



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, the first tranche funding projects that run until mid-2021 latest and the second tranche funding projects, which run until mid-2025 latest; whereas the FRT is a joint coordination mechanism and not a funding instrument in itself;
- B. Whereas the FRT has contributed to supporting the lives of more than 1,8 million refugees and host communities in Turkey and thus 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 dependent on this support; whereas cases of (AM1 Oetjen) 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 €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 the water sector – benefitting refugees, IDPs and local communities, supporting more than 7 million beneficiaries; whereas, as the Syrian civil war became protracted, the Madad Trust Fund response evolved further along the humanitarian development nexus, by increasing its focus on systems strengthening to support the host countries efforts and capacities to respond to such protracted crisis, particularly as regards public service delivery in Iraq, Jordan and Lebanon ;
- D. Whereas the evaluation of the Madad Trust Fund points out that this fund is comparatively faster to launch projects than normal ENI or IPA procedures; whereas it has also managed to reach economy of scale, with large scale projects of an average volume of EUR 20 million and with 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 to implement 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 a total of over EUR 5 billion committed since 2016, out of which 4.4 billion come from the EU budget; whereas these countries face growing challenges ranging from demographic pressure, extreme poverty, weak social and economic infrastructure, 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 pointed out the added value of the fund as a flexible instrument addressing rapidly evolving situations and targeting specific local issues; whereas a 2018 report by the European Court of Auditors¹ pointed out, however, various shortcomings, including legal challenges such as the failure to apply EU public procurement law and opaque management; whereas the Commission has stated that it has taken these concerns into account and provided for improvements; whereas civil society² raised concerns 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 TFEU 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 Union 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 local populations, in response to droughts, have traditionally been able to make changes to their livelihood strategies and have shown a capacity for adaptation, often through migration as a way of diversifying livelihoods; whereas since the early 2000s, and particularly since 2016, this system of livelihood diversification has come under pressure mainly due to the limitation 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 is providing support to increase the operational capacity of the Libyan Coast Guard (LCGPS) and Navy and the General Administration for Coastal Security (GACS) to intercept people at sea with 57.2 million euros through the North of Africa window of the EUTF Africa "Support to Integrated Border and Migration Management Project" while at the same time providing support to the International Organisation for Migration (IOM) to assist the most vulnerable migrants stranded in Libya and host countries; whereas, according to IOM data, more than 20,000 people have been intercepted in 2019 and 2020 by the "Libyan Coast Guards"; 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 her March 2021 report, the Council of Europe Commissioner reiterated her call, already expressed in 2019, to suspend support

¹ European Court of Auditors, "European Union Trust Fund for Africa: flexible but lacking focus", 2018, pp. 17-25.

² DAVIS Laura (Dr), EU external expenditure on asylum, forced displacement and migration 2014-2019, European Council on Refugees and Exiles, 2021.

to the Libyan Coast Guard impacting on interceptions and returns;

- J. Whereas there are several lawsuits, legal proceedings and complaints that have been filed by CSOs against the EU and Member States for human rights violations, violation of EU financing law regulations and international regulations on human rights³, refoulement, and other inhumane acts perpetrated against migrants⁴ linked directly or indirectly to some EUTF for Africa projects ; whereas it has been reported that the EUTF for Africa ROCK and BMM programmes were suspended by the EU in 2019 in Sudan;
- K. Whereas the EUTF for Africa and other EU Trust Funds will terminate at the end of 2021; whereas the next multi-year funding instrument, known as the NDICI, is currently expected to dedicate 10% to migration-related activities, outside the process of identifying mutually-agreed National Indicative priorities and in a flexible incitative approach;
- L. Whereas it would be useful for the Commission and Member states to establish a complete and clear 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 amount, objectives, purpose, eligible actions and source of funding;
1. Regrets the fact that EU Trust Funds are ad hoc instruments that deviate from the ordinary decision-making procedure and bypass parliamentary scrutiny and democratic oversight, therefore lacking transparency and democratic accountability; stresses that detailed data on funding allocations are not available or hardly accessible.; urges the Commission to take immediate steps to improve transparency as well as regular information-sharing with the European Parliament and ensure better scrutiny and parliamentary oversight of the definition, implementation and follow-up of the EUTF and the FRT, including any future measures to be adopted under Article 8(10) of the Neighbourhood, Development, International Cooperation Instrument (NDICI); insists on scaling up the accountability of the authorities directly entrusted with the managing of the funds ; calls on the Commission to formalise the observer status of the European Parliament in board meetings of the Trust Funds without delay and to provide the European Parliament with a yearly financial and human rights report of the implementation of current and future projects;
 2. Notes that EU funds have been used to pressure partner governments to comply with the EU's internal migration objectives and the increasing recourse since 2016 to enhanced conditionality between development cooperation and migration management; deplors the use of development assistance for the implementation of informal agreements lacking parliamentary scrutiny and democratic oversight, 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 that there are shortcomings in the application of EU public

procurement law with regard to the EU's external migration policy³; considers that provisions in Article 3 of the Decision C(2015) 7293 establishing the EUTF and humanitarian aid projects funded via the Madad Fund and the FRT are incompatible with or exempted 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 partners⁴; regrets that procedures and criteria for selecting projects are not sufficiently clear or documented⁵;

4. Points out that projects currently covered by EUTFs could be funded under any of the Neighbourhood, Development and international Cooperation Instrument's components: geographic, thematic or rapid response within the limit of the 10% spending target defined by the regulation ; expresses concerns regarding ongoing Council discussions aiming at building Team Europe funding initiatives on migration with the purpose of proposing migration management related actions in Africa, which risk bypassing the scrutiny of the European 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 socio-economic support; notes however that this support only reaches registered refugees, leaving many without assistance; highlights in this regard that, since 2016, access to registration was made difficult in some provinces and cities in Turkey, as reported by some NGOs such as Amnesty International;
6. Regrets that this vital support was allocated in the framework of the EU-Turkey statement; expresses concerns regarding the two projects supporting migration management that amount to 80 million euros in light of the absence of access and monitoring by national and international observers, including to sites of detention⁶ ; 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; in light of the continuing humanitarian crisis due to the ongoing conflict in Syria, welcomes the recent adoption of €130 million assistance package to support Syrian refugees and local communities in Jordan and Lebanon; calls on the transition of the Madad Trust Fund into the new MFF to be smooth, allowing for an efficient contracting and use of the funds already

³ Thomas Spijkerboer and Elies Steyger 'European External Migration Funds and Public Procurement Law' European Papers, Vol. 4, 2019, No 2, pp. 493-521. p.520

⁴ *ibid*

⁵ European Court of Auditors (2017) Special report no 11/2017: The Bêkou EU trust fund for the Central African Republic: a hopeful beginning despite some shortcomings, 2017, pp.36-39

⁶ <https://www.globaldetentionproject.org/wp-content/uploads/2019/10/ONLINE-191024-Immigration-Detention-in-Turkey.pdf>

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, especially vulnerable groups such as women and youth; regrets the little impact of this fund on increased economic opportunities and employment, as pointed out in its mid-term review, despite this being one of the four main objectives of the fund;
9. Notes that the mid-term review pointed out 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 and remains concerned about the governance of the EUTF for Africa, the pulling together of EU resources that have all different objectives, the composition of its board and regional operational committees that enabled some Member States to make direct decisions about the spending of EU money based on a 3 million contribution to this fund, the opacity of the process for defining and approving projects, the lack of dialogue with local and human rights CSOs; points out the lack of ex ante and ongoing impact assessments regarding targeted populations and countries, notably concerning 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 against trafficking in human beings and migrant smuggling, and facilitating sustainable and dignified return and reintegration ; highlights that the strong focus on the objectives 3 and 4 of the EUTF for Africa move 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 third countries do not fully respect the fundamental rights; reiterates in this regard its call on the Commission and Member States, in view 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 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 abolishing of the law that criminalises irregular migrants ; asks the Commission to ensure transparent risk assessment, performed 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 it; calls for the creation of an independent human rights monitoring mechanism and clear protocols

to act in the event of fundamental rights violations;

12. Stresses the need to clearly define the framework of the EUTF 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 such 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 the European Parliament ; 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 attention to 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 Member States to use the NDICI and its international partnerships to promote programmes for the protection of refugees and migrants, in line with European and international law, and to ensure that ODA is used to support and maintain sustainable human development, democracy, and human rights, in protection of all people;
14. Calls on the EU to review the EU-Turkey Statement to guarantee compliance with human rights standards, as well as 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 Bilík, Vasile Blaga, Ioan-Rare 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 Šimeka, Birgit Sippel, Sara Skytvedal, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Drago 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 Bilík, Vasile Blaga, Ioan-Rareș Bogdan, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Nuno Melo, Roberta Metsola, Emil Radev, Paulo Rangel, Sara Skytvedal, 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, Drago 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