



2020/2045(INI)

11.5.2021

OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Foreign Affairs, the Committee on Development and the Committee on Budgets

on the implementation report on the EU Trust Funds and the Facility for Refugees in Turkey
(2020/2045(INI))

Rapporteur for opinion: Sira Rego

(*) Associated committee – Rule 57 of the Rules of Procedure

PA_NonLeg

SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Foreign Affairs, the Committee on Development and the Committee on Budgets, as the committees responsible, to incorporate the following suggestions into their motion for a resolution:

- A. whereas the EU Facility for Refugees in Turkey (FRT) was created in 2016 in the framework of the EU-Turkey Statement and manages EUR 6 billion, mobilised in two tranches: one funding projects that run until mid-2021 at the latest and the other funding projects that run until mid-2025 at the latest; whereas the FRT is a joint coordination mechanism and not a funding instrument in itself;
- B. whereas the FRT has helped to support the lives of more than 1.8 million refugees and host communities in Turkey and therefore constitutes a key pillar of humanitarian aid and support; whereas the FRT has been threatened by political pressure exerted by the Turkish Government on the European Union in disputes over the EU-Turkey Statement, which ultimately harms the refugees and host communities who depend on this support; whereas cases of human rights violations have taken place under this statement which are incompatible with the EU Charter of Fundamental Rights;
- C. whereas the EU Regional Trust Fund in Response to the Syrian Crisis (Madad Trust Fund) has mobilised EUR 2.3 billion, including voluntary contributions from 21 EU Member States, Turkey and the United Kingdom; whereas its programmes focus on education, livelihoods, health, protection and water, benefiting refugees, internally displaced persons and local communities and supporting more than 7 million beneficiaries; whereas as the Syrian civil war became protracted, the Madad Trust Fund response evolved further along a humanitarian development nexus, with a greater focus on strengthening systems to support the host countries' efforts and capacities to respond to this protracted crisis, notably through the provision of public services in Iraq, Jordan and Lebanon;
- D. whereas according to its evaluation, the Madad Trust Fund is comparatively faster for launching projects than the standard procedures under the European Neighbourhood Instrument and Instrument for Pre-Accession Assistance; whereas the Madad Trust Fund has also managed to achieve an economy of scale, with large-scale projects of an average volume of EUR 20 million and an average implementation period of around 30 months;
- E. whereas the EU Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa (EUTF for Africa) was established in 2015 and was presented as a key instrument for implementing the Valletta action plan; whereas it became the main financial instrument for the EU's political engagement with African partners in the field of migration; whereas the EUTF for Africa has funded over 500 projects in 26 countries in Africa across three geographical regions – the Sahel and Lake Chad, the Horn of Africa, and North Africa – for total commitments of more than EUR 5 billion since 2016, 4.4 billion of which came from the EU budget; whereas these countries face increasing challenges ranging from demographic pressures to extreme poverty and weak social and economic infrastructure,

to internal tensions and institutional weaknesses, to insufficient resilience to food crises and environmental stress;

- F. whereas the mid-term review of the EUTF for Africa highlighted the fund's added value as a flexible instrument that addresses rapidly evolving situations and targets specific local issues; whereas, however, a 2018 report by the European Court of Auditors¹ pointed out various shortcomings, including legal challenges such as the failure to apply EU public procurement law, as well as opaque management; whereas the Commission has stated that it has taken these concerns into account and provided for improvements; whereas civil society has raised concerns² about the quality of projects approved and – more worryingly – about alleged contributions to inhumane and degrading treatment and/or financing of actors that have committed human rights violations, such as in Libya, Eritrea and Sudan;
- G. whereas Article 208 of the Treaty on the Functioning of the European Union clearly states that development cooperation shall be conducted within the framework of the principles and objectives of the Union's external action and that the primary objective of the Union's development cooperation policy shall be the reduction and, in the long term, the eradication of poverty; whereas the EUTF for Africa makes predominant use of Official Development Assistance (ODA), mostly from the European Development Fund (EDF) and, as such, its implementation should be guided by the key principles of development effectiveness;
- H. whereas intra-regional mobility has played an important role in Africa throughout its history; whereas in responding to droughts, local populations have traditionally been able to make changes to their livelihood strategies and have shown a capacity for adaptation, often through migration as a means of diversifying their livelihoods; whereas since the early 2000s and since 2016 in particular, this system of livelihood diversification has come under pressure owing mainly to the limitations of intra-regional freedom of movement as a result of the support provided by EU Member States to some African countries to fight irregular migration to Europe;
- I. whereas since 2017, the EU has provided EUR 57.2 million in support for the integrated border and migration management project under the North Africa window of the EUTF for Africa in order to increase the operational capacity of the Libyan Coast Guard and Port Security (LCGPS), Navy and General Administration for Coastal Security (GACS) to help them to intercept people at sea, while also providing support for the International Organization for Migration (IOM) to enable it to assist the most vulnerable migrants stranded in Libya and host countries; whereas according to IOM data, more than 20 000 people were intercepted in 2019 and 2020 by the Libyan Coast Guard; whereas numerous reports have confirmed that Libya is still not a place of safety for disembarkation owing to the serious human rights violations committed against refugees and migrants and the ongoing conflict in the country; whereas on 8 May 2020, the UN High Commissioner for Human Rights called for a moratorium on all interceptions and returns to Libya; whereas in a report published in March 2021, the

¹ Special report No 32/2018, *European Union Emergency Trust Fund for Africa: Flexible but lacking focus*, pp. 17-25.

² Davis, L., *EU external expenditure on asylum, forced displacement and migration 2014-2019*, European Council on Refugees and Exiles, 2021.

Council of Europe Commissioner for Human Rights reiterated her call from 2019 to suspend support for the Libyan Coast Guard with an impact on interceptions and returns;

- J. whereas several lawsuits, legal proceedings and complaints have been filed by civil society organisations (CSOs) against the EU and its Member States for human rights violations, violations of EU financing and international human rights regulations³, refoulement, and other inhumane acts against migrants⁴ linked directly or indirectly to some EUTF for Africa projects; whereas it has been reported that the EUTF for Africa Regional Operational Centre in Support of the Khartoum Process and the AU-Horn of Africa Initiative (ROCK) and Better Migration Management (BMM) programmes were suspended by the EU in Sudan in 2019;
 - K. whereas the EUTF for Africa and other EUTFs will terminate at the end of 2021; whereas the next multiannual funding instrument for external action, the Neighbourhood, Development and International Cooperation Instrument (NDICI), is currently expected to dedicate 10 % to migration-related activities in addition to the establishment of mutually agreed national indicative priorities and a flexible, incentive-based approach;
 - L. whereas it would be useful for the Commission and the Member States to establish a clear and complete overview of the funds used to finance cooperation with third countries in the field of migration management across all financial instruments and their implementation, including information on the amounts, objectives, purpose, eligible actions and source of funding;
1. Regrets the fact that EUTFs are ad hoc instruments that deviate from the ordinary decision-making procedure and bypass parliamentary scrutiny and democratic oversight, and therefore lack transparency and democratic accountability; stresses that detailed data on funding allocations is not available or is hardly accessible; urges the Commission to take immediate steps to improve transparency and regular information-sharing with the European Parliament and to ensure better scrutiny and parliamentary oversight of the definition, implementation and follow-up of the EUTF for Africa and the FRT, including any future measures to be adopted under Article 8(10) of the NDICI regulation; insists on scaling up the accountability of the authorities directly entrusted with managing the funds; calls on the Commission to immediately formalise Parliament's observer status at board meetings of the EUTFs and to submit to it a yearly financial and human rights report on the implementation of current and future projects;
 2. Notes that EU funds have been used to put pressure on partner governments to comply with the EU's internal migration objectives and highlights the increasing recourse to enhanced conditionality between development cooperation and migration management since 2016; deplores the use of development assistance for the implementation of informal agreements that lack parliamentary scrutiny and democratic oversight,

³ Global Legal Action Network (GLAN), 'EU financial complicity in Libyan migrant abuses'.

⁴ Students of the Capstone on Counter-Terrorism and International Crimes, communication to the Office of the Prosecutor of the International Criminal Court entitled 'EU Migration Policies in the Central Mediterranean and Libya (2014-2019)'.

including the EU-Turkey Statement of 18 March 2016, the EU-African Union Memorandum of Understanding on Peace, Security and Governance of 23 May 2018 and the EU-Nigeria Memorandum of Understanding of 29 August 2019;

3. Notes with concern the shortcomings in the application of EU public procurement law with regard to the EU's external migration policy⁵; considers that the provisions of Article 3 of the Commission decision of October 2015 (C(2015)7293) establishing the EUTF for Africa and of humanitarian aid projects funded via the Madad Fund and the FRT are incompatible with or exempt from EU public procurement law; stresses the lack of transparency regarding the application and scope of public procurement law procedures in the selection of implementing partners⁶; regrets the fact that the procedures and criteria for selecting projects are not sufficiently clear or documented⁷;
4. Points out that projects currently covered by EUTFs could be funded under any of the components of the NDICI – geographic, thematic or rapid response – within the 10 % spending target defined by the regulation; expresses concerns regarding the Council's ongoing discussions aimed at building Team Europe funding initiatives on migration with the purpose of proposing actions relating to migration management in Africa, which risk bypassing the scrutiny of Parliament;
5. Points out that the FRT differs from the EUTFs mainly because it remains embedded within the budget of the EU; acknowledges the support provided by the FRT in supporting refugees and host communities in Turkey in relation to health, humanitarian assistance, education and socioeconomic support; notes, however, that this support only reaches registered refugees, leaving many without assistance; highlights, in this regard, that access to registration has been rendered difficult in some Turkish provinces and cities since 2016, as reported by NGOs such as Amnesty International;
6. Regrets the fact that this vital support was allocated under the EU-Turkey Statement; expresses concern about the two migration management support projects worth a total of EUR 80 million in the light of the lack of access and monitoring by national and international observers, including to detention sites⁸; underlines the need to make sure strict monitoring exercises and audits are carried out to ensure compliance with the Financial Regulation; invites the Commission to scale up reporting on the FRT and asks it to ensure that these funds specifically target refugee projects and are not used for any other purposes; calls on the Commission to ensure that the objectives of the FRT are consistent with the EU's general principles, policies and objectives including democracy, the rule of law and human rights;
7. Highlights the important contribution of the Madad Trust Fund in supporting access to basic services such as health and education for Syrian refugees, internally displaced persons and host communities in neighbouring countries; welcomes the recent adoption of a EUR 130 million assistance package to support Syrian refugees and local

⁵ Spijkerboer, T. and Steyger, E., 'European External Migration Funds and Public Procurement Law', *European Papers*, Vol 4, No 2, 2019, pp. 493-521 and p. 520.

⁶ *Ibid.*

⁷ European Court of Auditors special report No 11/2017, *The Békou EU trust fund for the Central African Republic: a hopeful beginning despite some shortcomings*, 2017, pp. 36-39.

⁸ Global Detention Project country report, *Immigration detention in Turkey: a serial human rights abuser and Europe's refugee gatekeeper*, October 2019.

communities in Jordan and Lebanon in the light of the continuing humanitarian crisis due to the ongoing conflict in Syria; calls for the Madad Trust Fund to be integrated smoothly into the new multiannual financial framework (MFF), ensuring efficient contracting and use of the funds already committed;

8. Acknowledges that some EUTF for Africa projects have provided vital support, notably by investing in health and education, economic development, job creation and integration into labour markets for both local communities and refugees, in particular vulnerable groups such as women and young people; regrets the fact that the EUTF for Africa has had little impact in increasing economic opportunities and employment, as pointed out in the mid-term review, despite this being one of the four main objectives of the fund;
9. Notes the mid-term review's findings that the EUTF for Africa governance and management structure was flexible and efficient and delivered fast decisions based on a strategic overview of the issues and knowledgeable and committed staff; notes that there is a lack of accountability and scrutiny of the EUTF for Africa and remains concerned about the governance of the fund, the pooling of EU resources with different objectives, the composition of the fund's board and regional operational committees which enabled some Member States to make direct decisions about the spending of EU money based on a EUR 3 million contribution, the opacity of the process for defining and approving projects, and the lack of dialogue with local and human rights CSOs; highlights the lack of *ex ante* and ongoing impact assessments regarding targeted populations and countries, notably with regard to fundamental rights, and the absence of any fundamental rights conditionality on the use of funding;
10. Highlights that the EUTFs have focused mostly on supporting countries in developing national and regional strategies on migration management, improving capacities to prevent irregular migration and fight trafficking in human beings and migrant smuggling, and facilitating sustainable and dignified returns and reintegration; highlights that the major focus on objectives 3 and 4 of the EUTF for Africa represents a shift away from a holistic approach to migration; regrets the fact that 37 % of the EUTF for Africa is allocated to measures intended to restrict and reduce migration, while less than 9 % is allocated to addressing the drivers of migration and forced displacement; notes that less than 1.5 % of the EUTF for Africa was allocated to regular migration channels; stresses that reducing mobility to deter migration mostly runs counter to development objectives by increasing poverty and threatening to put fundamental rights at risk;
11. Reiterates its call on the Commission and EU agencies to withhold or review their cooperation with third countries, including suspending specific funding and projects, which endanger the human rights of those affected, including where they do not fully respect fundamental rights; reiterates its call on the Commission and the Member States in this regard, in the light of the serious human rights violations against refugees, asylum seekers and migrants in Libya, including those intercepted at sea, to urgently review all cooperation activities with the competent Libyan authorities in maritime and border surveillance and management funded under the EUTF for Africa, and to suspend the second phase of the EUTF project Support to integrated border and migration management until clear guarantees of human rights compliance are in place, including

the abolition of the law criminalising irregular migrants; asks the Commission to ensure that a transparent risk assessment is carried out by independent EU bodies and experts on the impact of EU-funded projects on the human rights of migrants and refugees, as well as on the wider population in the country affected by them; calls for the creation of an independent human rights monitoring mechanism and clear protocols for action in the event of fundamental rights violations;

12. Stresses the need to clearly define the framework of the EUTF for Africa and the FRT, as well as their potential successors, including project definition, reporting, monitoring and evaluation, in order to ensure that actions funded under the EUTF for Africa and FRT contribute to the achievement of the specific objectives of those funds and are not used for any other purposes; calls on the Commission to conduct an *ex post* evaluation at least one year after all activities of the EUTF for Africa have been completed and to inform Parliament accordingly; calls on the Commission to involve CSOs in this evaluation and to pay particular attention to the impact of the fund on development and fundamental rights, with a particular focus on the projects under objectives 3 and 4;
13. Notes with concern that through the rapid response component of the NDICI, cooperation with third countries on migration management can be funded without the need for the Commission to publish any programming documents or consult civil society actors, and without the involvement of Parliament; insists, in this regard, on the need to ensure that the 2021-2027 MFF is accompanied by a robust human rights framework for the identification, implementation and monitoring of future migration cooperation programmes; calls on the Commission and the Member States to use the NDICI and its international partnerships to promote programmes for the protection of refugees and migrants, in line with EU and international law, and to ensure that ODA is used to support and maintain sustainable human development, democracy and human rights for the protection of all people;
14. Calls for the EU to review the EU-Turkey Statement in order to guarantee compliance with human rights standards, and to ensure that the humanitarian aid and support provided by the FRT is not threatened by political volatility.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	11.5.2021
Result of final vote	+: 52 -: 15 0: 0
Members present for the final vote	Magdalena Adamowicz, Katarina Barley, Fernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Damien Carême, Clare Daly, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Peter Kofod, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Nuno Melo, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Diana Riba i Giner, Michal Šimečka, Birgit Sippel, Sara Skytvedal, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Dragoș Tudorache, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Elissavet Vozemberg-Vrionidi, Elena Yoncheva, Javier Zarzalejos
Substitutes present for the final vote	Abir Al-Sahlani, Damian Boeselager, Sira Rego, Rob Rooken, Domènec Ruiz Devesa, Isabel Santos

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

52	+
NI	Laura Ferrara, Martin Sonneborn
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Nuno Melo, Roberta Metsola, Emil Radev, Paulo Rangel, Sara Skyttedal, Tomas Tobé, Elissavet Vozemberg-Vrionidi, Javier Zarzalejos
Renew	Abir Al-Sahlani, Anna Júlia Donáth, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Maite Pagazaurtundúa, Michal Šimečka, Ramona Strugariu, Dragoş Tudorache
S&D	Katarina Barley, Pietro Bartolo, Maria Grapini, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Domènec Ruiz Devesa, Isabel Santos, Birgit Sippel, Bettina Vollath, Elena Yoncheva
The Left	Pernando Barrena Arza, Clare Daly, Cornelia Ernst, Sira Rego
Verts/ALE	Damian Boeselager, Patrick Breyer, Saskia Bricmont, Damien Carême, Alice Kuhnke, Diana Riba i Giner, Tineke Strik

15	-
ECR	Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Nicola Procaccini, Rob Rooken
ID	Nicolas Bay, Nicolaus Fest, Jean-Paul Garraud, Marcel de Graaff, Peter Kofod, Annalisa Tardino, Tom Vandendriessche
NI	Milan Uhrík
PPE	Nadine Morano

Key to symbols:

+ : in favour

- : against

0 : abstention