



# EU'S EXTERNAL COOPERATION & RIGHTS OF MIGRANTS AND REFUGEES WHAT LEVERAGE FOR CIVIL SOCIETY IN THE MAGHREB COUNTRIES?

## Briefing 2: People on the move facing human rights violations at borders

Algeria, Morocco and Tunisia are at the crossroads of complex migration realities, while political pressure from the European Union (EU) is increasing to externalise border control and migration management. European cooperation faces a number of limitations (see Briefing 1 - [Access to rights for people on the move](#)), although it is presented as a means to better protect the rights of migrants and refugees in so-called countries of origin and transit; **cooperation seems to respond to security-gear objectives rather than to aim at facilitating mobility across the Mediterranean and at protecting the rights of people on the move.**

Cooperation has often resulted in the development of a wide range of legal and technical tools not necessarily used to better protect the rights of migrants and refugees but instead, to control or even counter mobility (notorious impunity in cases of violence by law enforcement officials at borders; obstacles to the right to leave any country; no effective protection for victims of discrimination and abuse; judicial harassment of some human rights defenders based on legislation criminalising trafficking and/or smuggling).

These barriers at land, sea and air borders add up to already existing practices in the Maghreb countries, i.e. border militarisation and the criminalisation of unauthorised exit («illegal emigration offence»), and therefore expose to greater risks and human rights abuse people wishing to exercise their right to mobility. In this ambivalent context, the Maghreb countries have seen, in recent years, **the emergence of an increasingly active civil society, trying to act in a coordinated manner despite growing attacks against migrants, refugees and their supporters on both sides of the Mediterranean.**

### THE EXTERNAL COOPERATION OF THE EUROPEAN UNION AND ITS MEMBER STATES

A **complex institutional system** (see briefing 1): cooperation programmes on migration are based on various forms of funding linked to both the EU's external and internal policies; implementation is carried out through public or private actors at different levels (cooperation agencies, international organisations). A significant number of programmes are also funded through bilateral cooperation initiated by Member States (in particular France, Germany, Spain and Italy).

Regarding **technical cooperation**, the [European Border and Coast Guard Agency - Frontex](#) is involved in the «outsourcing» of controls at EU borders. Rescue at sea is not part of its mandate, although the agency must provide assistance under maritime law. The agency is increasingly active outside Europe, which [raises many concerns for civil society](#):

training of foreign border guards and coastguards, cooperation and data exchange with more than 43 countries, including through the African Frontex Intelligence Community (AFIC), deployment of liaison officers. The Agency participates in the Seahorse Mediterranean network, connected to the EUROSUR network, to exchange information on «incidents» at sea and to counter irregular movements, based on satellite information produced by Member States and North African countries.

The EU aims to **sign binding readmission agreements**, which can be used by all EU Member States to return people to their country of origin or to a country through which they have transited. To date, neither Morocco nor Tunisia has given their agreement despite negotiations to this end following the signing of the political declaration of "Mobility Partnerships". However, **bilateral readmission agreements** are already in force between some EU Member States and Morocco, Algeria and Tunisia (see box 'Major references').

### MAJOR REFERENCES

#### POLITICAL INSTRUMENTS

- [EU-Morocco Mobility Partnership](#) (in FR only)
- [EU-Tunisia Mobility Partnership](#) (political declaration, no implementation annexes adopted yet – in FR only) + [EU-Tunisia Strategic Priorities](#) (see [press release in EN](#))
- [EU-Algeria Partnership Priorities](#) (in FR – including items on migration)

#### Bilateral readmission agreements

- \* Tunisia with Germany, France and Italy
- \* Morocco with Germany, Austria, Spain, France and Sweden
- \* Algeria with Germany, Spain, France and Italy

#### FINANCIAL INSTRUMENTS

- EU Emergency Trust Fund for Africa / North of Africa window : projects run in [Algeria](#), in [Morocco](#) and in [Tunisia](#)
- Mobility Partnership Facility
- [Asylum, Migration and Integration Fund - AMIF](#) (projects mostly geared towards return and reintegration to the Maghreb countries)

#### IN PROCESS

- Draft readmission agreements : EU-Tunisia & EU-Morocco
- Draft EU-Morocco Strategic Priorities

# INTEGRATED BORDER MANAGEMENT: COOPERATION WITH SO-CALLED 'THIRD COUNTRIES'

## A MULTI-LEVEL ACTION

Examples of cooperation initiatives	Examples of cooperation initiatives	Implementation
<b>Morocco and Tunisia</b> <a href="#">'Return to new opportunities' Programme (Perspektive Heimat)</a>	Germany Budget: € 150 million (2017 – 2020)	German agency for international cooperation (GIZ)
<b>Algeria</b> <a href="#">Assisted Voluntary Return and Reintegration (AVRR)</a>	EU (Asylum, Migration and Integration Fund - AMIF) Italy Budget: € 1.536.070, 60 (over 24 months)	International Organization for Migration (OIM)
<b>Tunisia</b> <a href="#">Support Programme to Integrated Border Management in Tunisia</a>	EU (EU Delegation in Tunisia) Switzerland (State Secretariat for Migration)	International Centre for Migration Policy Development (ICMPD)
<b>North Africa</b> <a href="#">Dismantling the criminal networks operating in North Africa and involved in migrant smuggling and human trafficking</a>	UE (EU Emergency Trust Fund for Africa) Budget: € 15 million (over 36 months)	United Nations Office on Drugs and Crime (UNODC)

## A NEGATIVE IMPACT ON THE RESPECT OF RIGHTS

All too often, border control is justified by the fight against organised crime and terrorism. However, if such a fight can be legitimate, it must not be done at the expense of human rights or to counter migratory movements, since the two topics are distinct by nature. With no regard for the legitimate aspirations to enjoy the right to mobility which many share across the region for varying reasons, irrespective of their obligations under international law (non-refoulement, right to leave any country, obligation to rescue at sea), European States persist in restricting access to their territory together with their Mediterranean neighbours, in particular for security reasons.

The **lack of mobility**, at odds with the commitments highlighted as part of the Barcelona Process, is all the more problematic as conditions are not always met in the partner countries and as the mortality rate in the Mediterranean Sea continues to rise. By making dangerous combinations between migratory movements and cross-border crime, European policies have strongly influenced legislation (see annex table) and practices in the Maghreb countries, for instance as regard **border militarisation** (Morocco/Algeria; Morocco/Spain), despite warnings from associations on the detrimental consequences of such measures on fundamental rights.

For 20 years (European Council of Tampere in 1999), the EU and its Member States have been using external cooperation to enable the **return of migrants**, even if it means making the granting of development aid and access to visas conditional on the collaboration of «partner» States in this respect. The **trend towards making access to development aid conditional on the signature of readmission agreements** places the EU at the opposite of the principle of conditionality based on effective respect for human rights that structured the European Neighbourhood Policy (see EuroMed Rights'

analyses in [2015](#) and [2018](#)).

Similarly, **bilateral cooperation on return has led to lower rights for asylum seekers**: this trend seems very much in line with the set of proposals from the European Commission and the European Council to reform the Common European Asylum System. This is the case in particular with the adoption of the **lists of 'safe' countries by some Member States**: asylum applications lodged by people from so-called 'safe' countries are examined more quickly with a significant risk that the application gets rejected, in contradiction with the very spirit of the right of asylum (see [analysis "Safe countries": A denial of the right of asylum](#) and [factsheet 'Maghreb countries': «safe» countries?](#)).

The methodology adopted for cooperation programmes bears the risk that human rights are violated: indeed, human rights are not systematically included in the evaluation criteria, since no human rights impact assessment is carried out ahead or following projects undertaken. This is all the more worrying as many cooperation programmes strengthen the **capacity of competent authorities to intercept, arrest and even expel migrants**, in contexts where human rights abuse may occur, e.g. violent arrests and expulsions without procedural guarantees ([Algeria](#), [Morocco](#)), violence against women at borders by state or non-state actors (see ['Women at the EU's external borders', factsheet in French by Migreurop](#)).

By turning a blind eye to such elements, albeit documented and denounced, European cooperation runs the risk of legitimising authorities in partner countries as well as in European countries in their restrictive approach to mobility and to migrants' and refugee rights, without effectively addressing the violations of rights that take place at borders.

# CIVIL SOCIETY IN ACTION

The crucial role of civil society organisations is highlighted in the official texts that structure Euro-Mediterranean cooperation on migration and mobility, including the [Marrakech Programme](#) adopted in May 2018 (implementation of the Valletta Programme). For many years, NGOs and human rights defenders have been working to raise awareness of rights violations of people on the move at borders. Nevertheless, these warnings do not seem to be taken into account and add to worrying trends towards a shrinking space for civil society on both sides of the Mediterranean (in particular through the judicial and administrative harassment of human rights defenders and the criminalisation of rescue operations).

In a context where the EU considers civil society as an '[indispensable](#)' partner (EU High Representative F. Mogherini), in a region where the densification of the association fabric is valued as a promising sign of the anchoring of democracy and rule of law, it is essential that external cooperation supports existing associative dynamics, and do not contribute to hindering their activities. The contribution of independent and autonomous civil society in the definition, implementation and evaluation of cooperation programmes is essential to ensure that **they are devised in a sustainable and coherent fashion, particularly given the crucial role of local associations in ensuring effective access to the rights of migrants and refugees.**

## Examples of good practices at regional level

\* May/June 2017: **successful local and international inter-associative mobilisation** to ensure that [Syrian families stranded at the Morocco-Algeria border obtain protection and access to the Moroccan territory](#).

\* April 2018: an [online petition entitled "We are all migrants"](#), denouncing the collective expulsion operations launched in Algeria, gathered **more than 200 signatures from human rights organisations and defenders in the Maghreb countries.**

## WHOM TO CONTACT ?

EU delegation in [Algiers](#), in [Rabat](#) and in [Tunis](#)

EU Member States' embassies in Algeria, in Morocco, and in Tunisia

[EU contacts in Brussels and in its Mediterranean neighbouring countries](#)

International Organization for Migration (IOM) Offices in [Morocco](#), in [Tunisia](#), and in Algeria (no website)

Offices of the French development agency in [Algeria](#), in [Morocco](#) and in [Tunisia](#)

Offices of the Spanish cooperation in [Morocco](#)

Offices of the German cooperation in [Algeria](#), in [Morocco](#) and in [Tunisia](#)

## RECOMMENDATIONS – VALUE THE EXPERTISE

### MONITORING / FOLLOW-UP

Stay informed about background documents on migration cooperation;

Document violations of rights at borders and stay in touch with civil society organisations facing similar challenges to exchange practices and identify opportunities for joint action.

### INTERACT WITH POLICY ACTORS

Call on decision makers about violations of rights at borders and risks of rights violations when cooperation takes place in countries where legislation does not effectively guarantee rights;

Remind decision makers of their commitments to effectively consult civil society and ensure effective respect for human rights;  
Request meetings with the EU delegation, the embassies of the EU countries from which cooperation projects originate or even directly with the cooperation agencies or their representatives at the embassy, to request transparency on the real objectives of the cooperation actions and programmes carried out in the region, as well as on the implementation, implementation and evaluation of these projects.

► [How to get the EU to act? in the EuroMed Rights' Interactive Guide on EU advocacy](#)

Created in 1997 following the launch of the Barcelona Process, [EuroMed Rights](#) is a network of more than 80 independent civil society members across the Mediterranean (organisations and individuals). This publication is based on the results of the **regional seminar "The rights of migrants and refugees in the Maghreb countries - Supporting regional dynamics under construction" (July 2018)**, which brought together some 40 civil society organisations from Maghreb countries and some European countries. EuroMed Rights would like to thank all those who participated and contributed to this event, as well as the **Fondation de France** for its support to this project.

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