

~~PRIVACY~~
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- **The EU Neighbourhood,
Development
and International
Cooperation Instrument**

Policy Briefing

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The EU Neighbourhood, Development and International Cooperation Instrument

1. OVERVIEW

The Neighbourhood, Development and International Cooperation Instrument (NDICI) is a proposed external instrument under the new Multiannual Financial Framework (MFF).

The proposed NDICI regulation comes under Heading 6 – 'Neighbourhood and the World' of the proposed MFF, which sets out the main priorities and overall budgetary framework for the EU's external action. The NDICI should bring together eleven separate instruments and funds in the current MFF, as well as part of the European Development Fund (EDF), which is currently outside the MFF.

According to the Commission's proposal, the NDICI is designed to streamline the funding architecture for the EU's external action and introduce a more efficient and flexible instrument to better respond to rapidly evolving global challenges: "Feedback from EU delegations showed that they found it difficult to manage and take advantage of complementarities and to create synergies between the instruments. Overall, it was considered that the EU was missing opportunities for coordinated strategies for a given country/region."¹

Article 3 of the proposed NDICI regulation spells out three objectives of the instrument as follows:

- to support cooperation with third countries and regions;
- to consolidate and support democracy, rule of law and human rights; support civil society organisations, further stability and peace; and address other global challenges, including migration and mobility; and
- to respond rapidly to situations of crisis, instability and conflict; resilience challenges and linking of humanitarian aid and development action; and foreign policy needs and priorities.

The Commission proposed to allocate €89.2 billion to the NDICI for the 2021-2027 period. This represents an increase of 11 % compared to the resources allocated to the instruments and funds under the current MFF that the NDICI would replace.

The NDICI has three components: geographic, thematic and rapid response²:

The geographic component (financial envelope €68bn) consists of geographic programmes for the (i) European Neighbourhood (€22 bn); (ii) Sub-Saharan Africa (€32 bn); (iii) Asia and the Pacific (€10bn); and (iv) the Americas and the Caribbean (€4bn),

¹ Proposal for a Regulation of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument {SEC(2018)310final} –{SWD(2018)337final} https://ec.europa.eu/commission/sites/beta-political/files/budget-may2018-neighbourhood-development-international-regulation_en.pdf

² http://www.europarl.europa.eu/legislative-train/theme-new-boost-for-jobs-growth-and-investment/file-mff-ndici?fbclid=IwAR35C-IOWBU5g_RifSUypfyoeC1_vQwU9zG0FITkkrWsB_sC-x87XUrkyI

The thematic component (proposed financial envelope €7bn) comprises several thematic programmes with worldwide coverage. These include (i) human rights and democracy (€ 1.5bn); (ii) civil society organisations (€1.5bn); (iii) stability and peace (€1bn); and (iv) global challenges (€3bn), such as health, education and training, and environmental protection.

The rapid response component (proposed financial envelope €4bn) is designed to allow for quick responses, to enable the EU to (i) contribute to stability and conflict prevention in situations of urgency, in emerging crisis, in crisis and in post-crisis situations; (ii) contribute to strengthening resilience of states, societies, communities and individuals, and to linking humanitarian aid and development action; and (iii) more generally address foreign policy needs and priorities.

In the current Multiannual Financial Framework (for 2014-2020), the 'Global Europe' heading is implemented through several financing instruments. The proposed regulation for the creation of the NDICI proposes to merge the several instruments into one new regulation³. This includes:

- Development Cooperation Instrument (DCI)
- European Neighbourhood Instrument (ENI)
- Partnership Instrument for Cooperation with Third Countries (PI)
- European Instrument for Democracy and Human Rights (EIDHR)
- Instrument contributing to Stability and Peace (IcSP)
- European Development Fund (EDF), including ACP Investment Facility and excluding the African Peace Facility (APF)
- Instrument for Nuclear Safety Cooperation (INSC)
- European Fund for Sustainable Development (EFSD)
- External Lending Mandate (ELM)
- Guarantee Fund for External Action
- Macro-Financial Assistance (MFA)

The Commission published the proposal for the NDICI on 14 June 2018⁴. Parliament has amended and confirmed its stance on the NDICI. **The Council will now have to formalise its positions and then enter into triologue negotiations between Commission, Parliament, which will determine the final version of the new instrument.** Formally, the MFF has to be approved by a unanimous decision of the Council of Ministers with the Parliament having to also give consent. The new budget will enter into force in January 2021 for a period of 7 years, until 2027.

2. NDICI & THE RIGHT TO PRIVACY

Funding for surveillance, border security, and migration management projects in third countries is currently undertaken by a number of projects across various funds which are to form part of the NDICI. Several raise significant concerns regarding the right to privacy:

³ Most of these will expire on 31 December 2020.

⁴ [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/628251/EPRS_BRI\(2018\)628251_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/628251/EPRS_BRI(2018)628251_EN.pdf)

- A project is developing the capacity of Tunisian security agencies to counter terrorism by developing “intelligence processing and analysis”⁵, “providing training in digital intelligence gathering including through social media and digital mapping”, and “developing inter-service cooperation among Tunisian security agencies” (IcSP)
- A project is developing the internal security service in Burkina Faso by improving “Intelligence cycle management”, support “the planning and gathering, as well as the coordination, of intelligence efforts” in Somalia, and establish a counter-terror information coordination centre with the Iraqi National Security Council aiming “to foster coordination and ensure that the seven Iraqi intelligence services work together effectively.” (IcSP)
- A project promoting better migration management in Nigeria includes the establishment of the Nigeria Immigration Service Intelligence Unit, training of officers and provision of computer equipment (EDF)⁶
- €3 million was provided⁷ to train develop investigative capabilities in the Maghreb. One such training, implemented⁸ by the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime, included training police in Morocco on “wiretapping/telephone tapping and videotaping” and “special investigation techniques on the Internet/Electronic surveillance (anonymous browsing for investigation purposes, interception of data and mails, decryption of encoded data, etc.)” (ENI)

The provision of such capacities in countries which fail to adequately provide sufficient privacy protections or suffer from weak governance and rule of law presents urgent threats to people’s human rights, their security, and to democratisation.

Short-term securitised interventions designed to manage migration not only fail to address the drivers of conflict, poverty and insecurity that force people to leave their homes, but divert important resources away from the long-term support needed to build peaceful and inclusive societies.

An expansion of such projects without the promotion of adequate safeguards, human rights, and governance standards will undermine people’s privacy around the world for decades to come.

3. REFOCUSING THE NDICI: THE ROLE OF PARLIAMENT

As we approach the triologue negotiations between the Council, the Commission, and the Parliament, it is essential to ensure that it is used to promote rather than undermine the rights and security of people, as well as democracy and the rule of law.

During January and February 2019, the European Parliament's Committees on Foreign Affairs (AFET) and Development (DEVE) worked jointly on the proposal for

⁵ European Commission, Deploying expertise to support the Tunisian authorities in the fight against terrorism, [website] <https://icspmap.eu> (accessed 11 January 2018)

⁶ https://eeas.europa.eu/delegations/nigeria_en/56140/Promoting%20Better%20Management%20of%20Migration%20in%20Nigeria

⁷ https://ec.europa.eu/europeaid/documents/aap/2013/af_aap_2013_enpi-s.pdf

⁸ https://www.unodc.org/unodc/en/terrorism/latest-news/issiii_morocco-ws-oct-2015.html

the NDICI and adopted a report on the proposal on 4 March 2019. The text was finally approved by the plenary of the outgoing Parliament on 27 March 2019⁹.

The AFET-DEVE report proposes important amendments to the Commission's proposal, calling for better governance and a stronger role for Parliament, clearer and more distinct objectives for the various policies, and various budgetary measures.¹⁰ The European Parliament's resolution better mainstreams human rights as founding principles of NDICI. For example:

- The Parliament calls for “ex-ante human rights, gender, social and labour impact assessments”¹¹ to be conducted before the adoption of NDICI action plans;
- “Human rights, social assessments” (in addition to strategic environmental assessments) to be used in the execution of sectoral programmes¹²;
- The Parliament underlined the “commitment to and progress in building deep and sustainable democracy, including the promotion of human rights, good governance, the upholding of the rule of law and the fight against corruption”¹³

The Parliament report also states that one of the key determinants of any decision to provide budget support “shall be an assessment of the commitment, record and progress of partner countries with regard to democracy, human rights and the rule of law.”¹⁴ In addition, “the Parliament increases the budget allocation for the Human Rights and Democracy Programme and foresees the possibility to suspend assistance to a given country in cases of persistent violations of human rights, democracy and the rule of law.”¹⁵

4. RECOMMENDATIONS

Below we provide a list of recommendations for the upcoming discussion on the finalisation of the NDICI and the MFF.

- Ensure that assessments of the commitment, record and progress of partner countries with regard to democracy, human rights and the rule of law are made mandatory.”¹⁶
- Ensure there exists a possibility to suspend assistance to a given country in cases of persistent violations of human rights, democracy and the rule of law.”
- Ensure ex-ante human rights, gender, social, labour **as well as data protection impact assessments** are conducted before the adoption of NDICI action plans;

⁹ European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument (COM(2018)0460 – C8-0275/2018 – 2018/0243(COD)) http://www.europarl.europa.eu/doceo/document/TA-8-2019-0298_EN.html?fbclid=IwAR3xZlgh8fn6akP8uF0oIcotLWmgKWRPu-lqRjThxFB4zNC5TOqrCVuLKP8

¹⁰ <http://www.europarl.europa.eu/legislative-train/theme-new-boost-for-jobs-growth-and-investment/file-mff-ndici>

¹¹ Amendment 211, Proposal for a regulation, Article 21 – paragraph 5 – subparagraph 1 a (new) http://www.europarl.europa.eu/doceo/document/TA-8-2019-0298_EN.html?fbclid=IwAR3xZlgh8fn6akP8uF0oIcotLWmgKWRPu-lqRjThxFB4zNC5TOqrCVuLKP8

¹² Amendment 212, Proposal for a regulation, Article 21 – paragraph 5 – subparagraph 2, *ibid.*

¹³ Amendment 187 Proposal for a regulation Article 16 – paragraph 2 – point c *ibid.*

¹⁴ Amendment 222 Proposal for a regulation, Article 23 – paragraph 3 – subparagraph 3, *ibid.*

¹⁵ <https://www.ituc-csi.org/ndici-the-european-parliament>

¹⁶ Amendment 222 Proposal for a regulation, Article 23 – paragraph 3 – subparagraph 3, *ibid.*

- Ensure adequate privacy protections are mainstreamed within programmes promoting human rights, good governance and the upholding of the rule of law
- Ensure Parliamentary oversight with sufficient a mandate and powers and to obtain relevant information
- Ensure any projects aimed at promoting migration management and security are instead funded through security and migration funds, such as the Asylum and Migration Fund (AMF), the Integrated Border Management Fund (IBMF) or the Internal Security Fund (ISF).

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