

Reinforce human rights as an essential element in cooperation between the EU and Lebanon

In the coming months, the EU and Lebanon will agree on more detailed plans for the implementation of their partnership for the coming years. On the 17th of July, the EU-Lebanon Association Council will convene, following the agreement on new Partnership Priorities plus Compact and an Outline of a Single Support Framework. Whereas human rights are an essential element in the cooperation between the EU and Lebanon, plans for the implementation of the partnership focus on refugee management and security. AJEF and PAX warn that this focus on security and refugee management risks contributing to a deterioration of the security and human rights situation in Lebanon. Rather, the organisations argue that prioritising the issues of abolition of the death penalty, the rule of law, torture prevention and refugee protection are essential for promoting security in Lebanon and Europe. AJEF and PAX urge the EU and EU member states to do their fair share towards protecting refugees by increasing resettlement slots for Syrians and providing other safe and legal routes to Europe. Furthermore, AJEF and PAX urge the EU and Lebanon to adopt a clear framework for consultation with civil society and a clear action plan for implementation to which all parties can be held accountable.

Human Rights an essential element in EU-Lebanon partnership

Commitment to human rights has been a key element in European Union (EU) relations with countries around the Mediterranean, including Lebanon. The EU-Lebanon Association Agreement (AA) was signed in 2002 and establishes the legal basis for Lebanon's partnership with the EU to develop a "stable, democratic, politically open and economically strong" Lebanon.¹ Article 2 of the AA states that human rights are an "essential element" of the agreement, meaning that violations of human rights can amount to a material breach of the treaty. The European Neighbourhood Policy (ENP) provides the policy framework for this legal agreement and offers the eastern and southern neighbouring countries of the EU engagement in a bilateral agreement of supposed mutual commitment to common values of "democracy and human rights, the rule of law, good governance, market economy principles and sustainable development."² The ENP further includes "political coordination and deeper economic integration, increased mobility and people-to-people contacts."³

A reading of previous agreements and progress reports between the EU and Lebanon, starting from the 2002 Association Agreement, reveals a consistent commitment to human rights. Over the past 15 years, the EU has in its cooperation with Lebanon promoted access to education, judicial reform, protecting women and children's rights and adopting legislative measures to expand upon these rights, pursuing the de-facto moratorium on capital punishment, restricting the jurisdiction of military courts, improving prison management and detention conditions, fighting impunity, improving legal status and living conditions of Palestinian Refugees in Lebanon, increasing the level of legal protection for migrant workers, reforming the electoral framework, further improving the work of security agencies and reforming the security sector and improving the capabilities, conduct and accountability of Lebanon's security agencies. Previous actions also promoted strengthening mechanisms to combat torture in line with CAT obligations.

The promotion of these commitments, through programming and dialogue with Lebanese counterparts, provided the EU with leverage to push the Lebanese government to sustain an informal moratorium on the death penalty. It has also allowed the EU to ensure prioritisation of torture prevention and amelioration of prison conditions on the side of the Lebanese government. The latter has led to developing a Code of Conduct for the International Security Forces, and the establishment of a prison directorate in the Ministry of Justice among others. Although AJEF considers these steps to be standalone and not part of a comprehensive plan,

¹ https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/lebanon_en

² http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU_6.5.4.html

³ http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU_6.5.4.html

they have strengthened the ability of Lebanese civil society to advocate and engage with relevant government officials.

In November 2016, the EU and Lebanon signed the Partnership Priorities plus Compact (PP). The PP again confirms “The respect of democratic principles and fundamental human rights constitutes an essential element of the relations between the EU and Lebanon.”⁴ However, this confirmation is not reflected in the Annex through concrete commitments, nor in the Outline of the Single Support Framework 2017-2020 (SSF). The PP and the SSF Outline focus on the following priorities:

1. Security and Countering Terrorism
2. Governance and Rule of Law
3. Fostering Growth and Job Opportunities
4. Migration and Mobility
5. Mechanisms for Dialogue and Mutual Coordination

However, the SSF Outline, which allocates the funds for these priorities, only prioritizes “Promoting an Environment Conducive to Growth and Job Creation (30%); Fostering Local Governance and Socio-Economic Development (30%); and Promoting Stability and Enhancing Security and Countering Terrorism (25%). None of the specific objectives of the SSF Outline aim at promoting respect for human rights. The SSF Outline focuses on security and supporting Lebanon in dealing with the presence of large numbers of refugees – improving refugee management rather than legal protections, a needs-based instead of a rights-based approach. The Partnership Priorities and SSF Outline thus show a shift away from human rights and the rule of law, contrary to what the EU itself still describes as an “essential element”. Although the EU can still support human rights and refugee protection initiatives through other instruments, such as EIDHR and ECHO programming, the lack of such principles from the cooperation priorities is concerning.

Human rights and the rule of law as a strategy to promote security

The choice of the EU to prioritise security and refugee management over human rights is in the view of ALEF and PAX a short-sighted approach which could achieve the opposite of the claimed objective: a deteriorating human security and human rights situation in the country.

ALEF and PAX argue that rather than considering human rights promotion as a lesser priority, promotion of human rights is in fact a key condition for achieving sustainable security. ALEF and PAX advocate a return to key human rights priorities, which are absent from the current EU-Lebanon plans. According to ALEF and PAX, the following human rights priorities must be maintained in the EU-Lebanon cooperation as they form a key condition for security:

- a. Abolition of capital punishment
- b. Fair trials,
- c. Torture,
- d. Legal protection for refugees.

As in previous years, the Lebanese government has taken some positive steps towards promoting human rights in 2016, but has missed several opportunities to uphold the country’s international obligations, and failed to address major protection concerns of the general population. The Lebanese criminal justice system continues to overlook many of the international standards set by the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). This resulted in continued practices of arbitrary detention in 2016, which is typically attributed to largely unfounded ‘security concerns’. Prison conditions are also deteriorating, with the prison population remaining at nearly twice prisons’ listed capacities in 2016. The broad jurisdiction of the military court remains a major obstacle to the pursuit of justice in Lebanon. This deteriorating situation imposes on the EU to further elaborate its engagement with the

⁴ Annex to the EU-Lebanon Partnership Priorities plus Compact, p.1, http://www.consilium.europa.eu/en/press/press-releases/2016/11/pdf/st03001_en16_docx_pdf/

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Lebanese government on human rights issues, and pressure the Lebanese government to uphold its human rights obligations.

While ALEF and PAX acknowledge the challenges faced by Lebanon, any security response ought to be based on a rights-holder/duty-bearer relationship. This rights-based approach looks at security through the lens of rule of law, and with strong commitments to justice. Only through strong commitment to justice aspects such as the abolition of capital punishment, fair trials, torture prevention and legal protection for refugees can a sustainable contribution be made to security.

Refugee protection and EU leverage

The lack of political will of the EU member states to accommodate more refugees in Europe - beyond limited resettlement programs - has left them on a weaker footing when lobbying regional states, including Lebanon, for greater legal protections of refugees. Lebanon is hosting the highest per capita number of refugees in the world and its generosity puts wealthier and more powerful countries to shame.⁵ The EU's attempts to open conversations on the protection of refugees have therefore been blocked by Lebanese officials unwilling to engage in such negotiations, especially considering the EU's own recent dismal track record on providing protection to refugees, as evidenced by the EU-Turkey agreement and the failure to relocate asylum seekers from Greece and Italy.⁶

Over the past years ALEF has monitored the protection situation of Syrian refugees in Lebanon as part of the Syrian Refugees Monitoring Unit (SRMU).⁷ The legal protections for Syrian refugees living in Lebanon continue to deteriorate. While the Lebanese General Security's announcement earlier this year to waive a heavy fee preventing many Syrian refugees from renewing their legal status in Lebanon was welcomed, it still excluded hundreds of thousands of some of the most vulnerable Syrian refugees from protection under Lebanese law.⁸ Most Syrians in Lebanon live in legal limbo resulting in disastrous consequences, not being able to enjoy basic legal protections. In addition, while the 2016 EU-Lebanon agreement briefly confirms that Lebanon should abide by the international principle of *non-refoulement* - mentioned only once in one footnote - the agreement does not create a plan to safeguard against this.

The need for a civil society dialogue mechanism

The above-mentioned PP was adopted behind closed doors with extremely limited input and consultation of (Lebanese and international) civil society. Although the EU engages with CSOs in Lebanon through the human rights defenders dialogue and briefings with the sub-committee on human rights, these occasional consultations are organised on an ad hoc basis and their outcomes are not reported.

As part of the PP, a mechanism for dialogue and mutual coordination between the EU and Lebanon will be set up, providing the framework for political dialogue, cooperation and monitoring of the implementation of the PP and compact. As the current dialogue mechanism is being reviewed, there is a possibility that the human rights dialogue will cease to exist and that human rights will be part of another political dialogue. ALEF and PAX urge for the continuation of a specific human rights dialogue, to underline the priority the EU gives to human rights in its external relations.

Input from Lebanese and international civil society in the EU-Lebanon dialogue mechanism is essential, but not yet clear. The PP states that "broader formats including civil society and non-state actors might also be organized."⁹ ALEF and PAX call on the EU and Lebanon to include in the plans concrete steps to establish

⁵ <https://www.hrw.org/news/2016/02/04/dispatches-lebanons-chance-hit-reset-refugees>

⁶ <https://www.hrw.org/news/2016/11/14/ga-why-eu-turkey-migration-deal-no-blueprint>

⁷ <https://alefliban.org/publications/trapped-lebanon/> | <https://alefliban.org/wp-content/uploads/2016/10/ALEF-Position-Paper-Solutions-to-the-Syrian-Refugee-Crisis-December2014-2.pdf> | <https://alefliban.org/wp-content/uploads/2016/10/Syrian-Refugees-2013-ENG.pdf>

⁸ <https://www.hrw.org/news/2017/02/14/lebanon-new-refugee-policy-step-forward>

⁹ Annex to the EU-Lebanon Partnership Priorities plus Compact, p. 9, http://www.consilium.europa.eu/en/press/press-releases/2016/11/pdf/st03001_en16_docx_pdf/

with the Lebanese government a consultation with civil society on human rights issues, including periodic reporting. Such a system should rely on an accessible and efficient consultation process that will allow CSOs to report on their human rights priorities on a frequent, structural basis. Such input shall be a constitutive part of the EU's progress report on the implementation of the PP. The process would help the EU to develop stronger due diligence with the Lebanese government and provide input that will help highlight new priorities. The inclusion of these findings in frequent reporting will provide further accountability to both the EU and the Lebanese government, while also acknowledging the input and concerns of CSOs.

Conclusions

PAX and ALEF argue that the current EU-Lebanon Partnership Priorities plus Compact (PP) creates a lose-lose situation. On the one hand, the EU is insufficiently living up to its own human rights principles and sharing the responsibility for the protection of refugees. This is already resulting in a deteriorating security situation for both refugees and Lebanese communities, leading to more conflict and further irregular migration. On the other hand, in the PP the Government of Lebanon takes up responsibilities for a large group of vulnerable people it cannot take care of, risking further outbreaks of violence and conflict.

Support to Lebanon, the country with the largest number of refugees per capita in the world, shouldn't be limited to financial support - although aid programmes are still underfunded. Many of the Syrian refugees in Lebanon will not be able to return to Syria as long as there is no solution in sight for a transition from war and authoritarian rule to peace and democratic governance. The PP addresses the refugee crisis as a temporary short-term issue when in fact it requires a long-term strategy. The Syrian refugee crisis is a global crisis and each country should do its part, beyond offering financial considerations and attractive trade deals in exchange for keeping refugees in the region.

The EU should reinforce human rights as an essential element in its cooperation with Lebanon. Only when key justice issues such as the abolition of capital punishment, fair trials, torture prevention and protection of refugees are prioritised, can security be enhanced. Continuation of a separate human rights dialogue, as part of the reviewed dialogue mechanism, is essential for that.

Finally, PAX and ALEF stress that the input and feedback of Lebanese – and international – civil society organizations is essential. Up until now, consultation of civil society on the negotiations and adoption of the current agreement has proven to be opaque, ad hoc and extremely limited.

Recommendations

- ALEF and PAX urge the EU to reinforce human rights as an essential element in the partnership. Prioritising key justice issues such as torture prevention, fair trials, death penalty and refugee protection is a key condition for security.
- ALEF and PAX urge the EU and EU member states to do their fair share towards protecting refugees by increasing resettlement slots for the most vulnerable Syrian refugees and by providing other safe and legal routes to Europe.
- ALEF and PAX urge the EU and Lebanon to preserve the human rights dialogue as part of the reviewed dialogue mechanism. In addition, a clear framework for consultation with civil society must be set up, as well as a clear action plan for implementation to which all parties can be held accountable.
- ALEF and PAX urge the EU to review the current SSF outline by including the above-mentioned human rights priorities.

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