

Conclusions from:

“Migration Agenda: Fostering Regular Migration and Development”

A Round Table organised by the Centre for European and International Policy Action (CEIPA)

8 June 2017

Main Auditorium of CBL-ACP

Rue Montoyer 24, 1000 Brussels

On the 8th of June 2017, thirty experts gathered for a Round Table event organized by CEIPA to discuss the links between migration, asylum, development aid and economic cooperation.

The CEIPA **Round Table** entitled **“Migration Agenda: Fostering Regular Migration and Development,”** was organised in support of the European Development Days (EDD) 2017 taking place in Brussels from the 7th to the 8th of June 2017.

The Agenda of the CEIPA Round Table is attached to this report.

The President of CEIPA, Ambassador Denise De Hauwere, delivered an opening statement which is attached to the conclusions.

Baron Marc Bossuyt, Professor of International Law and Emeritus President of the Belgian Constitutional Court has delivered the keynote speech which is attached to the conclusions.

Interventions following the keynote speech by Professor Marc Bossuyt were delivered by :

- **Guy Bultynck**, President of the Chamber of Commerce Belgium - Luxembourg - Africa - Caribbean - Pacific
- **Patsy Sorensen**, Director of PAYOKE and former Member of the European Parliament
- **Helga Konrad**, former Federal Minister in Austria and Special Representative at the Organisation for Security Cooperation in Europe (OSCE)
- **Marlène Vermorken**, former Head of Unit, International Migration, European Commission
- **Professor Rainer Münz**, Senior Adviser on Migration Policy to the President of the European Commission
- **Peter von Bethlenfalvy**, Executive Director CEIPA, Chair of the Round Table

After an extensive and captivating keynote presentation by Professor Marc Bossuyt, the discussions focused on the links and synergies between migration, asylum, human rights and development aid.

It was made clear that the European development and migration policies are in serious need of reform. Furthermore, the discussion revealed that there are increasingly divergent views and approaches towards future migration and development policies within the European institutions and indeed, within the EU Member States. These need redress.

The discussion focused on a number of issues. How do we move forward with future migration and development policies so that we align them into coherent and effective policies? How can we reinvigorate a constructive discussion between private sector and state actors granting and managing development funds? How can we sensibly reorient the debate on migration, asylum, human rights and development aid in order to produce transparent and balanced policies at the EU-level and the Member State-level? How can we create conducive policies that foster orderly migration so as to benefit business, trade, investments, innovation and job creation in ACP countries as well as in Europe?

The participants took note of the former UN and European initiatives linking migration with development aid. These were the Belgian UN initiatives of 2006 as well as the initiatives of North Rhine Westfalia of 2010.

Orderly migration of skilled and highly-skilled workforce contributes to the flow of remittances which is an important element for investments and job creation in developing countries. The Round Table participants felt that there remains a need to further develop new and durable partnerships between private sector actors and state institutions in order to create a conducive environment for innovation, job creation and knowledge transfer.

The Participants of the CEIPA Round Table expressed indignation and disappointment over the incapacity of the international community to prevent and remedy the human and humanitarian tragedy in Syria. It has been noted that both the UN and the EU have not been able to prevent or remedy the human tragedy in Syria, neither on a political nor a humanitarian level. Similar failures of the international community are well documented: genocide in Cambodia in 1975, in Rwanda in 1994, in Srebrenica, Bosnia and Herzegovina in 1995, and in Sudan in 2003 - to name a few. These most deplorable failures are reminders urging us to seriously reassess the priorities and future capacities (financial, material, military) of the European Union. How can the EU act more decisively in order to prevent similar crisis situations which often lead to genocide and severe human rights abuses?

The participants of the CEIPA Round Table expressed disapproval in knowing that the most unique and effective legal instrument of the United Nations for protection of human rights, the Convention relating to the Status of Refugees (UN 1951/Protocol of 1966/Geneva) has been weakened during

the past decades and, in certain situations, set *de facto* out of force due to a number of reasons including:

- inability of the world's leading powers to solve the crisis at the level of the UN Security Council;
- fatigue by the so-called Western countries to intervene (materially, financially militarily) on time;
- failure of the UN and the EU institutions to take effective steps to address the root causes of mass refugee and migrant movements;
- failure to establish appropriate extraterritorial mechanisms for orderly resettlement of population from crisis regions;
- refusal at entry points and border closures by a number of EU MS.

Furthermore, the participants noted that the “dynamism” and judicial activism in Luxembourg and Strasbourg has affected the European jurisprudence, in particular as it relates to asylum, by largely extending grounds on which asylum should be granted by EU MS (provisions of the relevant articles of the EU Directive 2011). Further, the decisions of the European Court of Human Right which has interpreted Article 288 of the Treaty on the Functioning of the European Union (TFEU) has led to political reluctance amongst EU MS to display “solidarity” and to participate in burden sharing. Distrust and national protectionism in EU MS has been growing since the dramatic arrival of large groups of refugees and people on the European soil. Initially, Germany and Sweden showed a keen interest in doing their share, but this has since proved politically unpopular.

The Syrian crisis has bluntly exposed the weaknesses of the European asylum, security and immigration architecture. The crisis unfolding in the "European neighbourhood" makes Europe look like a Kafkaesque institution. Dysfunctional, uncoordinated, and almost absurd in the issuance of different statements and declarations which are of little or no help. The principle of solidarity, the Schengen Acquis, the Dublin Regulation, the Directives on a Common European Asylum System, the network of EU agencies such as EASO, Frontex, Europol, Eurojust, CEPOL, the European relocation mechanism and the related action in the so-called “hot spots” are evidently not delivering the obligations and expectations.

The aims, mandate and functioning of the European agencies are in need to be reconsidered by the policy makers. Frontex has been created as a European agency improving the border protection and management. Given its extended mandate to operate in non-European countries it should be definitively placed under the guidance of the European External Action Service (EEAS). Furthermore according to experts, resettlements and immigration matters are intrinsically international complex issues requiring high sensibility for foreign security and development

policies. Subsequently, Frontex like the other European agencies is in need of strong and independent European management rather than being at the service of individual national interests of EU Governments. Notwithstanding the extended mandates and working plan for Frontex and EASO, there is a need for establishing an independent and competent European agency dealing with resettlement and migration, in order to face the future increasingly migratory pressure. Such an agency would greatly reinforce and secure more effective results in the Partnership Framework Agreements with countries of origin and transit leading to more effective measures linking orderly migration and development aid.

It was noted that the European diplomacy through its EEAS is experiencing major difficulties in producing satisfactory results in building democracy internationally, in strengthening human rights and the rule of law, and in initiating preventive action towards armed conflicts, genocides and mass exodus of population from developing and European neighbourhood countries. Its most renowned initiative, the destruction of traffickers' and smugglers' vessels prior to their departure, has been regarded by many as absurd and inefficient activism in view of the magnitude and complexity of the situation in Syria. Thus, Article 78/3 of the TFEU which promulgates the mandate for European diplomacy to prevent large scale of mass movements has effectively become a myth.

The participants of the CEIPA Round Table felt that what were once the basic principles, rules and regulations of the EU, have today --as a result of irregular mass flows of migrants and refugees-- nearly by and large lost their relevance and validity.

Professor Marc Bossuyt stated: "As far as the "hotspots" are concerned, it is an ambitious project that has not yet been able to fully show its potential, nor its defects and weaknesses. Those "hotspots" are areas at the external border of the EU (Sicily and Lampedusa in Italy and Lesbos and Kos in Greece) which provide, at least in theory, a platform for EU agencies (EASO, Frontex, Europol and Eurojust) to intervene on the frontline in order to swiftly identify, register and fingerprint incoming migrants. They appear to be limited to pre-screening asylum seekers and other migrants with a focus on their possible relocation to another EU Member State or to return to their country of origin or another safe country. Once EU agencies really get involved in procedures which may lead to negative decisions for the applicants, then perhaps it might become better aware of the difficulties which are created by its Directives, adopted in the framework of the Common European Asylum System. It has not yet been proven that the procedures prescribed in the Asylum Procedure Directive, and in particular those concerning an effective judicial remedy, can cope with massive influxes of asylum seekers as witnessed by the present crisis.

The Dublin Regulations foresee a redistribution of asylum seekers throughout the EU to more evenly disperse the burden. This has been one of the main policies adopted to address the crisis, but

it has a number of important shortcomings:

- a It disincentivizes border states (Italy, Greece) from diligently guarding their external borders;
- b It does not address the stock of migrants who will continue to attempt entry;
- c It may result in the EU becoming complacent in seeking a solution to the influx;
- d It is unfair to Member States which are countries of preference for asylum seekers (Germany, for example);
- e It does not address the entirety of the problems. The current figures proposed represent only a fraction of those already arrived in the EU, even less of those moving towards the EU and definitively much less than those desiring to come to the EU. “

Professor Rainer Muenz, Senior Advisor of the President of the EU Commission has delivered a highly appreciated and his thorough views on demography, movement of populations, roots for irregular migration to Europe as well as measures furthering regular and orderly migration. According to his analysis, the year 2015 has been exceptional as regarding the number of migrants and refugees, although the number of incoming flows in the EU is relatively small compared to the high number of refugees hosted in other parts of the world by transit countries; in his belief this situation will not repeat itself since the EU is on the way to implement effective measures. He also reiterated that the closure of the Eastern Mediterranean migration route has not led ---at least for the same nationalities-- to an increase in the flows using the Central Mediterranean route. Surprisingly, the death toll of migrants arriving by unseaworthy vessels made available by smugglers and traffickers was relatively low compared to the high numbers of crossings; nonetheless, it absolutely remains unacceptable that such grave incidents continue to occur on a regular basis. According to Prof. Muenz increased rescue activity in the Mediterranean maybe perceived by migrants, smugglers and traffickers as a strong pull factor triggering further illegal migration to Europe.

The participants expressed a strong view in favour of sea rescue operations by the Italian navy and FRONTEX. As long as Europe has not sorted out its overall asylum, immigration and resettlement schemes, it is obligated to continue rescue missions in the Mediterranean.

EU Development aid and economic cooperation has been extensively discussed by the participants, following the clear and thorough presentation by Guy Bultynck, President of CLB-ACP who was speaking at the Round Table in a private capacity.

It appears that the African and European business communities both believe that business, investment, trade, technical innovation, exchange of expertise and experts as well as transfer of knowledge are essential for development and economic cooperation; official development aid

would be more effective and more efficient if the dialogue and links between state-financed aid and private sector were re-established higher on the political agenda. There are good examples of successful synergies such as with Sénégal, Gabon, Ghana and other African countries with strong growth rates of more than 5% per annum.

It has been noted that official development aid by the European Commission and the EUMS is often driven unilaterally from donor's perspective, rather than by responding to essential needs of the recipient country. In some cases, they can cause major disruption in stability and economic development of targeted countries.

Transposition of numerous EU-financed development aid projects, including democracy-oriented projects such as those seeking to impose cycles of "democratic elections" (as understood and practiced in Western world) are often failing as they do not consider the specific cultural and historical contexts. "Democratic elections" reinforced through European election observation missions have created questionable results so far, especially since voters have little choice and means to express their views and expectations. Moreover, these problems are compounded by the fact that much of the European development aid is being sent to governments with severe allegations of corruption. Some of these authorities are responsible, either directly or indirectly, for increased levels of organized crime, trafficking and smuggling.

European development aid appears to be often patronizing and adversely affecting cultural and deeply-rooted societal traditions in establishing authority, consensus in power-sharing and good governance. Thus, the donor-driven development aid and their well-intentioned goals may unfortunately contribute to the evolution and legitimisation of new autocratic elites which, in turn, facilitate the corruption in recipient countries and thereby indirectly boost flows of irregular migration to Europe.

The participants have noted, that in spite of numerous declarations, new legal frameworks, binding and less binding legal instruments, high level and expert meetings, European political leadership is simply unable to engage effective links between migration and development policies as well as migration and foreign and security policies. It was felt that as long as international migration issues remain the full competence and mandate of interior and justice departments of the EU Governments, little progress can be expected to address the overall issue and the root causes of irregular migration.

The participants expressed their hopes in recent initiatives launched by the German Chancellor Angela Merkel within G20 and ACP countries, along with the World Bank and International Monetary Fund, to engage in new partnerships with the private sector in order to boost the

economic development, employment and innovation in the developing countries.

The participants expressed the opinion that migration and development policy must be negotiated and established in and with the countries of origin, taking into account their interests and needs rather than simply deciding and settling the relevant policies in destination countries. Successful negotiations between countries of origin and destination linking migration and development issues may lead to highly satisfactory results, mutually benefitting the parties involved. In cases such as the Philippines or Ghana, economic development has been boosted by significant increase in remittances while at the same time the labour shortage in recipient countries has effectively been met. Thus, orderly migration may be profitable for state and private sector interests at the same time.

The participants felt that asylum and immigration regulations should be constructed in such a way as to be applied extraterritorially in countries of origin and transit. Citizens of non-European countries should be entitled to file their asylum plea and apply for jobs, having their immigration formalities decided (in positive or negative way) in the countries where their application was filed, within an acceptable period of time. The EU Blue Card regulation amended and being developed for many years should not only be fully reflecting the labour market needs in the EU MS but it should also become a binding instrument for all the EU MS.

As long as there is no consensus on creating a common European immigration policy with a well-established extraterritorial application granting mechanism - integrating development, business and investment interests - for foreign labour workforce, trafficking in human beings, smuggling of migrants and tragedies will continue to occur. All this in spite of dramatically increased budgets for border protection as well as forced and voluntary returns.

It was noted that voluntary returns of illegal migrants has little impact without a strong and effective forced return policy.

Restrictive policies reinforcing forcible return and/or "voluntary return " of migrants from Europe to their home/transit countries, have been regarded by the participants as a most complex, expensive and impracticable measure, condemned to failure without a full reform of the European immigration and asylum system as mentioned above. Many third-country authorities are also not cooperative in requests for documents, in document verification and in return-procedures for those not entitled to protection.

Prof. Muenz noted that due to the policy failures, the main profiteer of the current EU funding are UNHCR and IOM, supporting respectively the asylum and return schemes with meager and

ineffective results.

A number of interesting data on migration and development worldwide, were presented during the CEIPA Round Table; showing that Europe is responsible for a relatively small number of migrates when compared on a global scale and at the same time, it has extremely high subsidies for development and humanitarian aid; lately, it has been noted that increased funding has been granted to countries with questionable human right principles, in order to prevent migrants and refugees entering Europe.

It has been stated that although the year 2015 was an exceptional year as regards the influx of migrants ad refugees from mainly crisis areas, another crisis could trigger further unmanageable influxes in the absence of coherent migration and development policies.

The issue of statistics on asylum, migration flows and trafficking in human beings were brought up during the discussion as being often an instrument exploited by groups and Governments pursuing a particular political agenda. However, due to its complexity, it was felt that this issue has to be re-discussed and treated another time.

Following the interventions of **Patsy Sorensen**, President of PAYOKE, **Helga Konrad**, former Federal Minister of Austria and **Marlene Vermorken**, former Head of EC Unit, International Migration, the participants discussed the aftermath of the so-called “migration-crisis” of 2015. It was reiterated that large-scale EC funds are mostly being devoted to state security and border control activities - all to the detriment of the protection of victims and prevention of human trafficking as well as human right concerns.

Consequently, NGOs and expert organisations dealing with the aforementioned issues are not supported as needed. In this respect, it was stated that the EC shows a weak role in the coordination and promotion of feasible actions and in balancing the funding allocations; in addition, participants felt that there is a need for a reinforced function of the EC in the monitoring of EU funds spent by the EU Governments .

Furthermore, the interface of migration and human trafficking was highlighted. Concerns were raised about the fact that human rights abuses in dealing with potential victims are not only accepted as collateral damage, but increasingly taken for granted in the current migration management approaches (reference was made to a recent statement of the British Prime Minister Theresa May). Being aware that human trafficking is a serious crime that hampers good governance (apart from doing harm to people), the EU’s narrow approach in dealing with this issue has been questioned accordingly.

Opening Statement by Denise De Hauwere, President of CEIPA

Excellencies, Ladies and Gentlemen, welcome to this CEIPA Round Table. Allow me to make a brief overview of what we do. CEIPA is an independent and impartial European think-tank. Our team consists of high-ranking experts and volunteers. CEIPA addresses a wide range of international political subjects, in need of new approaches and solutions.

It is with great pride that I can affirm that the participants at our Round Tables and our guest speakers are always of high quality – as today – coming from governmental as well as non-governmental circles and from European as well as non-European organizations. The aim of our Round Tables is to have a frank and thorough debate on major priorities of the EU; the conclusions – which of course CEIPA publicly discloses and tables to the European and International decision makers – are intended to provide insight in shaping, improving or adapting their policies or law-making activity.

The following may give you an idea of what CEIPA has so far accomplished :

- In 2011, CEIPA organized a Round Table on the challenges and consequences that International Military's gradual withdrawal from Afghanistan would produce.
- A debate in 2012 focused on the challenges Syria is posing to Europe and other allied countries in efforts towards peace, democracy and human rights.
- In 2012-2013, CEIPA organized several Round Tables on minority and human rights, especially on the subject of Roma integration into European societies and all connected problems; just to mention a few : the need to raise awareness of the Roma and of their struggle as migrants, and of the vulnerability of Roma children and women.
- Which brings me to the issue of human trafficking. CEIPA has tackled this subject several times, not only with regard to Roma women and children. The Belgian Ministry of Foreign Affairs, for example, hosted a CEIPA meeting reaffirming the necessity to strengthen Belgian input for the long term EU strategy to take action against human trafficking, and the need for EU input towards protection of unaccompanied minors and labor exploitation.
- Another Round Table stressed the need for a central EU counter-trafficking instrument and the need to secure residence rights for victims of trafficking.
- Yet another debate tackled the number of young radical followers and the foreign fighters' mobilization and smuggling. The discussion addressed the New European Agenda on migration challenges and opportunities and concluded that orderly resettlement and migration

management as a policy should be a future priority.

- As a follow-up to this, CEIPA met with participants from EU member states organizations and institutions to provide a platform on the challenges of refugees and migrants as well as create a proposal for orderly processing and management of migrant arrivals; the focus went to improving Eurodac fingerprint databases, funding for refugees, and deploying more personnel to hotspots on the southern coasts.

Enough on what CEIPA has been doing so far and let me turn now to today's Round Table.

The European Union Development Days are addressing the development challenges with a focus on how to tackle poverty worldwide. In the framework of these development days, this Round Table seeks to examine the positive opportunities made possible by the actual migration crisis.

It is not the first time that big migration waves have hit Europe, or the world. And we must recognize that they brought not only chaos, but also positive developments, mainly, it's true, in the past, in the countries of destiny.

The European Union has already taken some measures to confront the migration crisis, mainly to disrupt the migration flows or to improve asylum and resettling procedures. But in this Round Table today, we shall brainstorm together on how this migration crisis can be turned around into a positive story, and how it can influence positive economic development in destination countries, but also in the countries of origin.

One of the reasons, as we all know, for migrants fleeing their country, is because of economic underdevelopment. It follows that improving the conditions for a better economic environment in those countries is of essential importance. What we need is a coherent policy, whereby clear and transparent norms for orderly and regular migration, with respect for human rights and the rule of law, will be a sustainable and transparent tool for cooperation, innovation and economic prosperity. So, thank you all for being here and wanting to discuss with us how this subject should be taken on.

Agenda

14.00 – 14.30 Registration

14.30 – 14.40 Welcome and Introductory Remarks:
Denise De Hauwere, Ambassador and CEIPA President

Keynote Address:

Marc Bossuyt, Emeritus-President of the Belgian Constitutional Court

Presentations:

14.40 – 16.15 **Guy Bultynck**, President of the CLB-ACP
Patsy Sörensen, Director and Founder of PAYOKE
Helga Konrad, Former Federal Minister of Austria and Special Representative of the OSCE

Moderator:

Peter von Bethlenfalvy, Executive Director, CEIPA

16.15 - 16.45 Plenary debate

16.45 – 17.00 Closing remarks

17.00 End of meeting
