing protection and asylum policies; (4) fighting against human trafficking and migrant smuggling; and (5) strengthening cooperation to facilitate return and reintegration of irregular migrants⁵.

In March 2016 the EU launched the **EU-Turkey Statement**⁶. The statement means that Turkey will strengthen its border patrols and coast guards, ensuring that refugees and migrants are not able to leave Turkey for Europe and with the aim to lower the death tolls in the Mediterranean Sea. Turkey receives € 6 billion in aid from the European Union. The deal, which was controversial and heavily criticized by human rights organisations⁷, is simultaneously hailed as a success by the European Commission and several member states.

In June 2016, the EU adopted the **New Partnership Framework**⁸, which is inspired by the successful EU-Turkey statement. Under the Framework, the EU agrees on tailoring 'compacts'⁹ with third countries with the aim to sustainably manage migration flows. The Framework states that "a mix of positive and negative incentives" should be used to "to reward those countries willing to cooperate effectively with the EU on migration management and ensure there are consequences for those who refuse"¹⁰. Civil society across Europe mobilized to convince Member States to react the proposal¹¹, but the European Council endorsed the Communication only weeks after it was presented, stressing that "cooperation on readmissions and returns are the key test of the Partnership"¹².

The **EU Trust Fund for Africa**: The EUTF is almost completely financed by Official Development Assistance (ODA), is at the time of writing worth over €3.1 billion, with over €2.9 billion coming from the European Development Fund and € 234 million from EU Member States and other partners¹³. The aim of the EUTF is to tackle the root causes of irregular migration and displacement in countries of origin, transit and destination in North Africa, the Horn of Africa and the Sahel/Lake Chad region. This aim is in itself quite different from the main goal of EU development cooperation as formulated in the Lisbon Treaty¹⁴, which states that EU development cooperation must have the reduction and, in the long term, the eradication of poverty, as its main objective. Some of the priorities of the EUTF are nevertheless in line with traditional

EU development programmes focusing on creating employment opportunities and providing basic services, such as health, education and social protection. What sets these projects apart from projects financed by other development cooperation tools is the political expectation that these will contribute to a reduction of irregular migration (assumption that is flawed), and the fact that the geographic location for these projects is based on the identification of places seen as origin, transit and destination of irregular migrants, rather than on traditional needs analyses. Other priorities of the EUTF are however quite different from those of traditional development programmes and focus on improved migration management including containing and preventing irregular migration, fighting human trafficking and contributing to effective return and readmission, and capacity building law enforcement and border management¹⁵.

In order to achieve greater flexibility, the governance of the EUTF is different from other instruments financing EU development cooperation. The Trust Fund is placed outside of the EU budget and is governed by two main bodies: a Strategic Board and an Operational Committee for each of the three regional windows of the EUTF. The Strategic Board is chaired by the European Commission and composed of representatives of Member States and other contributing donors. It sets the global strategy of the EUTF. The Operational Committee, composed of contributing Member States and the Commission, is responsible for the selection of projects to be funded by the EUTF. Only states¹⁶ that have invested at least €3 million euros have the right to vote within the Operational Committees¹⁷. African partner countries participate in the meetings of both the Board and the Operational Committee, but their role is reduced to that of an observer. As the EUTF is placed outside the EU budget, the European Parliament has no powers to influence the EUTF, but they have recently been invited to be an observer to the Board. By relying on flexible procedures, it also skips some of the lengthy but inclusive procedures to formulate programmes and selected projects as the EU's other development instruments do.

The EUTF is employed as a tool which to some extent diverts ODA to reach objectives and finance actions that are no longer linked to the EU's development goals but rather to the EU's internal political goal of stemming migration flows. In addition, serious questions remain as to whether the principles of development effectiveness¹⁸ are upheld and what the consequences of the EU new approach are for development, human rights, governance and security in partner countries. The EUTF could further set a precedent leading to more development aid diversion in the future¹⁹.

3 European Commission Decision C(2015) 7293 final, October 2015

4 Valetta Summit on Migration, European Council, 11-12 November 2015, <http://www.consilium.europa.eu/en/press/press-releases/2015/11/12-valletta-final-docs/>

5 Ibid 4.

6 EU-Turkey Statement, European Council, 18 March 2016, <http://www.consilium.europa.eu/en/policies/migratory-pressures/countries-origin-transit/eu-turkey-statement/>

7 *The Reality of The Eu-Turkey Statement*, Joint Briefing Note by the International Rescue Committee, OXFAM and the Norwegian Refugee Council, <https://data2.unhcr.org/en/documents/download/54850>

8 European Commission Communication on establishing a new Partnership Framework with third countries under the European Agenda on Migration, COM(2016) 385 final, June 2016

9 Ibid 8.

10 Ibid 8.

11 Joint NGO statement ahead of the European Council of 28-29 June 2016, CONCORD Europe, <https://concordeurope.org/2016/06/27/eucouncil-migration-joint-ngo-statement/>

12 European Council conclusions, 28 June 2016, <http://www.consilium.europa.eu/en/press/press-releases/2016/06/28-euco-conclusions/>

13 https://ec.europa.eu/europeaid/sites/devco/files/eu-emergency-trust-fund-africa_en.pdf

14 Articles 3-4 and 208 of the Treaty on the European Union

15 https://ec.europa.eu/europeaid/regions/africa/eu-emergency-trust-fund-africa_en

16 Austria, Belgium, Denmark, Finland, France, Germany, Italy, Luxembourg, Netherlands, Norway, Spain, Sweden, and Switzerland, <https://ec.europa.eu/europeaid/sites/devco/files/donor.pdf>

17 Agreement establishing the EUTF and its internal rule, November 2015, see link above

18 The EU approach to development effectiveness, Europeaid, https://ec.europa.eu/europeaid/policies/eu-approach-aid-effectiveness_en

19 Europeaid confirmed in its presentation of the Mid-Term Review of the Multiannual Financial Framework in October 2017 that the focus will be strengthened on five different areas, including migration and mobility. This illustrates the fact that regular programming is also impacted by migration issues.

MAIN FINDINGS

The establishment of the EUTF took place in the context of a global debate over the role and nature of the EU's development aid. Recent major EU policies, the 2016 *New Partnership Framework on Migration*, the 2016 *Global Strategy for the EU's Foreign and Security Policy*, and the 2017 European Consensus on development, have indeed called for more flexible European development policies, better aligned with EU's strategic priorities, that can be used as a leverage for cooperation on a broader political agenda. The EUTF seems to fulfil these expectations by allowing projects funded with ODA to benefit from simplified, faster procedures than standard EDF projects, to reflect political concerns in the Member States and to be used as leverage for increased cooperation in the field of migration. As a Member State official, interviewed by CONCORD confirms:

"The novelty with the EUTF is that it allows to decompartmentalise European instruments in order to fund, with development funding, both development, and stabilisation, governance and security actions".

Concerns about the governance of the EUTF

According to interlocutors, projects are likely to be designed in Member States and in Brussels, reflecting national priorities. The selection process is opaque and is susceptible to pressure from Member States that push for the selection of their projects, so that EUTF money is coming back to the Member States and their implementation agencies. Furthermore, at least in their initial phase, many of the projects could be disconnected from needs in partner countries and lack a holistic view. Local actors are barely consulted and only once decisions have been taken.

As a result, African CSOs are contesting the securitisation and externalisation of the EU migration policy and criticise the negative effects on the free movement of persons at international and Africa level²⁰. At the policy level, no impact assessment has been done, whether prior to the migration partnership policy announcement or post-announcement²¹. This is despite an European Commission External Evaluation of the 11th EDF that states *"this is a major drawback from the value-for-money and/or results-oriented approach now commonly applied to EU and especially EDF operations"*.

As the Ethiopia case-study highlights, the EUTF can contribute with quick responses to bring positive changes in one of the world's most neglected regions by dealing with the development dimensions of migration and reinforcing protection policies. Yet, besides allowing to adopt projects faster, the benefits of resorting to the EUTF seem limited especially as the EDF funding in Ethiopia addressed the same category of beneficiaries and already relied on fast-track procedures for contracting²².

As the Libya and Niger case-studies show, EU migration policy, of which the EUTF is an integral part, can also bring serious adverse effects in terms of development, human rights and migration. Responding to a political priority in Europe and focusing on enforcement measures, projects risk fueling poor governance, encouraging riskier smuggling and trafficking activities, facilitating the detention industry and violating human rights, limiting the positive economic impact of regular migration and preventing refugees from obtaining the protection they need.

EU migration policy, including the EUTF appears as *"a political tool that sends a political signal to the European constituency (we are doing something about (im)migration)"*²³. Interviews by CONCORD members with national agencies for development also suggest a trend to increase the focus of the EUTF on the fourth (fighting against human trafficking and migrant smuggling) and fifth (strengthening cooperation to facilitate return and reintegration of irregular migrants) pillars of the Valletta Action Plan. As one interlocutor puts it:

*"For the last six to eight months, we can observe a shift towards migratory flow management. At the beginning the EUTF dealt with all aspects of migration but now there is a change in the EUTF strategy"*²⁴.

Another said:

*"What is striking is the word 'emergency', because it's a contradiction in terms. The real emergency for Niger is development, and this cannot be achieved in a fast way, it's a question of long processes. Something we are working on since almost 60 years."*²⁵

Addressing the drivers of forced migration requires a long term, coherent and sustainable approach²⁶. As the external evaluation of the 11th EDF illustrates, projects funded through the EUTF may not only be less efficient but also less effective and costlier than the standard EDF projects²⁷.

20 "La "déclaration de Bamako" critique l'approche sécuritaire de la politique migratoire de l'Europe," Le Courrier de l'Atlas, 11 September 2017, <http://www.lecourrierdelatlas.com/afrique-la-%C2%AB-declaration-de-bamako-%C2%BB-critique-l-approche-securitaire-de-la-politique-migratoire-de-l-europe-9073>;

21 *The impact of EU policies in the world – seeing the big picture*, CONCORD Europe Report, October 2017, https://concordeurope.org/wp-content/uploads/2017/10/IAPaper_full_09.10_TO-SHARE.pdf?1fdb40&1fdb40;

22 "External Evaluation of the 11th European Development Fund (EDF) 2014 – mid 2017," Final report, European Commission, June 2017, see link above;

23 *Ibid* 22.

24 Interview by CONCORD member with a national development agency (HQ);

25 Interview with national development agency staff in Niamey, Nigeria;

26 See for instance: United Nations General Assembly (UNGA), Human Rights Council, Report of the Special Rapporteur on the human rights of migrants on a 2035 agenda for facilitating human mobility, June 2017, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/25;

27 "External Evaluation of the 11th European Development Fund (EDF) 2014 – mid 2017," Final report, European Commission, June 2017, see link above.

CONCORD'S RECOMMENDATIONS

Based on this analysis, the EUTF as well as overall EU's migration policies should be reviewed in line with the following recommendations.

1. Mainstream Human Rights into all actions. EUTF projects must integrate human rights at the core of their programming and contribute to the realisation of human rights in the countries concerned. The EU, including Member States, should engage with third countries' security systems only in order to increase their ability to provide individuals with more effective and accountability security in a manner consistent with respect for human rights and international law, thereby increasing human security. Moreover, any engagement must be conflict-sensitive and do no harm, and should generally not happen with development funding.

In line with this recommendation, the EUTF must stop any support to the Libyan coast guard which could further foster well-documented practices of human rights violation.

2. Prevent diversion of ODA from its main objective of poverty eradication. The EU institutions and Member States must make sure that EUTF funding coming from development budget lines is not used for migration control and enforcement measures, and therefore instrumentalised to meet the EU's own security and migration objectives. Instead EU development funding should respect the Lisbon Treaty, which clearly states that EU development cooperation must have the reduction and, in the long term, the eradication of poverty, as its main objective. In line with EU's SDG commitments, the EUTF must also seek to 'leave no one behind' and reduce inequality, regardless of sex, race and ethnicity.

3. Respect development effectiveness principles and increase community resilience. The EU, including Member States, must respect the principles of development effectiveness, supporting partner countries in achieving their own development goals. This also accounts for the EU Trust Fund. The EUTF can only be effective if it provides local CSOs and NGOs with the opportunity to participate in a meaningful way in the formulation and implementation of EUTF projects and thus ensuring that projects to respond to local needs and that human rights, including migrant rights, are respected.

Considering the contexts of forced migration and fragile states, the EUTF also has a role in bridging humanitarian aid and development to increase community resilience. In such cases where national priorities do not exist or are incoherent due to democratic deficiencies, full consultation with local authorities and civil society, and comprehensive assessments of local needs, must be a prerequisite. Flexibility for operations is needed to serve the population, but not to cater for changing political priorities in Europe.

4. Stop conditionality on aid for EU migration control objectives. The EU and the Member States must refrain from applying conditionality on development aid for partner countries, against their compliance with returns and readmissions, migration management and border control. Neither positive nor negative incentives should be used for the purpose of migration control.

5. Redefine the EU's current approach to the migration-development-nexus according to Policy Coherence for Sustainable Development. The EU has committed to Policy Coherence for Development in the Lisbon Treaty. However, in the last two years, we have witnessed a 'PCD in reverse' whereby development cooperation is increasingly securitised to serve an internal EU migration control agenda. The PCD principle should be re-established removing the conditionality on managing migration and by refraining from using development funds to achieve the EU's internal political goals of migration control.

Despite the prevalent negative rhetoric, migration offers many opportunities for development. The 2030 Agenda provides a welcomed opportunity to counteract the current narrow, short-term security framing of migration and to focus instead on a cross-cutting approach, highlighting the people-focused aspects of the 2030 Agenda, respecting and protecting migrants' and refugees' human rights and taking their development potential into consideration. The EU's Partnership Frameworks with third countries and the EUTF must be revised to reflect this and should maximise the development potential of migration through the strengthening of intra-African migration, cross-continental migration and regional economic development.

6. Reform the governance of the EUTF. To improve transparency, clear criteria must be set for the selection of projects allowing to understand which funds are spent on what and for which results. Clear monitoring mechanisms must be further elaborated, ensuring that the projects contribute effectively and efficiently to the stated objectives. Also, CSOs must be consulted in EUTF programming and implementation, not just at local, but also at regional and national levels. To further improving transparency, we recommend that the European Parliament is given a voice in the strategic decision making of the EUTF.

7. Draw on lessons learnt ahead of the EU's next Multiannual Financial Framework (MFF). The EU institutions and member states must learn from what worked and what did not work in the EUTF before they formulate the next Multiannual Financial Framework. There are issues with the call for increased flexibility of funds, faster disbursement of finance and the merging of ODA and other finances, which must be thoroughly evaluated and rectified, including in the next MFF.

8. Provide regular routes for migrants and refugees. Under the Valletta Action Plan, the EU, including Member States, made a clear commitment to offer safe and regular pathways for refugees that seek protection. The European Council must also adopt a more ambitious resettlement framework based on humanitarian grounds, and expand the opportunities for family reunification and humanitarian visas. Moreover, the EU should provide more options for regular migration of both high- and low-skilled workers. These aspects should also be a clear part of the EU position when negotiating the Global Compacts on Migration and Refugees, as well as the Migration Partnership Framework.

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CONCORD is the European NGO Confederation for Relief and Development, which represent over 2,600 NGOs, supported by millions of citizens all around Europe. Our confederation brings development NGOs together to strengthen their political impact at the European and global levels. United, we advocate for Europe-wide policies to promote sustainable economic, environmental and social development based on human rights, justice and gender equality. We also work with regional and global civil society allies to ensure that EU policies are coherent in promoting sustainable development in partner countries.

