

# CIVIL SOCIETY INPUT ON EU AFRICA COOPERATION MIGRATION: THE CASE OF KENYA

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The Republic of Kenya is one of the European Union's (EU's) key strategic partners in tackling migration related concerns in the Horn of Africa.<sup>1</sup> Kenya plays a dual role by being both a country of origin and a host country for regular and irregular migration.<sup>2</sup> The Kenya population census indicates that as of 2009 the total population of immigrants in Kenya stood at 357,468, the majority of whom originate from African countries, while the refugee population stood at 193,681 with Somalis making up the majority.<sup>3</sup> In the same period, the total number of emigrants stood at 160,351.<sup>4</sup> According to UN statistics, there has been an increase in migrants over the years with 955,542 migrants in the country and 557,308 refugees. Currently, however, the number of refugees in Kenya is 491,258 persons.<sup>5</sup> The reduction in the number of refugees in the country is mainly attributed to the Voluntary Repatriation process that has been ongoing since 2013.<sup>6</sup>

## 1. OVERVIEW OF THE PRIORITIES OF COOPERATION BETWEEN THE EU AND KENYA IN THE FIELD OF ASYLUM AND MIGRATION IN THE LAST FIVE YEARS

The Kenya-EU partnership on migration is largely premised on the Joint Africa – Europe Partnership on Migration, Mobility and Employment of 2007,<sup>7</sup> and the EU Global Approach to Migration and Mobility.<sup>8</sup> The general areas of cooperation between the EU and Kenya on migration are the following:

### A) DEVELOPMENT COOPERATION

The EU spends approximately €100 million per year on development cooperation that directly benefits Kenya.<sup>9</sup> In November 2018, the EU launched the Joint Cooperation Strategy 2018-2022, which allocated €4.5 billion in combined development aid. This was provided to support the priorities and objectives of the Kenyan

1 European Commission, 'International Cooperation and Development'(2020), <https://bit.ly/32aLKu5> accessed 21 January 2020.

2 International Organization for Migration, 'Migration in Kenya, a country profile, 2015' (2015), <https://bit.ly/3bMyEHI>.

3 Kenya National Bureau of Statistics, '2009 Kenya Population and Housing Census, Analytical Report on Migration' (Vol. VIII, KNBS 2012), <https://go.aws/38Y7pZ2>.

4 *Ibid.*

5 UNHCR, Kenya statistics package, statistical summary as at 21 January 2020, <https://bit.ly/3c8S75s>.

6 This refers to the voluntary repatriation process of Somali refugees in Kenya back to Somalia. The Government of Kenya, Federal Republic of Somalia and UNHCR entered into a tripartite agreement in November 2013 for this process.

7 The Africa-EU Strategic Partnership, A Joint Africa-EU Strategy, <https://bit.ly/38KMAjx> accessed 22 January 2020.

8 European Commission, 'Migration and Home Affairs', <https://bit.ly/2P7Rf7C> accessed 22 January 2020.

9 European Commission, 'International Cooperation and Development', <https://bit.ly/2SVNF2p> accessed 25 February 2020.

government as encapsulated in the 'Big Four' agenda, that is: manufacturing; food security; universal health coverage; and affordable housing.<sup>10</sup> As part of the Kenyan population, these priorities bear relevance to migrants who should be able to access more opportunities within these agendas. An enhanced refugee status determination process, for instance, would facilitate the acquisition of refugee identity documents within a short time frame, whilst opening up pathways for the acquisition of work permits would enable refugees to access, as far as possible, services under the development cooperation, such as in the manufacturing industries.

## **B) SECURITY COOPERATION**

Kenya and the EU continue to collaborate in combating the negative effects of climate change, to ensure peace building and to counter violent extremism, piracy, money laundering and other related vices.<sup>11</sup> This is done under the banner of the Common Security and Defence Policy and the EU Emergency Trust Fund (EUTF) for Africa.<sup>12</sup>

## **C) TRADE AND INVESTMENT**

The EU is one of the largest consumers of Kenya's exports. Additionally, it extends long-term development loans to support the building of energy and transport infrastructure in Kenya through the European Investment Bank.<sup>13</sup> The EU's generalized scheme of preference (GSP) has and continues to support Kenya to achieve sustainable development through trade. However, the European Commission adopted a number of legal acts that were relevant to product graduation for three countries, one of which included Kenya.<sup>14</sup> This was in relation to live cultures and floricultural products. In essence, it would mean that Kenya would have to compete with more developed countries for such products on similar platforms.

## **D) HUMANITARIAN AID**

Kenya and the EU continue collaboration in support of refugees and the extension of humanitarian support to local communities through the EUTF.<sup>15</sup> Since 2012, the EU has provided Kenya with more than €170 million in humanitarian aid, with the EU extending €15.95 million in funding to assist refugees and an emergency response in Kenya in 2019 alone.<sup>16</sup> In 2019, during drought and floods, the EU assisted affected families with cash transfers in addition to provision of basic life-saving services, such as health care.<sup>17</sup>

## **E) POLITICAL RELATIONS**

The EU has over the years provided support to Kenya towards the strengthening of democracy, good governance and respect for human rights.<sup>18</sup> This is done through the EU's contribution to the UN basket fund in support of election organisation as well as sending an election observation mission.

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10 European Union External Action, 'Kenya and the EU' (EEAS, 12 May 2016), <https://bit.ly/2v1u73l> accessed 22 January 2020.

11 *Ibid.*

12 European Commission, 'EUTF', <https://bit.ly/37OZbBf> accessed 21 January 2020.  
Supra note 9.

13 European Commission, Joint report to the European Parliament and the Council, Report on the Generalised Scheme of Preferences covering the period 2018 -2019, <https://bit.ly/2SN0JYd> accessed on 16th February 2020.

14 *Ibid.*

15 European Commission, 'European Civil Protection and Humanitarian Aid Operations', <https://bit.ly/2HDy4Oz> accessed 17 February 2020.

16 *Ibid.*

17 *Ibid.*

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## 2. THE IMPACT OF THE KEY PRIORITY AREAS AND RELATIONS BETWEEN THE EU AND KENYA

The Republic of Kenya and the EU enjoy a cordial relationship premised on mutual respect and trade. EU support to Kenya is immense and of great immediate impact. Cooperation in political relations has seen Kenya's judiciary laud the EU for support that has directly enhanced access to justice.<sup>19</sup> Collaboration in development, trade and investment has seen the EU and Kenya unveil the '2018 – 2022 joint cooperation strategy' that will consolidate funding and realize the government of Kenya's 'Big Four agenda'.<sup>20</sup> In reference to development and the government's agenda, the EU has greatly supported the development of Kalobeyei settlement that supports both Kenyans and refugees. Out of this support, so far, 11,725 hectares of land have benefited from improved land management while 24,246 persons have benefitted from food security related assistance<sup>21</sup>. This shows the great collaboration between the EU and the government of Kenya and the incremental changes in lives, that resulted from this cooperation.

Furthermore, continued cooperation in humanitarian aid has seen the building of resilient communities that are able to cope with drought and disasters.<sup>22</sup> This can be seen in the Northern part of Kenya which is an arid area. The EU has contributed more than € 170 million for this since 2012<sup>23</sup>. In addition, the humanitarian support includes provision of life saving services in Kakuma and Dadaab refugee camps. This includes the 'Bamba Chakula' ('Get Food' in Kiswahili language), initiative which engages electronic food vouchers and cash transfers.<sup>24</sup> It is a system that has ensured that the most vulnerable within the refugee communities receive the necessary support whilst also ensuring that resources are used efficiently for the beneficiaries. This is a great initiative made by the EU and partners that supports resilience building of communities during displacement.

Moreover, financial support to Kenya's security forces has contributed greatly to the fight against terrorism and neutralisation of the security threats posed by Al-Shabaab militia and its cells both within and outside Kenya's territorial boundaries.<sup>25</sup> 149 institutions and non-state actors have benefitted from capacity building and operational support on security, countering violent extremism, border management, human rights and protection of civilian populations<sup>26</sup>.

## 3. ASSESSMENT OF THE EU'S ABILITY TO AFFECT ASYLUM AND MIGRATION POLICY IN KENYA

Despite the success of the cooperation on many fronts, asylum seekers and refugees are still excluded from some of these opportunities owing to various laws and administrative directives. In 2018, the Refugee Affairs Secretariat, UNHCR, Refugee Consortium Kenya (RCK) and other partners in the task force

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19 Judiciary of Kenya, 'State of the Judiciary and the Administration of Justice' (2019), <https://bit.ly/2V3HniZ> accessed 23 January 2020.

20 Frankline Sunday, 'Why the EU is increasing investments in Kenya' (Standard Digital, Nairobi, 20 November 2018), <https://bit.ly/39UlmY5> accessed 24 January 2020.

21 European Commission, 'EU Trust Fund for Africa, Regional Development and Protection Programme in Kenya: Support to the Kalobeyei Development Programme' <https://bit.ly/38SY58G> accessed on 17 February 2020.

Oxfam, 'Authors posts', <https://bit.ly/2V399Mu> accessed 23 January 2020.

22 European Civil Protection and Humanitarian Aid Operations, <https://bit.ly/2ubEEZA> accessed on 17 February 2020.

*Ibid.*

24 Constance Munda, 'Funds to Kenya troops in Somalia halved' (Business Daily, Nairobi, 30 July 2019), <https://bit.ly/2P6Dypi> accessed 24 January 2020.

25 EU Emergency Trust Fund for Africa, Kenya-EU Partnership for the implementation of the Kenya CVE strategy <https://bit.ly/2SLIG4t>.

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prioritised and lobbied for the re-publication of the Refugee Bill.<sup>27</sup> The task force also organised for Members of Parliament to conduct fact-finding missions in Dadaab refugee camp, Kakuma refugee camp and Kalobeyei settlement. This was to facilitate interactions between the law makers, refugees and host communities and lobby to strengthen socio-economic inclusion clauses in the law. The Refugee Bill was subject to public participation during which various comments and input was shared by the public in September 2019. The committee in charge of the Bill (the Departmental Committee on Administration and National Security) is currently preparing the public participation report.

This is a prime time for the EU to engage civil society, particularly local NGOs, in addressing factors within legislations that may lead to unsafe asylum spaces or reduce socio-economic integration of host and refugee communities. The laws need to be revised in line with the Comprehensive Refugee Response Framework (CRRF) and the pledges made by the government of Kenya during the Global Refugee Forum.

#### **4. RECOMMENDATIONS FOR THE EU'S FUTURE RELATIONS WITH KENYA IN RELATION, BUT NOT LIMITED TO MIGRATION**

- Root causes of migration within Kenya, and in other countries whose citizens seek asylum in Kenya, need to be addressed and sufficient technical, human and financial resources are required for this. One of the major root causes includes conflict over resources between communities. The EU would need to enhance its engagement with the government to develop legal and institutional frameworks and structures that would support investments and trade with a focus on the inclusion of migrants and refugees, specifically youth and women who form the bulk of the society. This would also contribute to lessen resource related conflict amongst many other factors. Refugees and asylum seekers who reside in Kenya would require support to work and trade in the countries of asylum, for instance, so that they are able to contribute and build local economies. This in turn can boost the efforts already being made by the EU in promoting trade in countries.
- Engagement with local actors is key in lobbying for laws that support socio-economic inclusion of refugees and host communities. Local actors better understand the dynamics within communities and provide an essential link with governments in matters related to advocacy. Local actors also have easier access to governmental authorities than international and multi-lateral actors. However, local actors suffer the most from funding cuts. The EU may need to consider more direct funding to local actors to support its work in advocacy or, alternatively, engage a programme/ consortium that provides conditions for international agencies to work with local actors in advocacy.
- Support the government's efforts to manage migration by advocating for a human rights-based approach which safeguards rights for all parties. The government is in the midst of developing the Refugee Bill. Continuous technical and financial support during this process and its implementation is essential to contribute towards the government's efforts in socio economic integration of refugees and host communities.
- Standardisation of border management curriculums would be important so that the customs, health inspectorate and others, coordinate on an inter-agency level and have a common understanding of migration. These curriculums should also be implemented at the college levels before recruits start their work. The EU would need to continue supporting the government with technical and financial resources to support its role in an enhanced border management system.

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<sup>27</sup> The Refugee Bill in Kenya is undergoing review. The Refugee Bill was passed by the 11<sup>th</sup> Parliament but was rejected by the president due to lack of public participation and referred back to Parliament. This was a month before the general elections in August 2017 and the 11<sup>th</sup> Parliament adjourned for this purpose and therefore the Bill was not considered at that time.



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