Human rights protection and the EU external migration policy

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The Committee on Foreign Affairs adopted an own-initiative report by Tineke STRIK (Greens/EFA, NL) on human rights protection and the EU external migration policy.

The report contains recommendations on the protection of human rights within the framework of the EU's external migration and asylum policy, which aims at ensuring the EU’s cooperation with third countries on migration respects and promotes the human rights of migrants and refugees across the globe.

The external dimension of EU migration policy

Members recalled that, in accordance with Articles 3(5) and 21 of the EU Treaty and the Charter of Fundamental Rights, the European Union and the Member States must uphold human rights in their external and extraterritorial actions, agreements and cooperation in the fields of migration, borders and asylum.

These obligations require not only the recognition of the applicability of the relevant standards, but also their appropriate implementation through instruments allowing for effective protection and guarantees as well as a human rights-based approach to the whole migration policy cycle, with specific attention to migrant women and unaccompanied minors.

In this respect, the report stressed that Member States must take the best interests of the child as a primary consideration and must ensure non-discrimination and procedural guarantees, such as the right to an effective remedy and the right to family reunification, and prevent the separation of children from their parents or legal guardians.

External cooperation

Members believe that the EU must strengthen its external cooperation with countries of origin and work towards the sustainable and effective readmission of persons subject to a returnees. They called on the EU to ensure that readmission agreements and border management cooperation agreements are only concluded with third countries that explicitly commit to respecting human rights, including the principle of non-refoulement and the rights enshrined in the UN Convention relating to the Status of Refugees.

The report called on the Commission to:

- ensure that transparent risk assessments are performed by independent EU bodies, such as the European Union Agency for Fundamental Rights, on the impact of any formal, informal or financial EU cooperation with third countries on the rights of migrants and refugees;

- establish an independent, transparent and effective monitoring mechanism which includes periodic reports on the implementation of formal, informal and financial agreements with third countries that could have an impact on the rights of migrants and refugees and the work of human rights defenders.

Human rights compliance and EU actors implementing the external migration policy

Stressing the increased role of Frontex in practical and operational cooperation with third countries, as well as the importance of status agreements in ensuring a legal framework for cooperation between Frontex and third country border management authorities, Members called on the Commission to set up an independent monitoring mechanism for Frontex activities.

They also called on Frontex to regularly inform Parliament's Subcommittee on Human Rights, Committee on Foreign Affairs and Committee on Civil Liberties, Justice and Home Affairs about any activities involving cooperation with third country authorities, and in particular the operationalisation of human rights as part of such activities.

The report recommended the extension of the mandate, competences and budget of the Fundamental Rights Agency to allow it to effectively monitor the external dimension of EU asylum and migration policies.

EU cooperation with third countries and financial assistance

Noting the increasing use since 2016 of enhanced conditionality between development cooperation and migration management, including return and readmission, Members stressed that EU development cooperation and assistance must be aligned with the sustainable development goals.

The report called for a needs-based approach to humanitarian assistance, which should respect humanitarian principles, international human rights law, international humanitarian law, and international refugee law. It also stressed that making humanitarian aid and emergency aid conditional on cooperation with the EU on migration is not compatible with humanitarian principles.

Members insisted that a significant proportion of EU funding is earmarked for the improvement of human rights, international protection, and the future prospects of refugees. The Commission should regularly and publicly report to Parliament on the funding of migration-related cooperation programmes in third countries and their human rights impact.

The EU's external policy and migration objectives

Members recalled that the EU and its Member States have committed themselves, in the context of the Global Compact on Refugees, to sharing responsibility for the effective and comprehensive protection of refugees and to alleviating the pressure on host countries.

In this respect, the report stressed that the EU and its Member States should increase resettlement pledges, ensuring that resettlement is not conditional on the cooperation of the transit country on readmission or border control, and strengthen safe and legal pathways of entry and prevent forced refugee returns from hosting countries.

Members called on the EEAS, the Commission and Member States to engage in dialogue with third countries on migrants' rights as an integral part of the EU's human rights policy. They insisted that the nexus between human rights and migration be taken into account in the EU's bilateral human rights dialogues with the countries concerned.