

RECOMMENDATIONS TO THE SPANISH
PRESIDENCY OF THE COUNCIL OF THE
EUROPEAN UNION

July – December 2023

Executive Summary

The Spanish Presidency enters its term at the helm of the Council of the European Union (EU) just as EU Member States have discussed the way forward related the EU Pact on Migration and Asylum, particularly with regard to the EU's commitment to enact more predictable solidarity and responsibility sharing. The Spanish Presidency is in the unique position to press for the continuation of negotiations and steer the legislative work with a view to adopting the legislative framework before spring 2024.

Recent tragic events at sea have been a reminder that our efforts should focus first of all on saving lives and addressing the reasons people are compelled to risk their lives in the first place. This document reiterates our call for a European response which entails proactive, state-led search and rescue operations, and EU-wide solidarity and responsibility-sharing. Everyone, regardless of their migration status, is deserving of a humane reception and should have their dignity and rights fully respected under international, regional and state law.

The International Organization for Migration (IOM) highlights the power of multilateral cooperation to protect people and tackle the increasing phenomena of cross-border crimes of trafficking in persons and smuggling of migrants to achieve safe, orderly, and regular migration. During its tenure, the Spanish Presidency has the opportunity to foster this cooperation between the different stakeholders involved to dismantle trafficking in persons and smuggling networks within the EU as well as in countries on the migration routes.

As the demand for migrant workers at all skill levels in the EU is increasing, the responsibility of States to create legal systems and pathways that safeguard migrant worker rights is now more critical than ever. IOM encourages the Spanish Presidency to foster cooperation between labour mobility stakeholders, which protects and empowers migrant workers, recognizes their skills, agency and dignity and facilitates worker retention through social inclusion.

The Organization reiterates the recommendations made to the EU and its Members States to promote policies and programmes that facilitate safe and dignified returns and the sustainable reintegration of returning migrants. Recognizing the sensitivity and complexity of return and reintegration, IOM urges the Spanish Presidency to strengthen the reception and reintegration capacities of central and local authorities in partner countries and increase the support offered to countries of transit and origin.

IOM believes that the most successful resettlement and admission programmes provide not only much needed protection for those most vulnerable but also a path to successful integration. In this context, IOM invites the Spanish Presidency to advance safe and legal pathways for people in need by strengthening existing resettlement efforts and supporting the development of additional complementary pathways in line with the recommendations of the EU Pact on Migration and Asylum.

Given the adverse effects of climate change, environmental degradation, and increasing number of disasters, IOM trusts that migration can play a key role in preserving and restoring ecosystems by promoting sustainable and smart mobility. Given the stakes and the urgency, the Organization calls upon the Spanish Presidency to promote the mainstreaming of migration under the key policy areas of the European Green Deal.

The EU's generous support to Ukraine paired with the reception and protection afforded to those fleeing the war has been a model of unified action and humanitarian response. As the full-scale war in Ukraine continues, sustaining humanitarian assistance while also pushing to support the country's recovery are essential. IOM encourages the Spanish Presidency to advocate to the EU and its Member States to continue to provide support and protection to all those affected by the conflict.

IOM reiterates the importance of gender which shapes every dimension of migration, including its drivers and consequences, risks and needs, resources and opportunities, and networks and channels. As a fundamental cross-cutting issue, IOM encourages the Spanish Presidency to promote the mainstreaming of gender-sensitive and -responsive approaches in policies, legal frameworks, strategies, and decision-making with States and Stakeholders.

I. Fight against trafficking in persons and smuggling of migrants

The cross-border crimes of trafficking in persons and smuggling of migrants violate rights, put lives at risk, and capitalize on human vulnerabilities and desperation. The phenomena continue to undermine the achievement of safe, orderly and regular migration. International, multidirectional cooperation is needed to protect people and tackle the networks facilitating these crimes.

The Spanish Presidency has the opportunity during its tenure to foster the multilateral cooperation needed – in the EU and with countries on the migration routes, between immigration authorities, labour inspectorates and law enforcement working jointly with international organizations, regional institutions, civil society and academia – to dismantle trafficking in persons and smuggling networks. The private sector must also be brought into this effort, building on the excellent work of the European Commission and the proposed EU Corporate Sustainability Due Diligence Directive that would benefit from also addressing migration related aspects.

We therefore encourage the Spanish Presidency to lead the following targeted initiatives:

- **Support sustainable evidence** through route-based research, data and analysis to enable law enforcement, immigration authorities and labour inspectorates prevent both crimes.
- **Facilitate transnational exchanges** with countries along the key migratory routes to identify joint initiatives in the field of transnational justice where there are victim-centric criminal procedures, which we know can increase the conviction rate of traffickers. Likewise, as organized criminal groups continue to adapt their *modus operandi*, transnational cooperation is needed to tackle the increasing use of online platforms to lure vulnerable individuals and potential victims.
- **Foster dialogue** among judicial, immigration and labour authorities to exchange good cooperation practices on joint mechanisms of investigation and prevention. Moreover, it will be important to build dialogue with businesses to exchange promising practices in prevention and corporate responsibility.
- **Ensure that a gender-sensitive** and –responsive and child-friendly approach is embedded into all initiatives.
- **Promote** non-restrictive interpretation of non-prosecution and non-application of penalties to victims for unlawful acts that they commit as a direct consequence of their trafficking situation, as well as non-detention in line with international standards, and, in the case of children, explicitly prohibit detention, prosecution, and application of any penalties.
- **Raise awareness and enhance capacities** on the implementation of the non punishment principle among law enforcement, the judiciary, labour inspectors, and defence attorneys, including through regional networks and training organizations.

II. Skills-based labour mobility and social inclusion

The increasing demand for migrant workers at all skill levels in the EU is clear as labour markets are strained in key sectors and amid a global competition for talent. Managing this optimally hinges on the need to strengthen cooperation for skills-based labour mobility in a way that protects and empowers all migrant workers and facilitates skills recognition and worker retention through social inclusion.

We also observe that the international labour recruitment landscape is complex, involving several intermediaries, spanning multiple jurisdictions, and global supply chains. The responsibility of States to create legal systems that implement migrant worker rights is therefore critical. Furthermore, recognizing the agency

of migrants and collaborating with diasporas as critical partners in addressing social and humanitarian challenges are key to the equation.

In this competitive and dynamic environment, IOM invites the Spanish Presidency to:

- **Create enabling conditions** for scalable skills mobility partnerships in coordination with partner countries, and effective social inclusion models that contribute to sustainable development for all. Labour and skills mobility schemes in different sectors of the economy, including for the green transition, should be rights-based, gender sensitive and inclusive. They should be open to all skill levels, regardless of background and status, facilitated through optimized migration and skills recognition procedures, respond to identified market needs (including by engaging the private sector), and linked to integration measures. The skills and labour mobility pathways promoted under the EU Skills and Talent package, including Talent Partnerships with third countries and bilateral labour migration agreements, are promising initiatives.
- **Create enabling frameworks** to facilitate the recognition of skills, foreign qualifications and diplomas, and to promote youth mobility. Clear, transparent, time-bound and streamlined processes for the recognition of qualifications and skills at different levels – including in regulated sectors – can help to make the EU more attractive to talent. Facilitating opportunities for international student mobility and retention can also contribute to successful integration and labour market participation.
- **Promote the active participation of the diaspora** in the countries that they bridge. It will also be important to empower diasporas to contribute as partners to the circulation of skills and knowledge, humanitarian assistance and development.
- **Advocate for capacity building** on ethical recruitment, upholding migrant workers' rights and adhering to international labour standards. This is particularly important in the framework of bilateral and multilateral cooperation on labour migration and the proposal for a Directive on Corporate Sustainability Due Diligence. IOM also recommends the new Directive place special attention on the potential human rights impacts on migrant workers at higher risk of vulnerability or marginalization.
- **Address the health challenges faced by migrants.** IOM recognizes ongoing State efforts to promote access to healthcare to migrants and advocates for further progress to improve the health and well-being of migrants. This can be done through enhanced mental health and psychosocial support, disease surveillance, prevention and control while also addressing the health needs of host communities.

III. [Safe, dignified returns and sustainable reintegration](#)

IOM reiterates its recommendation to the EU and its Members States to promote policies and programmes that facilitate safe and dignified returns together with the sustainable reintegration of returning migrants. Strengthening the reception and reintegration capacities of central and local authorities in partner countries – including for those in the most vulnerable situations – will be crucial to these aims. Likewise, IOM advises intensified support to central and local authorities' in countries of transit and origin to strengthen efficient Return, Readmission and Reintegration capacities and responses.

Recognizing the sensitivity and complexity of return and reintegration, IOM encourages the Spanish Presidency to:

- **Foster a migrant-centered approach to return counselling** programmes which allow migrants to make informed decisions and take ownership of their choices after having been provided with all legal and viable options available to them, including return opportunities.

- **Promote adherence to rights-based principles** for all stakeholders engaged in return and sustainable reintegration. These principles should consider individual assessment and provide tailored support to each migrant throughout the return and reintegration process in a gender and age-sensitive manner.
- **Support comprehensive and robust measures favouring migrant reintegration** in their societies of origin that encompass the individual, community and structural levels and contribute to sustainable development.
- **Enhance dialogue and partnerships with countries of transit and origin** to reflect the interests, needs and priorities of all stakeholders. It will be essential to promote co-responsibility at the receiving end by further backing the establishment of reintegration systems in partner countries.
- **Engage whole-of-government capacity building** consultations at an early stage with Latin American countries and elsewhere to identify partnerships, promote knowledge management and facilitate the exchange of lessons learned.
- **Target capacity building** at all levels and with diverse stakeholders based on identified gaps.
- **Prioritize** measures supporting the establishment or reinforcement of multi-stakeholder coordination mechanisms among government and non-government stakeholders, and between the central and local level.

IV. [Enhancing climate change adaptation for the most vulnerable](#)

The deterioration of the environment is accelerating and the climate is changing at an unprecedented speed. Disasters are increasing in frequency and intensity, impacting human mobility in many ways – including in Europe. IOM believes that we need to invest in solutions for people to move, for people on the move, and for people to stay in the context of the adverse effects of climate change, environmental degradation, and disasters. This is particularly important for those caught in the most vulnerable situations.

Given the stakes and the urgency, we call on the Spanish Presidency to:

- **Promote good practices on anticipatory action** – including the early warning for all – to avert, minimize and address loss and damage associated with climate change, including disaster displacement.
- **Prioritize improving access to sustainable and predictable finance** for the most vulnerable countries and people for adaptation in the context of climate change, environmental degradation, and disasters.
- **Promote the mainstreaming of migration** – in all its forms – in the anticipated measures under the key policy areas of the **European Green Deal**. Migration can play a role in preserving and restoring ecosystems and biodiversity, green renovation, clean and affordable energy, eliminating pollution, from farm to fork, a clean and circular economy, and sustainable and smart mobility.
- **Support mobilization of the whole of society**, that considers the needs of internally displaced persons, migrants, women, youth, and indigenous persons – in the planning, implementation, and monitoring of climate action.
- **Engage with the countries of Latin America and the Caribbean** in addressing environmental and climate migration, including through bilateral dialogue and in multilateral spaces. This can entail improving the governance of cross-border movements, supporting mechanisms to leverage migration as an adaptation strategy, and enhancing the role of cities in managing migration in the context of climate change, environmental degradation, and disasters.

V. Search and rescue at sea

The safety, rights and dignity of all migrants risking their lives on dangerous routes is an overriding concern. All efforts must focus on saving lives and addressing the reasons people are compelled to risk their lives. We reiterate our call for a European response which entails proactive, state-led SAR, and EU-wide solidarity including safe, swift disembarkation followed by reliable post-arrival solutions including meaningful responsibility-sharing between all concerned states. Everyone, regardless of migration status, must be afforded humane reception, human dignity and rights under international, regional and state law. This requires a united effort. In this context, IOM calls on the Spanish Presidency to:

- **Promote a joint, whole-of-route approach** between EU Member States, countries of transit and countries of origin, grounded in partnerships and solidarity.
- **Encourage the support of the efforts of NGO actors** to provide lifesaving assistance, and end the criminalization, obstruction and deterrence of the efforts of those who provide such assistance. All maritime vessels, including commercial ships, have a legal obligation to provide rescue to boats in distress.
- **Ensure that conditions in transit countries** are humane and suitable for the processing and care of migrants who are rescued or intercepted and returned in line with international standards and laws. IOM welcomes the emphasis placed under the EU Action Plans on the Central Mediterranean and the Western Mediterranean to strengthen search and rescue efforts.

VI. Resettlement and complementary pathways

Resettlement and complementary pathways are essential tools to meet the international protection needs of particularly vulnerable refugees. But **the magnitude of forced displacement has exposed a widening gap** between the number of those in need of solutions and the few resettlement and humanitarian admission places made available globally. We believe the most successful resettlement and admission programmes provide not only much needed protection for the most vulnerable but also a path to successful integration, which helps them contribute to their new societies. In this context, IOM invites the Spanish Presidency to:

- **Advance safe and legal pathways** to protection for people in need by strengthening existing resettlement efforts and supporting the development of additional complementary pathways in line with the recommendations of the EU Pact on Migration and Asylum. Uphold the right to family reunification of those granted protection in an EU Member State.
- **Demonstrate EU leadership** by promoting the provision of resettlement and complementary pathways as a sign of much-needed solidarity, international partnerships and responsibility sharing. Countries of asylum hosting large numbers of refugees need to feel the support of the international community in general and the EU in particular.
- **Facilitate dialogue and capacity building** with current and new resettlement countries on expansion of pathways to protection of the most vulnerable, including but not limited to enhanced resettlement and piloting innovative practices for complementary pathways such as labour migration pathways for refugees, among other initiatives.
- **Support continued strengthening** of the EU Resettlement ecosystem. To this effect, it is important that coordination takes place in close cooperation with established resettlement partners and according to

existing structures and mandates to the benefit of the entire ecosystem, but most of all to people with protection needs.

- **Work towards agreement** on the proposed Regulation for a Union Resettlement and Humanitarian Admission Framework in support of the points above. IOM recommends the Framework to pay special attention to issues of family unity as well as resettlement being the primary protection tool and durable solution complemented by humanitarian admission.

VII. [Ukraine: maintain humanitarian support and contribute to creating an enabling environment for displaced people to return and contribute to Ukraine's recovery.](#)

The EU's generous support to Ukraine together with the welcome and protection afforded to those fleeing the war has been a model of unified action and humanitarian response. As the war continues indefinitely, sustaining humanitarian assistance while continuing support for the recovery of Ukraine – with an eye on the eventual/gradual return of displaced people – are challenges which the EU is determined to undertake.

IOM therefore encourages the Spanish Presidency to advocate for the EU and Member States to:

- **Continue the generous support** for people affected by the conflict, especially for the most vulnerable, including those who have been displaced. Flexible support has proven to be critical in the response, and will continue to be so, as the context remains highly dynamic and unpredictable.
- **Invest in creating an enabling environment for safe and dignified returns** from within and outside of the country. The key elements to achieve this are well-coordinated support prior to return, support for reintegration that links to local recovery efforts, holistic programming that fosters local economic development, recovery and full access to services, resilience and social cohesion in communities of return. Efforts should be aligned with inter-agency and governmental priorities supporting recovery, and take an area-based approach to empowering Hromadas (local communities) affected by the conflict.
- **Foster links between Ukrainian diaspora in the EU Member States and Ukraine to support socioeconomic recovery** through skills exchange and by facilitating access to finance, business networks, the private sector and markets.
- **Continue to support all national efforts to repair, restore and upgrade critical public infrastructure** such as energy, water, sanitation, and heating through innovative, environmentally friendly and sustainable solutions.
- **Continue to support the efforts to provide sustainable and accessible housing** solutions for IDPs and the most vulnerable groups such as the elderly, disabled and those are socio-economically disadvantaged.



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