

Developing Pathways for Legal Migration to Europe – Challenges for the Nearest Future

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Cooperation on labour migration between the European Union (EU) member states and partner countries in the Mediterranean has been predominantly based on bilateral agreements, including those relating to circular migration. This trend will most likely be continued, regardless of any dedicated solutions introduced at the EU level. If new EU initiatives such as Talent Partnerships are to complement and diversify the member states' portfolios of legal measures, they have to take into account the needs of all sectors of the EU economy, including those which require low-skilled workforce. Still, no legal migration pathway, irrespective of its comprehensiveness, will work without an agile visa policy in place as well as strong and trusted implementing partners on the end of the sending countries.

Bilateral agreements as fruitful initiatives

Despite ongoing efforts to create European platforms for cooperation on labour migration with non-EU partner countries, in practice most EU member states prefer bilateral solutions on organising labour migration. In view of the fact that there has been little harmonisation of regulations governing the entry and stay of foreign workers in the EU, countries interested in cooperation on labour migration often decide to conclude various types of formal bilateral agreements or less formal documents, such as a Memorandum of Understanding (MOU) (ILO, 2017).

As reflected in the answers to the EMM5-EuroMeSCo survey "Towards sustainable and mutually beneficial migration partnerships in the Southern Mediterranean" (Q.19), these are significant tools also for countries of origin. When asked about the

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most fruitful initiative in the area of labour mobility cooperation with the EU and EU member states, some respondents from Morocco pointed out “Moroccan women workers in agricultural fields in Spain”. Such travels abroad, in particular to work in the strawberry harvest, have been organised in the framework of the Morocco-Spain Agreement on Labour of 25 July 2001. The agreement permits thousands of seasonal Moroccan workers – so-called *temporeras* – to support the annual harvest in Spain, and especially in Huelva province. Surprisingly, the agreement was indicated as a fruitful initiative despite the alleged violations of workers’ rights and sexual abuse (Gianaris, 2020; women’s link worldwide, 2019), although some respondents noted that “working conditions should be improved”.

A related initiative mentioned in the context of organising seasonal migration to Spain was the Framework Partnership Agreement between the Moroccan National Agency for the Promotion of Employment and Skills (ANAPEC, Agence Nationale de Promotion de l’Emploi et des Compétences) and the Municipality of Cartaya of July 2006. The agreement had its origins in the 2005 project of Cartaya, one of the main strawberry-producing villages in the province of Huelva, called “Comprehensive and Ethical Management for Circular Migration” (Aeneas-Cartaya) and funded by the European Commission (EC). With this project Cartaya proposed to take a leading role in the establishment of a system to manage the flow of temporary labour between the province of Huelva and Morocco. The project, which lasted from late 2005 to mid-2008, facilitated issuing of more than 21,000 work and residence permits for seasonal workers (González Enríquez, 2013, p. 129).

In case of Tunisia the respondents pointed out as fruitful initiatives the agreements signed with Germany following the 2011 revolution when both countries began to look for new opportunities to promote labour mobility to meet their employment needs (ILO, 2017, p. 24). The agreements signed to date by both countries concern especially the health and technological sectors. In addition to that, the need for suitable solutions facilitating circular migration between Tunisia and the EU was also underlined.

Responses provided by the surveyed representatives of the government, civil society and academia from Morocco and Tunisia indicate the importance of initiatives related to organising circular migration. Yet, the legal solutions adopted in the EU completely ignore provisions which may stimulate circular migration. The exception is the seasonal directive (Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers), where some elements aimed at promoting this type of migration can be found. This presumably reinforces even more the willingness of the countries concerned to introduce bilateral solutions.

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Noteworthy, none of the answers provided by respondents from Morocco and Tunisia referred to migration and mobility partnerships concluded by those countries with the EU and its member states (Morocco – in 2013, Tunisia – in 2014) (European Commission, 2013, 2014). Main objectives of the partnerships, as stated in the adopted documents, were to organise legal migration, to effectively fight against irregular immigration and to work towards strengthening the positive effects of migration. Regarding the implementation, the main focus has been, however, on the fight against irregular migration, while the objective of facilitating legal migration of third-country nationals in the EU was effectively neglected.

Significantly, respondents from such countries as Algeria, Palestine, Egypt, Syria, Libya and Jordan had difficulties in naming fruitful initiatives on labour migration with the EU or its member states. The European Union Emergency Trust Fund for Africa and its ambitious “Towards a Holistic Approach to Labour Migration Governance and Labour Mobility in North Africa” (THAMM) programme¹ were mentioned. The latter lasts from late 2019 to late 2022 and thus was difficult to evaluate at the moment of conducting the survey.

Talent Partnerships – a remedy for current ills?

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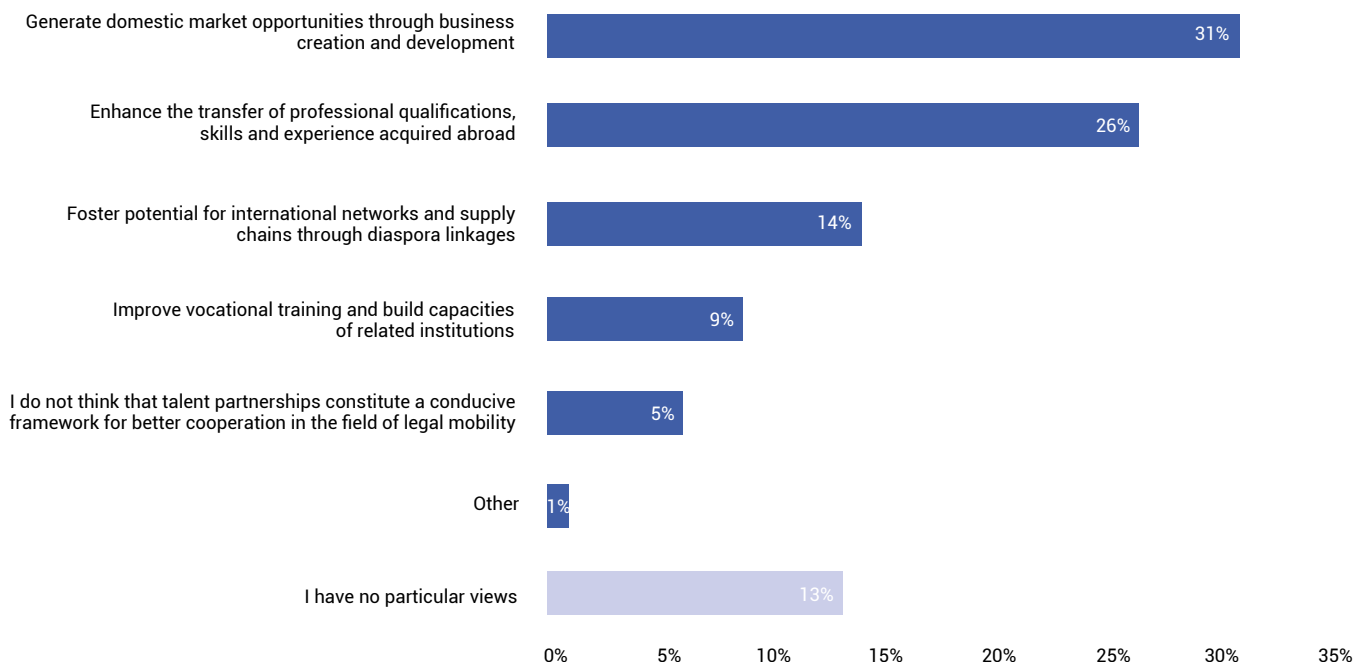
In June 2021 Talent Partnerships were launched under the EU’s New Pact on Migration and Asylum as a key initiative to enhance legal pathways to the EU. The aim of the effort, as stated by the EC, is “to provide a comprehensive policy framework, as well as funding support to boost mutually beneficial international mobility based on better matching of labour market needs and skills between the EU and partner countries” (European Commission (a)). Talent Partnerships are planned to be open to students, graduates and skilled workers. Their main idea is to match job offers in EU countries with skills of migrant workers. They will be modelled on existing pilot projects under the Mobility Partnership Facility (MPF) and the above-mentioned THAMM programme.

The expectations towards Talent Partnerships on the end of sending countries are mainly that those instruments would generate domestic market opportunities through creation and development of businesses, enhance the transfer of professional qualifications, skills and experience abroad and foster potential for international networks and supply chains through diaspora linkages (Q.21).

¹ The programme encompasses Morocco, Tunisia, Algeria, Libya and Egypt. For more information please visit: https://ec.europa.eu/trustfundforafrica/region/north-africa/regional/towards-holistic-approach-labour-migration-governance-and-labour_en.

GRAPH 1

Q.21 Talent partnerships is a paradigm that the EU wants to pursue as a channel to support legal migration and mobility cooperation with your country. In your opinion, what could be the main benefits for your country?

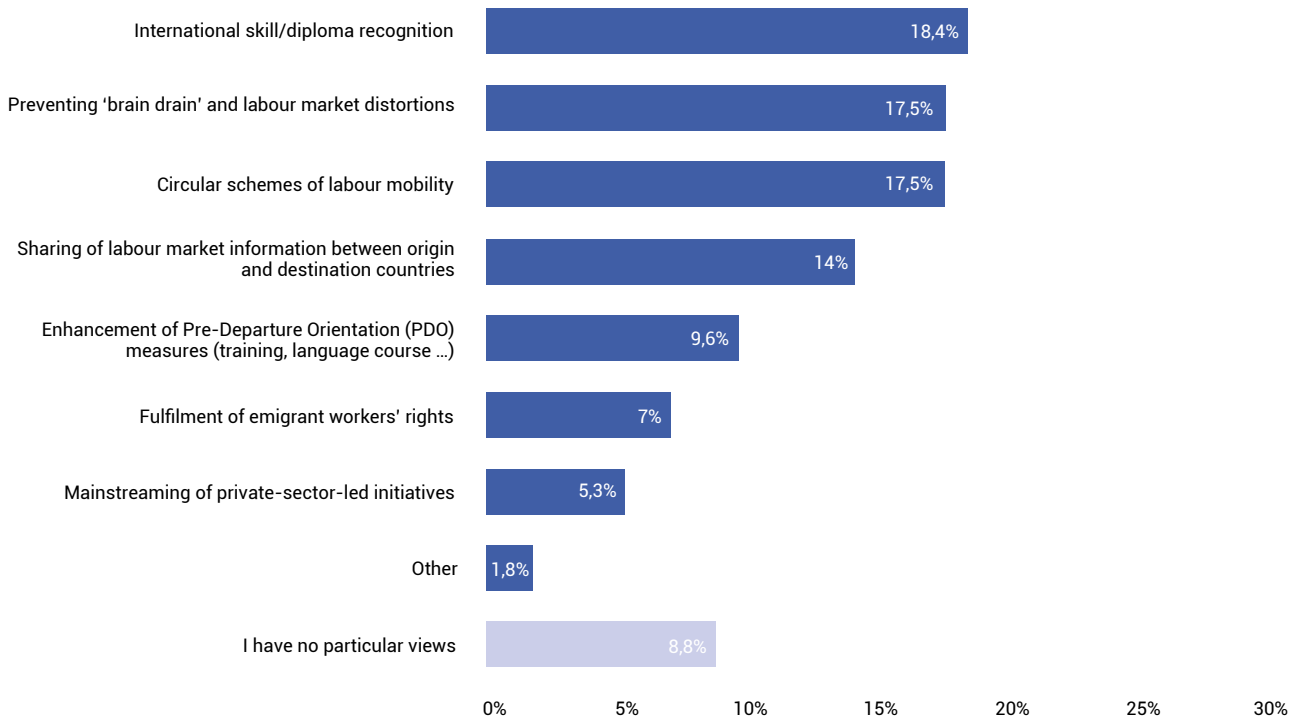


Source: Compiled by the IEMed based on the results of the EMM5-EuroMeSCO Euromed Survey

They are largely coherent with the responses to the question on priority domains of existing cooperation with the EU on legal migration, which according to the survey should be improved (Q.20) – except for one: “circular schemes of labour mobility” (see graph 2). As such schemes can relate to high skilled workers, most frequently they facilitate mobility of low-skilled migrants, including to the farming sector. In fact, many migrants in the EU are now employed in low-skilled professions, and Talent Partnerships – an instrument which is not addressed to this group – will have to face the challenge of matching demand in sectors requiring such workforce.

GRAPH 2

Q.20 In which domains should cooperation with the EU be improved in priority?



Source: Compiled by the IEMed based on the results of the EMM5-EuroMeSCo Euromed Survey

The implementation of migration and mobility partnerships and the experiences of the MPF [shows that] only a narrow group of EU states has been interested in developing larger initiatives with partner countries.

At the same time, the analysis of the survey responses indicates a pressing need to operationalise Talent Partnerships and to provide partner countries with a more comprehensive information on this instrument. Indeed, when asked about initiatives which could improve cooperation on developing pathways for legal migration to Europe beyond Talent Partnerships (Q. 22), many respondents pointed out ideas and actions that could potentially be included in the Talent Partnerships package. They included: training, youth mobility, exchange of information on market needs, “offering job opportunities”, “improving the transfer of professional qualifications”, etc.

This “operationalisation” is again dependant on the member states’ willingness and ability to invest in Talent Partnerships and related long-term projects. As exemplified by the implementation of migration and mobility partnerships and the experiences of MPF, only a narrow group of EU states have been interested in developing larger initiatives with partner countries, while some have not been able to take up such

endeavours due to structural shortcomings of their administrations (e.g. lack of staff experienced in project development and management, lengthy procedures etc.).

Talent Partnerships would allow, however, to tailor the offer to differentiated needs and expectations of partner countries. When considering the groups of the Maghreb and Mashreq countries, the survey indeed revealed differences in relation to the priority areas of cooperation and expected benefits from Talent Partnerships.

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Beyond Talent Partnerships

One of the areas which impede the mobility of migrant workers is still the visa policy and related rigid and complex procedures. Although research results unequivocally confirm that a (Neumayer, 2011, p. 901–907), the EU visa regime remains quite strict. Its effectiveness is further undermined by the divergent visa practices of member states (which retain in parallel the right to issue national visas), stringent requirements and a lack of alignment with the economic needs. Additionally, the expenses related to applying for a visa and the high price of its issue increase the cost of travel for all third-country nationals. Noteworthy, the EU visa policy was the common issue for respondents when asked about initiatives which would develop legal pathways to the EU other than Talent Partnerships (Q. 22), with respondents from Algeria being the most vocal group on that matter.

Other responses related to support for civil society, engagement of non-governmental organisations (NGOs) and actions towards cultural rapprochement. The postulates expressed in the 1995 Barcelona Declaration and Euro-Mediterranean Partnership in the area of social, cultural and human partnership – such as cultural exchanges, knowledge of other languages, implementation of educational and cultural programmes – are thus still valid for the partners in third countries. Democratisation programmes which intend to promote the rule of law, human rights, transparency and fairness of elections, the development of free media, the building of civil society and encouraging wide citizens' participation in public affairs are no less important. Implementation of any project under MPF or prospect Talent Partnership would require the involvement of various stakeholders in the country of origin. The stronger they are and the more stable and transparent the political and legal environment is, the more chances for success.

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Last but not least, respondents from partner countries highlighted the need to invest in education and training in the countries of origin. This could be done, among others, through the involvement of South Mediterranean countries in Erasmus+ projects.

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