MAJALAT – Webinar Series
CONCEPT NOTE & RECOMMENDATIONS
Migration and Mobility in the context of COVID-19

Summary:

In the light of the global COVID-19 pandemic, MAJALAT has developed a new activity plan for the years 2020-2021 which aims to continue the work on the EU-neighborhood dialogue despite the restrictions on the movement of people with the help of online communication tools. In this context, a series of webinars will be held over the next few months, based on the recommendations drafted and discussed at previous events, notably the Civil Society Forum in Brussels last December. The first series of webinars that will take place will offer representatives of civil society organizations a space to reflect on the impact of the crisis on the recommendations that we have developed. As part of MAJALAT, FMAS will organize a webinar specifically on "Migration and mobility" during which participants will have the opportunity to review the recommendations presented at the Forum on this topic and to review them in the light of recent developments.

Background and context:

The workshop on migration and mobility, organized by Majalat as part of the Civil Society Forum in Brussels in 2019, as well as the various workshops organized on the theme to prepare the Forum, gave participants from the region the opportunity to express serious concerns about EU migration policies and fears that the EU's fight against migration and refugees will weaken its ability to leverage the topics of human rights and promotion of democracy.

EU and southern Mediterranean countries' policies and actions are not anchored in respect for rights, and the Global Compact for Migration, adopted in Marrakech in 2018, was seen as a step backwards from provisions of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRMW).

The international migration system is shaken by the COVID-19 crisis and the return of national borders. The pandemic has exposed the extent of interdependence between regions, including the Euro-Mediterranean region, of which the migration system is a fundamental component. With Covid-19, even the significant modernization of the Frontex agency in the MFF 2021-2027 and the strengthening of its border control practices and its surveillance capacities proved useless: the COVID-19 made possible the closure of borders, not only for migrants but also for EU citizens, which seemed to be unthinkable two months ago. "The closure of the borders and its consequences in terms of migration were still a fantasy for some and a nightmare for others." Nation-states regain control of the entrances and exits of their territory, and can then choose to prohibit the entry of nationals of nationalities they consider "at risk" without consultation with the European institutions or the neighbors concerned - and without even having informed them beforehand. Here lies the main difference with the situation in 2015. At the time, the reinstatement of border controls was carried out in a formal semblance of legality, by being part of the derogatory procedures provided for in the Schengen code. The re-establishment of border controls was quickly accompanied by the closure of borders in 20 European countries. Again, the terms and extent of closures differ from state to state, particularly on exemptions for European and non-European nationals residing in the country, non-essential travel or essential trade.

Even though it is the guarantor of respect for European law, the European Commission had no choice but to let the Member States do it. The Commission's proposal for a "temporary restriction on non-essential travel to the European Union", a proposal approved by the European Council on March 17, is without any doubt similar to a general ban on entry into the EU and resembles in every way the *Europeans Travel Ban* of President Trump, yet strongly criticized by European officials.

The pandemic has functioned as a detonator capable of reconfiguring perceptions of borders and of immigration and freedom of movement. During the migrant crisis of 2015-2016, some countries had temporarily reintroduced border controls in an attempt to curb the arrival of asylum seekers, or to allegedly fight the terrorist threat, but this is the first time that the health reason is invoked to restore these controls and the closure of the borders.

To date, everyone can find in the current situation a confirmation of the most contradictory theses: on the one hand, borders which protect from dangers coming from outside; on the other hand, immigration which not only does not constitute this threat, but is part of the solution.

What issues arise from these dilemmas? Between the EU entity and the Nation States? Between the closure of borders and the vital need (for agriculture but not only) of foreign labor?

In times of crisis, it is the vulnerable who suffer the most of the consequences of the crisis. Migrants, whether legally or not, suffer from multiple obstacles to the recognition of rights recognized by international conventions. The World Bank is already predicting a 20% drop in 2020 due to the border closures linked to COVID-19 and the lasting recession in the countries where migrants are settled. One of the multiple consequences is the serious impact on migrants' money transfers to their countries of origin. These transfers amounted to $ 550 billion in 2019. This is a multiplier of the effects of the expected recession of national economies for the countries that depend most on this money from migrants. In countries like Egypt, Morocco, Tunisia, Algeria, transfers represent more than foreign investments.

The impact of the COVID-19 crisis on migrants will be ruthless: it is precisely these essential workers, registered in some of the most precarious forms of employment, who will without any doubt be the first to be weakened in the face of a market without rights for migrants and who will draw from the reservoir of irregular immigration whose regularization may be more and more difficult to justify in the eyes of public opinions already agitated and turned against migrants by the populist and nativist discourses which have agitated Western countries for several years. We can therefore imagine the vicious circle from which it would be difficult to break out between public action inciting to take restrictive measures to "reassure" public opinion and economic actors reluctant to recruit migrants because of restrictive immigration policies. These factors risk reinforcing the crisis of liberal citizenship in the name of hard conceptions of security and the definition of identities.

Given the spread of the current pandemic, migrants are facing more and more challenges. Refugees, who are particularly vulnerable, are more likely to be severely affected in terms of the dire consequences of the current health crisis. As the refugee camps are not prepared to deal with this new situation, the authorities throughout the Southern Neighborhood and the European Union must step up their efforts to protect those parts of their population who are most vulnerable. Without rapid and effective measures on their side, the refugee camps will become the new epicenters of the pandemic.

In addition, the current pandemic is revealing the limits of the room for maneuver in the field of EU health policies and worsening the situation of migrants from both sides of the Mediterranean. The Covid-19 crisis has shown the extent of the disastrous consequences of the lack of public policies effective

enough to support individuals and communities when they have to face the various social risks that threaten their fundamental rights: lack of social protection systems, access to care, quality care, equity in access and the need for scientific research. Moreover, there is another question, namely that of the participation of civil society in the mentioned debate. As migrants represent one of the most vulnerable parts of the population, it is important that non-governmental organizations enter into dialogue with the concerned authorities.

Therefore, during the 2019 activity cycle, the following two discussion points were addressed:
• **Social protection and rights of migrants,**
• **The level of engagement of civil society in bilateral discussions on the issue**

Entry points

1. Social protection and migrant rights

The financialization of the economy, the privatization of public services (health, education, etc.) and the choices of a liberal economic model have proven difficult to reconcile with the establishment of social protection and the protection of economic, social and cultural rights to which all people aspire and which are the basis and the promise of the Universal Declaration of Human Rights. We are witnessing the dismantling of the welfare state and the expansion of undeclared work which strongly affects migrants.

However, the importance of the professions occupied largely by foreign workers and immigrants in hospitals, in cleaning, transport, agriculture, social support of fragile populations, including migrants, is widely known.

It is clear that the health crisis has exposed the EU's reduced policy space in the area of health policies. As indicated in article 168 of the Treaty on the Functioning of the European Union (TFEU), health is a supporting community competence: the EU "encourages cooperation" and "complements national policies", without replacing it. This means that member states maintain control over their health policy. The EU can nevertheless produce legally binding acts in this area, provided that they do not involve any legislative or regulatory harmonization of national laws. The European Commission can also make recommendations, but Member States are not obliged to follow them.

Although the current health crisis following the spread of COVID-19 represents a challenge in everyone's life, it should be noted that migrants are particularly vulnerable with regard to the effects that the pandemic could still have. Social protection being an important theme in relation to the health crisis, it is essential that civil society as well as governments ensure that countries in regions with a large number of migrants, such as the Southern Neighborhood, provide the protection that is necessary to avoid a (rapid) spread of the virus among the groups mentioned. In March, at the very beginning of the crisis in Europe, the United Nations High Commissioner for Refugees issued a joint press release with OHCHR, IOM and WHO, stressing that it was "essential that everyone, including all migrants and refugees, is able to benefit from equal and guaranteed access to health services and is effectively included in national responses to the Covid-19 pandemic, which includes prevention, testing and treatment[1]. The relevance of these words becomes even clearer considering the recent annual conclusions of the European Committee of Social Rights (ECSR) that the social rights of children, families and migrants were in danger

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[1] https://www.unhcr.org/fr/news/press/2020/3/5e843e08a/droits-sante-refugies-migrants-apatrides-doivent-etre-proteges-cadre-efforts.html

in Europe. The members of the Committee emphasized that "the COVID-19 Crisis brutally reminds us of the importance of ensuring lasting progress in the enjoyment of social rights, in particular through the establishment of universal public health services. "

Civil society has already made several recommendations, particularly those relating to social protection and the rights of migrants, which the health crisis the world is going through poses acutely and urgently, namely:

1. Apply the guidelines of the Global Compact for Safe, Orderly and Regular Migration and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

2.Review of the Global Compact on Migration (Marrakesh Pact) and its implementation, which constitutes a step backwards compared to the provisions presented by the 1990 UN Convention on the protection of the rights of all migrant workers and members of their family. This is particularly applicable with regard to women's rights, the conditions of detention of migrants and the possibility for States to refuse the application of certain measures.

3.At the level of social protection and the fight against the exploitation of migrant workers: **creation of mechanisms at EU level for the control and protection of the seasonal workforce of the Southern Neighborhood working in Europe and in the region** (for example, Moroccans working on strawberry fields in Spain).

4.Accession to the 1990 UN Convention with work on its enforceability vis-à-vis States and the conventions of the International Labor Organization (ILO), in particular ILO Convention N. 143 on rights of migrant workers. In addition, examining the EU's commitment to climate conventions and their effective implementation (ensuring equal rights between migrants, refugees and nationals, guaranteeing the renewal of their stay and modify the criteria of exceptional regulatory policies).

2. The level of engagement of civil society in bilateral discussions on the issue

International human mobility, which has increased considerably in recent years, has not only played an increasingly important role on the political agenda due to its transversal impact on other sectors, but has also seen its complexity increase.

Today, indeed, nobody questions the role and importance of civil society in building the rule of law (to promote political pluralism, press freedom and the proper functioning of the justice system), strengthening democracy, good public management, combating racism and discrimination, and defending the rights of migrants. Furthermore, the role of mediator, which is very often taken up by civil society, remains decisive, in an attempt to give immigrants in great difficulty access to their rights. Migrants are all the more fragile because they generally do not know their rights, which are however promoted by different texts.

In the context of COVID-19, it is particularly refugee children who will be most affected by the crisis by living in overcrowded camps, informal reception centers or squats where basic prevention measures,

such as frequently washing their hands and "social distancing", are almost impossible[2]. It therefore requires the commitment of civil society to defend the rights of refugee children and give them a voice in their legal as well as political vulnerability and weakness.

Similarly, migrant and refugee women - very often less educated than their male counterparts and lacking English skills - are at risk of being deprived of their rights in this situation which is poorly controlled by the authorities in the North as well as in the South of the Mediterranean. Moreover, according to the High Commissioner for Refugees, "in particular undocumented women and girls or those who have lost their precarious livelihoods due to the economic damage inflicted by Covid-19 may have to resort to prostitution or undergoing an early marriage imposed by their family. Many women in households are also forced to take on increased burdens to care for others[3]. With civil society organizations having the staff and the expertise to offer social and psychological assistance to these women and girls, it is essential that the concerned governments intensify their dialogue and cooperation with non-state actors who very often lack the financial means to achieve their objectives.

Civil society should be seen as a full partner in public policy and can represent a valid interlocutor for the EU in dealing with the issue of migration in the context of COVID-19. Whether at the level of the countries of the north or the south, it will bring a certain contribution in the discussions between the 2 banks and it will make its voice heard.

Certainly, civil society is diverse and polymorphous, with interests that are often contradictory, even conflicting, which does not exclude the search for convergence and the usefulness of working together. However, the position of civil society still has to be strengthened, in particular by having women's voices heard, and by welcoming younger generations.

Recommendations

1.Support cooperation programs targeting:
a) Alternative and traditional community media in Southern countries and in Europe in order to change the perception on migration.
b) Cultural programs promoting the mobility of young people, artists and others.

2. Relaunch the EuroMed tripartite dialogue between the European Union, the governments of the Southern Neighborhood and independent civil society in the region (including independent trade unions).

3.Encourage member states to decriminalize the solidarity with and the rescue of migrants.

4.Create a trust fund that deals specifically with the protection of migrants and displaced persons using a rapid, integrated, flexible and short-term approach, different from the current approach advocated by current funds such as the Fund for Africa or the MADAD fund.

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[2] https://www.hrw.org/fr/news/2020/04/09/limpact-devastateur-du-covid-19-sur-les-enfants
[3] https://reliefweb.int/report/world/les-femmes-et-les-jeunes-filles-d-racin-es-et-apatrides-confront-es-une-menace-accrue

5. Expand programs that facilitate the mobility of young people in the Southern Neighborhood, the quest for education and capacity building to include disadvantaged groups (such as women, rural residents and people with disabilities).

6.Launch a dialogue on the role that the EU could play in simplifying visa procedures (e.g. legal basis for cooperation with visa processing companies).

7.Evaluate the results of delegated cooperation agreements and, if necessary, reframe them (targeting practices of international organizations of the region sometimes replacing civil society), in addition to the creation of a transparent mechanism.

8.Support the creation of a committee including civil society in the region to monitor the implementation of the recommendations.