

**RESTREINT UE/EU RESTRICTED**



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**From:** European Commission and European External Action Service (EEAS)  
**To:** Permanent Representatives Committee

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**Subject:** Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Algeria

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Delegations will find attached the above joint Commission-EEAS non-paper.



EUROPEAN COMMISSION

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| <b>FROM:</b>    | <b>European Commission and European External Action Service (EEAS)</b>  |
| <b>TO:</b>      | <b>COREPER Ambassadors</b>  |
| <b>SUBJECT:</b> | <b>Joint Commission-EEAS non-paper on enhancing cooperation on migration, mobility and readmission with Algeria</b> |

## **Country Fiche proposing possible leverages across Commission-EEAS policy areas to enhance returns and effectively implement readmission commitments.**

### **1. Key Migration features of Algeria**

Currently, around 678,000 Algerian citizens **reside legally** in the EU (most of them in FR, ES and IT). From an Algerian perspective, this figure may be much higher since it would include bi-nationals.

At the same time, a significant increase in the number of Algerian nationals entering the EU in irregular ways was registered last year. Frontex report 2598 **illegal border crossings** by Algerian nationals between January and November 2015, compared to 1,178 illegal border crossings in 2014. Still, the figures are low in comparison to other countries.

In terms of return of irregular migrants, with an effective return rate (25% in 2014) significantly below the EU average of 40%, there is room for improvement. In 2014, some 16,820 return decisions were issued, and only 4,150 were effectively carried out.

Currently, Algeria is not one of the main countries of origin or transit to the EU. Over the past few years, Algeria has **become a transit and a destination country**, mostly for Sub-Saharan migrants. It is very **challenging to obtain reliable data** on migration trends in Algeria as official available data is scarce. Estimates put the figure of irregular migrants in Algeria at around 250.000 to 400.000 from twenty different nationalities, mostly from African countries but also from Syria. The majority of irregular migrants arrive in Algeria via Niger and Mali. Lacking means to continue further north, migrants routinely stay stranded in some of the southern wilayas (administrative division).

Main routes leading to the EU are well identified and known to the Algerian authorities. They have deployed a massive contingent of troops along the borders with Tunisia and Libya due to the fragile regional security situation.

The increasing number of **migrants from Sub-Saharan countries** in Algeria poses security challenges for Algeria. The authorities have tried to regroup migrants in special centres where those who are registered receive medical treatment and schooling, as opposed to those not registered, who do not have access to these services.

A complicated relationship between Morocco and Algeria has not helped in the management of migration flows on a regional level in the Maghreb. In fact, the majority of refugees in Algeria consist of **Sahrawis** and, more recently, populations coming from northern Mali. Each year, more than a thousand asylum seekers are referred to the UNHCR office in Algiers, adding to the growing group of urban refugees. Although the country is party to the 1951 Refugee Convention and its 1967 Protocol, it should be noted that there is **no national legislation on asylum** and no operational national body responsible for adjudicating asylum claims. Algeria has also recently detained a group of Moroccan migrants attempting to cross the country trying to reach Libya. They report that the number is growing and suspect these migrants of being potential foreign fighters or drug smugglers. As a consequence, the Algerian authorities decided to suspend flights between Algiers and Tripoli as of January 29 until further notice.

The **Sahrawi refugees living in five camps in Tindouf** depend almost entirely on humanitarian aid because income-generating activities are scarce. Estimates from the Algerian Government indicate that the camps host 165,000 refugees. Meanwhile, the UN assistance programme is based on an estimated UNHCR figure of 90,000 refugees.

**Malian and Syrian migrants** are not registered with the UNCHR as refugees. The Algerian authorities do not apply the law on irregular migration to Syrian nationals (numbering more than 50,000 according to UNHCR), as a political gesture. Since 2012, special centres have been set up in every "wilaya". Syrians must renew their registration every three months. Since January 2015, Algerians and Syrians have to apply for a visa to enter each other's territory.

Algeria tends to conflate **human trafficking** and **migrant smuggling**. Migration from the Sahel has become an additional source of income for narco-terrorist groups operating in the region. Traffickers provide transportation and security across the Sahel to the Libyan border after they have established new identities for migrants. Algeria has a law on anti-trafficking, but does not seem to have a comprehensive legal framework concerning migrant smuggling. The country has ratified the **UN Protocol against the Smuggling of Migrants by Land, Sea and Air**. However, there is no information on the transposition of the instrument into national legislation. The **army routinely carries out operations** (in Tamanrasset, Bordj Badji Mokhtar) **against trafficking**, organized crime and smuggling in the South. Migrants from different nationalities have been involved.

## 2. Overview of EU-Algeria relations with a focus on migration

EU-Algeria bilateral relations are based on the **Association Agreement (2002)**<sup>1</sup>, which includes cooperation on the prevention and control of **irregular migration**. Algeria has worked with the EU and some Member States (FR, IT and ES) to strengthen judicial administration and the police. Algeria participates in the **Rabat Process** (Euro-African conference on migration and development) as an observer.

Algeria was a latecomer to the **European Neighbourhood Policy (ENP)** but actively participated in consultations pertaining to the revised policy in 2015. It advocates for greater flexibility, differentiation and ownership. Algeria is a **beneficiary country under relevant ENI** regional programmes (in particular EUROMED migration, the development component of the Regional Development and Protection Programme for North Africa – RDPP- , and MED-Stat migration) as well as the EU Trust Fund for Africa, and also receives some bilateral support from EU MS in the migration area.

In September 2015, the Commission (DG HOME) made **technical contacts** with Algeria, with an informal exchange on migration, mobility and security. However, no formal migration dialogue with Algeria is in place and there seems currently **no interest on the Algerian side to engage in negotiations on a Mobility Partnership**. A second informal session is expected to be held in Brussels in February or March 2016.

Currently, there is **no readmission agreement with Algeria at the EU level**. A mandate authorising the Commission to negotiate a readmission agreement exists since November 2002 but attempts to open negotiations have proved unsuccessful. Algeria is highly sceptical of the need and usefulness of a readmission agreement with the EU, particularly if no visa facilitation is offered in parallel. Furthermore, it considers that bilateral readmission agreements with the relevant countries are working well. The Commission has no mandate for **visa facilitation agreement** negotiations with Algeria (contrary to Morocco and Tunisia).

**The EURINT network**, aimed at developing best-practices in the field of return mainly focusing on non-voluntary return, has a working group on Algeria (chaired by BE) and involving several other Member States. An exploratory visit to Algeria took place at the end of 2015.

Under **Commission (DG HOME) funds**, Algeria is one of the countries covered by the Protection component of the RDPP North Africa, which is coordinated by Italy and co-financed by the Commission. The RDPP concept was presented to the Algerian authorities in September 2015 but there was very limited follow-up and no specific project proposals have been identified for the time being.

**As for bilateral readmission agreements**, five EU and Schengen Associated countries have arrangements with Algeria: DE, ES, IT, UK and CH. Others have not yet entered into force (FR) or are under negotiation (MT).

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<sup>1</sup> [http://eeas.europa.eu/algeria/agreement/index\\_en.htm](http://eeas.europa.eu/algeria/agreement/index_en.htm)

**In practice**, Member States highlight problems as regards cooperation on readmission of irregular migrants, and indicate, as main issues, the difficulty to obtain travel documents, slow procedures, general unwillingness of authorities to cooperate, or difficult returns in case of family claims. More specifically, FR reported that the Algerian authorities refuse, as a matter of principle, to accept the return of persons who have received prison sentences. In addition, the duration of the *laissez-passer consulaire* (LPC) is too short (3 days) and does not give the possibility to organise new return travel in case of boarding denial. EL has recently reported that the Algerian authorities do not cooperate on the issuing of papers (*laissez-passer*) for the return of Algerians that want go back voluntarily.

#### 4. Algeria's interests / priorities on migration and asylum

Algeria has been **quite critical** of EU Migration Policy and expressed reservations following the deployment of EUNAVFOR-MED (now Operation Sophia). The Government believes the EU's approach is short-sighted and fails to genuinely take into account the expectations and interests of partner countries, particularly with regard to legal migration. **In this sense, mobility** is a major priority for the Algerian authorities. Likewise, Algeria has stressed the **importance of circular migration** and the negative impact of the emigration of elites ("brain drain"). Facilitation of returns is being put in place, but on a voluntary and a case by case basis.

Moreover, Algeria's **need for more skilled labour** is increasing and it needs to support employability and job creation. Work on **remittances** should be explored. Regarding **seasonal workers**, Algerian demands may be hard to meet given the employment situation in Europe and pressure on wages. In addition, these workers have little protection against dismissal. It is therefore necessary to set up a new migration pattern.

The Algerian government regularly raises the issue of **visa facilitation** with the EU and complains about the difficulties and the hurdles that applicants face along the process. Nevertheless, 440.000 short-stay visas were issued in Algeria in 2014, which makes the country the seventh largest in the world in terms of issued visas just behind India. This represents an increase of over 100% compared to 2009. At the same time 34% of the issued visas were multiple-entry, with a long period of validity.

On **readmissions**, Algeria refuses categorically to cooperate on the **readmission of third country nationals** and has made it clear that any readmission arrangement should be limited to Algerian citizens. Algeria prefers bilateral cooperation with Member States on this issue and fails to see added value in such an endeavour with the EU, especially when the numbers of third country nationals is very small.

Algeria considers that any **Mobility Partnership with the EU** will always be an unbalanced proposition: in exchange of a binding readmission agreement, Algeria will still have to rely on individual Member States decisions to issue visas, although the reference for MS remains to the uniform binding rules set out in the EU Visa Code.

Algeria relies heavily on **UNHCR** in asylum matters. Moreover, the country has **no asylum law** although this has been under discussion since 2011. The country has so far adopted a policy of "tolerance" vis-à-vis potential asylum seekers, especially Syrians. These are allowed to work informally and have access to health care and basic education (estimates are in the 50,000 or more). Algeria introduced a visa requirement with Syria in 2015 to reduce inflows.

The **Algerian Red Crescent (ARC)** is auxiliary to the public authorities in humanitarian-related issues by far the most important actor in the field. The ARC primarily deals with flows from the Sahel, including by using centres in the Southern fringes of the country to which the international community has no access. The ARC is open to cooperate more closely with the EU.

Algeria does not consider **southern migrants** as political refugees (unlike the Saharawis or Palestinians) but as "economic refugees". For Algeria, the priority of the international community should be to support the return of migrants and to help them economically in their resettlement.

## 5. Key interests of the EU in the migration area

The EU's main interest at this point is improving the rate of return of irregular migrants from Algeria through better cooperation on readmission, and prevention of further irregular migration.

The EU should prove that technical and practical cooperation in legal mobility in the framework of Global Approach to Migration and Mobility (GAMM) can be substantial as a leverage to open negotiations on a **readmission agreement** based on the 2002 mandate. More broadly, the EU should encourage Algeria to cooperate with IOM.

The EU also has an interest in the positive role that Algeria can play both in managing its borders and in ensuring regional stability in the Maghreb and Sahel. Cooperation with Algeria is essential in managing flows in the **Sahel**, in particular **irregular migrants** coming from or transiting through Niger. EU tangible support to help Algeria in handling the return of migrants from Niger or Mali in line with international standards could contribute substantially to the building of the required trust needed for Algeria to fulfil its readmission obligations.

In addition to bilateral cooperation, triangular or regional cooperation with neighbouring countries in the field of **adaptation to climate change** would be essential to address some of the root causes of migration in the Sahara and Sahel such as climate change-related water scarcity and land degradation.

Finally, the EU has an interest in supporting Algeria in reinforcing its **legislative and institutional framework** in the field of asylum linked to the Geneva Convention (1951) and its Protocol (1967).

### **3. Possible components of an EU package**

#### **3.1. Positive incentives<sup>2</sup>**

Given the amount and nature of aid provided by the EU to Algeria, financial incentives alone will not suffice as positive incentives. It also needs to be borne in mind that the EU and Algeria are embarking on an evaluation process of the Association Agreement, at Algeria's request. This is happening at a time when there are problems with Algeria's compliance with the Agreement in the trade area and Algerian complaints about the low level of EU investment in Algeria outside of the energy sector.

##### **a) Migration**

###### **Readmission**

- Further financial support might be envisaged under AMIF or ISF, although the resources available are very limited.

Given that the negotiations on the readmission agreement have still not been launched despite the mandate being issued in 2002, a change of approach to contemplate more flexibility and provide reassurances to the Algerian side regarding the third country nationals' clause could be considered, and taking into account also the progress of discussions on readmission with Sub-Saharan countries.

However any modification to the standard approach to the third countries nationals' clause needs to take into account any potential impact this could have with other third countries – for example Pakistan, Turkey whose readmission agreements with the EU include third country nationals' clause, and future negotiations with other countries.

##### **b) Legal migration channels towards the EU**

- Increase cooperation with Algeria in the **GAMM framework**, including by establishing modalities for mobility, education and migration and development.
- Possibility of pooling the available offers (including for education and scholarship offers, apprenticeships, etc), to present more attractive package when negotiating with Algeria could be explored with the Member States.
- Ongoing review of the Blue Card Directive with the aim of setting more attractive conditions for non-EU workers considering taking up highly skilled employment in the EU states. This should increase the legal migration opportunities, including for Algerian nationals.

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<sup>2</sup> No conditionality can be attached to needs-based humanitarian aid in line with the humanitarian principles.

- Proactive use of the recent agreement on the EU wide rules for students and researchers, trainees and volunteers, which should make it easier for foreign students, researchers and trainees to get a visa to come to the EU and to move across EU Member States.
- Further financial support might be envisaged under AMIF or ISF, although the resources available are very limited.

**c) Development**

- Increasing through the Trust Fund the envelopes dedicated to assisting Algeria in coping with its own migration flows as destination country through capacity building, technical assistance and exchange of expertise in the broad field of migration governance process (in the framework of EUROMED Migration IV), including border management.
- Enhancing the capacity of Algerian stakeholders to benefit from the substantial impact on the development of diaspora networks, with the goal of supporting sustainable growth, innovation and job creation.
- Testing migration mainstreaming in key development programmes such as the ones on local development and youth and employment. Such a demarche would expand dialogue on migration with a wider range of public and private stakeholders and increase awareness on the benefits of well-managed migration flows.
- Exploring the request of Algerian authorities to implement triangular cooperation between the EU, Algeria and Niger/Mali.

**d) Education and skills development**

- Fully use the potential of the Erasmus+ programme which supports i) the mobility of students and university staff with their European counterparts and ii) the mobility of youth workers, young people and volunteers in the frame of informal education youth projects.
- Continue support for and policy dialogue on Vocational Education and Training and skills development to enhance employability of young people (including through co-operation with the European Training Foundation).

**e) Energy**

Algeria is the third-largest supplier of gas to the EU (in 2014 11% of the EU total gas imports came from Algeria). Algeria's importance as gas supplier could be much bigger, considering the huge untapped resources, the advantages of its geographical proximity and the already existing gas transport infrastructure. The Energy Union strategy identifies Algeria as a priority partner and sets the objective to establish a EU-Algeria *strategic energy partnership*.

- Use the High-Level Dialogue on Energy and the upcoming **EU-Algeria Business Forum on Energy** (scheduled to take place in Alger on 23-24 May 2016) to promote EU investments in the Algerian energy sector.

**e) Climate change**

- Consider further support to adaptation programmes in the Sahara, along with support to a regional dialogue on the climate-development-migration nexus in the Sahara and Sahel.

**f) Research and Innovation**

- Strengthen cooperation with Diasporas and highly qualified migrants in the EU to promote "brain gain". Leveraging expatriate talents around start-up projects in the host country and the country of origin. Such projects can present a big opportunity to build transnational innovation and mutually beneficial research, scientific and business networks.
- Create an enlarged area of scientific and technological excellence - preventing harmful intellectual brain drain-. Initiatives such as PRIMA and SESAME are among concrete contributions in this regard.

**g) Trade**

Algeria's current trade deficit is poised to grow as oil prices continue to fall.

- Consider concessions on agricultural and industrial products, . The EU has already shown its availability to engage with Algeria in the evaluation of the Association Agreement.

**h) Macro-financial assistance**

Although a macro-financial assistance programme could be considered, conditional upon progress on returns and readmission, it is unlikely that, given the amounts available and the conditions that go with it, this would provide an attractive incentive for Algeria.

**i) Security**

- Reinforce cooperation on security matters. Member States should include a "migration dimension" in their current security assistance and cooperation in the security field. Considering Algeria's essential role as security provider in the region, conditioning security cooperation on progress about return could prove ineffective and even counterproductive.

**3.2. Negative incentives**

- Negative leverage through Schengen visa issuance, within the boundaries of the Visa Code, to be discussed with the Member States.

Inform Algeria that under the new Strategy 'Trade for All' the Commission will make better use of synergies between trade policy, including on agricultural products, and the EU policy on migration management, including return/readmission. Indicate, therefore, that cooperation on readmission will have an impact on the overall trade relationship between the EU and Algeria.

– Link further EU financial assistance to Algeria to tangible outcomes in cooperation on migration, mobility and readmission.

#### **4. Proposed next steps**

Algeria has exerted considerable efforts (including financial) in terms of **border management**, which is indeed a challenge considering its geographical extension and the migratory pressure from neighbouring countries (Niger, Mali, Libya). As a **country of destination**, the government has clear incentives to reinforce its cooperation in migration-related issues, including mobility and managing of migratory flows. The nexus migration and development has been repeatedly emphasised by Algeria and should be taken into account in any approach towards the country, also taking into account climate change as a threat multiplier. In this regard, the EU and Algeria should explore the possibility of **triangular cooperation** with Sahel countries (Niger, for instance).

This fiche identifies a range of possible positive and negative incentives that can be used by the EU to unblock the cooperation on readmission as a matter of urgency – both in terms of practical cooperation and as regards the re-launch of negotiations on readmission agreement. Pending the negotiations, the focus will be to facilitate the implementation of existing bilateral readmission agreements, with the support of Frontex and all EU networks focusing on return (EURINT, EURLO).

In parallel, Member States are invited to comment, complement and strengthen this package with elements that fall under national competence.

The package should be conceived in a way that incentives and leverages can be deployed and calibrated flexibly in accordance with Algeria's level of constructiveness and engagement. Whilst a deal based on positive, mutually beneficial cooperation should be the preferred outcome, the EU should nevertheless stand ready to leverage negative incentives if necessary.

In order to fulfill the task by European Council to further increase leverage in the fields of return and readmission, using where appropriate the "more-for-more" principle and to agree on a comprehensive and tailor-made incentives to be used vis-à-vis third countries, it is proposed to discuss and agree:

- Which of the identified elements could be used as the most effective in terms of impact? What other elements could be added?

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- COM/EEAS propose that, in initial stages, leverage should include:
    - positive leverage on visa facilitation and legal mobility, in particular via the review of the Blue Card Directive and proactive use of the recent agreement on the EU visa facilitations for students and researchers, trainees and volunteers
    - *Positive leverage on technical assistance and targeted support to adopt its draft law on asylum, in line with international standards. Funding/technical assistance to capacity building on readmission, migrant smuggling, programmes for the reintegration of returnees and the further development of a national biometric database*
    - *negative leverage of Schengen visa issuance, within the boundaries of the Visa Code, to be discussed with the Member States (e.g. a reduction in the number of visas issued, and in particular of the share of multiple entry visas);*
  - In parallel, the incentive/leverage package should be completed with elements falling under national competence.
  - A high-level visit by the Commission (and in cooperation with Member States) – could be envisaged to apply leverage and enhance cooperation on readmission. At this stage exploring possibility to upgrade engagement with Algeria – including on security sector and migration management cooperation, legal mobility, trade concessions, energy – or possibilities in case of lack of cooperation on readmission ('less for less').
-