

EUROPEAN CONFERENCE

FROM TAMPERE 20 TO TAMPERE 2.0

Helsinki, 24 & 25 October 2019



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Background Note: Migration and Development

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Pre-Conference Version

DISCLAIMER

The draft of this note has been prepared by Professor Vincent Chetail, Director of the Global Migration Centre at the Graduate Institute of International and Development Studies. The present document is, however, the result of a process during which some changes have been made following a preparatory workshop and in liaison with the author. This means that the author might not agree with all of the suggestions proposed in this note. Final versions of all the background notes, which will take account of the input provided by the conference, will be published and widely disseminated. References to authors quoted have been reduced to a strict minimum contrary to academic rules due to a lack of space. More details will be provided in the published version of this note.



Co-funded by
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Tampere Conclusions:

11. The European Union needs a comprehensive approach to migration addressing political, human rights and development issues in countries and regions of origin and transit. This requires combating poverty, improving living conditions and job opportunities, preventing conflicts and consolidating democratic states and ensuring respect for human rights, in particular rights of minorities, women and children. To that end, the Union as well as Member States are invited to contribute, within their respective competence under the Treaties, to a greater coherence of internal and external policies of the Union. Partnership with third countries concerned will also be a key element for the success of such a policy, with a view to promoting co-development.

I. ASSESSMENT OF THE CURRENT SITUATION:

The Tampere Conclusions have approached the relationship of development and migration in a rather general and oblique way under paragraph 11 quoted above.

Acknowledging the relevance of development within a comprehensive approach to migration was not new at the time. It was already endorsed in 1992 by the European Council in the Edinburgh Declaration on principles of governing external aspects of migration policy. Despite the vagueness of their provisions, the Tampere Conclusions have provided an important impetus for a vast number of subsequent initiatives aimed at specifying the measures to be taken in this vast area.

Since the adoption of the Tampere Conclusions in 1999, the migration-development nexus has become a major tool of the EU for its partnerships with third countries. The primary focus is to address the root causes of migration with the view of preventing the arrivals of migrants and asylum-seekers in the European territory. A plethora of policy documents adopted by the EU Commission and the European Council have promoted the role of development to address the root causes of migration and to facilitate the conclusion of readmission agreements with third countries. They notably include:

- European Council, Presidency Conclusions, Seville, 21-22 June 2002;
- Communication from the Commission on Migration and Development: Some Concrete Orientations (COM(2005) 390);
- European Council, A Comprehensive European Migration Policy, Brussels, 14-15 December 2006;
- Communication from the Commission on establishing a new Partnership Framework with third countries under the European Agenda on Migration (COM(2016) 385);
- The New European Consensus on Development 'Our World, our Dignity, our Future', Joint statement by the Council and the Representatives of the Governments of the Member States meeting within the Council, the European Parliament and the European Commission, 2017.

Mainstreaming migration in development cooperation has been further reinforced by many other regional processes, including most notably the Joint Valletta Action Plan on Migration adopted by Heads of State and Government of Africa and Europe in November 2015. This plan was also accompanied by the launch

of the EU Emergency Trust Fund for stability and addressing the root causes of irregular migration and displaced persons in Africa, based on resources coming mainly from EU development instruments (especially the European Development Fund).

In parallel to the EU and other related regional initiatives, discussions about the migration-development nexus have become truly global since 2006. The UN General Assembly organised the first High-level Dialogue on International Migration and Development in 2006 which resulted in the creation of the Global Forum on Migration and Development. In 2013, the UN General Assembly held a second High-level Dialogue that produced the very first declaration on migration and development agreed upon by all UN Member States. As a result of this momentum, migration has been mainstreamed within the 2030 Agenda for Sustainable Development. Reciprocally, the recently adopted Global Compact for Safe, Orderly and Regular Migration includes development assistance among several of its objectives to be implemented by UN Member States.

However, in stark contrast with the preventive stance of the EU, the UN instruments promote a more inclusive and balanced approach to the migration-development nexus. As exemplified by the Sustainable Development Goals and the Global Compact for Migration, the positive contribution of migration to the development of both countries of origin and destination coexists with the root-causes approach as a long-term objective.

The migration-development nexus is indeed at the junction of two conflicting paradigms: the root causes one follows a control-oriented approach devised to alleviate migration pressure from countries of origin through development assistance, whereas a more positive viewpoint of migration focuses on its potential for the development in both countries of origin and destination. While these two contradictory driving forces still coexist to a large extent, the ambiguity of the migration-development nexus has been instrumental in the dialogues among states of destination and origin at the bilateral, regional and international levels.

While dialogue is a virtue in itself in the sensitive field of migration, the concrete achievements of the EU policy towards third states remain so far very limited. This calls for a new approach based on a mutually-beneficial cooperation and informed by a sound and evidence-based understanding about the potential and the limits of the complex interlinkages between migration and development.

II. IDEAS AND SUGGESTIONS FOR THE FUTURE:

The ambiguous nature of the relations between migration and development represents by far the main challenge to be addressed by decision-makers. The interactions between migration and development are much more subtle and complex than it is commonly assumed. A large body of evidence has shown that their interactions are far from being negatively correlated processes. While the two intersect at their margins, development is not an answer to migration and vice-versa.

On the one hand, contrary to the simplistic assumption of the root-causes approach, development initially leads to an increase rather than a decrease in migration, in so far as economic growth of developing countries raises new opportunities and encouragements to find a better life abroad. This phenomenon called the 'migration hump' tends to disappear in the long run, when the level of development in the country of origin reaches a more stable stage. On the other hand, international migration remains a selective process, simply because the poorest of the poor, who are living on less than US\$ 1 a day, do not

have the resources needed to go abroad. The survival migration of the poorest is thus primarily within their country of origin (generally from rural to urban areas). From this angle, development cannot be a substitute for international migration but rather an objective in its own right, conducted for the purpose of poverty reduction. Otherwise, a development policy targeted to reduce migration pressure carries the risk of diverting international aid away from non-sending countries, which include the poorest regions of the world.

The dilemmas of the root causes approach to migration are numerous and overlap with many other cross-cutting areas, including peace and security, climate change, demography, democratic governance and the rule of law, trade and investment. While mobilizing a huge amount of money and energy, the root-causes mantra is bound to be ineffective if the complexity of the migration-development nexus is not taken seriously by decision-makers. It may also raise unrealistic expectations among both EU Member States and third countries, as well as for their public opinion and population.

As documented by a vast array of policy and academic studies, the lessons learned from past experiences highlight three main interrelated challenges for the EU:

- The very first one is the challenge of cooperation with third countries through a more balanced approach with the view of taking into account the competing interests at stake and finding mutually-beneficial compromises.
- The second challenge is the one of policy coherence as a result of the plethora of EU stakeholders involved in migration and development with different and sometimes conflicting agendas.
- The third challenge relates to the relevance and efficiency of the EU policy in this vast field, because the complex interactions between migration and development are context-specific by nature and any measures should be thus tailored to local needs and realities in the countries of origin.

A. Prioritising Poverty Reduction as the Central Objective of Development Policy:

As mentioned above, the main drawback of the EU policy on migration and development is to prioritise migration control over poverty reduction. The limit inherent to this approach materialises at two levels, not only for the EU migration policy but also for its own development policy.

- First, the EU's current obsession in the root causes of migration is counter-productive from the perspective of its own migration control policy for two main reasons: it relies on a flawed perception of the migration-development nexus and it exacerbates the tensions with third states, as illustrated by the recurrent temptation of the EU to subordinate development assistance to the externalisation of migration control in and by countries of origin and transit.
- Second, using development assistance for curbing irregular migration undermines the core objectives and principles of development policy. This has raised longstanding criticisms from development actors, NGOs and academics, because it affects development effectiveness and diverts assistance from the most needy.

From a legal perspective, this imbalance between the objectives of development assistance and those of the EU migration policy may even constitute a violation of article 208 of the Treaty on the Functioning of the EU according to which the primary objective of the EU development cooperation policy is the reduction

of poverty. The same provision further underlines that the Union shall take into account this primary objective in the policies that it implements which are likely to affect developing countries.

These observations raise the following question:

- How to ensure that priority is given to poverty reduction in the EU development policy?

Initial suggestions and ideas include:

1. Establish a compatibility test with article 208 TFEU in a systematic way, before elaborating and adopting any new instruments and decisions in the field of migration and development.

2. Carry out a compatibility test with article 208 TFEU during the implementation of any instruments or decisions adopted in the field of migration and development.

B. Balancing the Root-Causes Approach with the Positive Contribution of Migration to the Development of both Countries of Destination and Origin:

A more balanced and comprehensive perspective should be promoted by the EU between its traditional root-causes approach and the acknowledgment of migration as a positive contribution to the economic development of both EU Member States and third countries.

The root-causes approach to migration remains relevant in the long-term to mitigate the adverse drivers and structural factors that hinder people from building and maintaining sustainable livelihoods in their countries of origin. Besides its long-term nature, this approach shall be truly comprehensive by addressing not only economic opportunities in countries of origin but also the rule of law and good governance. Likewise, development cooperation is only one tool among many others to address the root causes of migration. It shall work in tandem with a more open and fair policy of trade and investment in third countries, as well as a robust strategy of peace-keeping and conflict prevention.

The measures to be adopted in this area are thus numerous and they virtually cover any aspects related to the EU migration and asylum policy, as well as its broader policy on external relations. When the interactions between migration and development are understood in a more literal and restrictive sense, the root-causes approach is unable to incentivize the cooperation of third states if it is not accompanied by other proactive measures aimed at improving the positive contribution of migration for economic development.

These observations raise the following questions:

- How can the root-causes approach be combined with the positive contribution of migrants to development?
- What should be the main components of a truly balanced and comprehensive approach of the migration-development nexus?
- How can the cooperation of third states with the EU on migration and development be incentivised?

Initial suggestions and ideas include:

3. Facilitate remittances in countries of origin, by reducing the cost of remittances and promoting transfers in productive investment.

4. Empower diaspora to contribute to sustainable development in their countries of origin and to the integration policy of migrants in EU Member States.

- 5. Mitigate the brain drain in creating an EU Compensation Fund for third countries (especially when those recruited by EU Member States have been educated and trained in their countries of origin).*
- 6. Capitalize on lawful channels for labor migration at all skills levels to incentivise third countries' cooperation within the limits of labor markets' needs in EU Member States.*
- 7. Expand the number and types of long-term visas for students and of humanitarian visas for asylum-seekers and vulnerable migrants.*
- 8. Facilitate the sustainable reintegration of returning migrants (whether they return voluntary or not) through a holistic approach which ensures most notably that they are provided equal access to employment opportunities, to social protection and to justice in countries of origin with the assistance of the EU.*

C. Designing and Implementing Development Assistance and Migration Partnerships with Third Countries in Due Respect for International Law:

The current focus of the EU policy to deter migration by reinforcing border management and return while addressing its root causes has not only failed to achieve its objectives and to incentivise cooperation of third countries. It has also been criticised for its lack of accountability and its poor compliance with international law and the rule of law. This longstanding critic has been addressed by many stakeholders within and outside the EU on three main counts.

- First, the willingness of the EU to overlook the poor human rights records of some third countries in order to achieve its own objective of migration control has been frequently denounced as being in contradiction with the fundamental values of the EU and as weakening its international reputation and legitimacy, as well as its own policy and commitments toward democratic governance and the rule of law. This is also counterproductive because cooperating with abusive government undermines the effectiveness of development assistance and perpetuates a vicious circle of repression and corruption that causes people to flee their own countries.
- Second, some measures aimed at preventing irregular migration may affect and, sometimes, violate the basic human rights of migrants under international law. Among other well-documented instances, this most notably concerns the right to leave any country and the prohibition of arbitrary detention as grounded in a broad range of international conventions ratified by both EU Member States and third countries.
- Third, another concern relates to the fact that the measures adopted by the EU are used to be adopted and implemented without regard to the binding agreements of third countries governing regional, sub-regional and bilateral free movement of persons. This is particularly obvious in Africa, where many regional economic communities have been established to facilitate the free movement of persons as a tool of sustainable development. The numerous existing agreements on the free movement of persons are bound to be reinforced at the continental level once the newly adopted Protocol to the Treaty Establishing the African Economic Community relating to Free Movement of Persons, Rights of Residence and Rights of Establishment will come into force.

These observations raise the following question:

- How to design, negotiate and implement migration-development partnerships with third states in due respect with the values of the EU, the local needs in countries of origin and their national contexts?

Initial suggestions and ideas include:

9. Operate a systematic assessment of the human rights record when identifying potential partners and designing development assistance and migration partnerships.

10. Identify local needs and carry out a compatibility test with international law in negotiating and elaborating migration-development partnerships.

11. Establish independent follow-up and reporting processes during and after the implementation phase.

D. Improving the Policy Coherence of the EU Policy on Migration and Development:

The cross-cutting and multidimensional nature of the migration-development nexus inevitably entails some degree of heterogeneity and fragmentation. Yet the divergent approaches and objectives followed by migration actors and development agencies are exacerbated by the lack of policy coherence within the EU. The institutional landscape has ever been so piecemeal and incoherent, because of the vast number of EU institutions, funds and policies involved in migration and development.

The reasons for this are not only institutional, but also, and more fundamentally, political by nature: they primarily result from the absence of a truly common position among EU Member States. In such a politically sensitive and polarized context, the root-causes approach has become the lowest common denominator without regard to the broader and much more nuanced picture of the migration-development nexus.

This situation entails two main consequences. At the macro/political level, the EU lacks a common understanding and a holistic strategy for the twofold purpose of maximizing the benefits of migration and minimizing its negative effects. At the micro/operational level, migration and development actors compete for the same funding (such as the Trust Fund for Africa, mostly composed of development funds) and their various actions are not coordinated in a cogent and efficient manner.

These observations raise the following question:

- How to improve the coherence of the EU policy on migration and development with due regard to the broad number of stakeholders and interests at stake?

Initial suggestions and ideas include:

13. Create a coordination mechanism gathering the EU institutions involved in migration and development.

14. Establish clear and balanced policy objectives to guide funding decisions and operational priorities.

15. Create a database of good practices.

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