

Annex 1: Correspondence with EC 2019

From: [REDACTED]@privacyinternational.org 
Subject: Fwd: EUTF & the Right to Privacy - Recommendations
Date: 11 November 2020 [REDACTED]
To: [REDACTED]@privacyinternational.org

EO

Begin forwarded message:

From: <EuropeAid-EUTF-AFRICA@ec.europa.eu>
Subject: RE: EUTF & the Right to Privacy - Recommendations
Date: 28 October 2019 [REDACTED]
To: [REDACTED]@privacyinternational.org>, <EuropeAid-EUTF-AFRICA@ec.europa.eu>

Dear [REDACTED],

We thank you for your message and take good note of the publication of Privacy International's policy briefing on the future of the European Union's Emergency Trust Fund for Africa, which we have read with attention. We would like however to bring some clarifications to several points raised in the briefing.

First of all, please note that in the area of migration, the main driver of EU external action is to save lives. Although Privacy International's policy briefing asserts that the Trust Fund "uses instruments of external policy for internal purposes", activities implemented through the EU Trust Fund for Africa strengthen protection and assistance mechanisms for migrants all along the migration routes, making sure they enjoy rights and access to services. EUTF activities are ODA compliant and do not aim to stop migration, but to ensure that the migration process is safer and better managed. This includes, for example, carrying out search and rescue missions in the desert between Niger and Libya, providing protection and assistance to migrants as well as reintegration services to help them restart their lives decently in their countries of origin.

Since May 2017, almost 22,000 migrants were rescued in the desert, 59,000 stranded and vulnerable migrants were supported to their voluntary return and 75,000 were assisted with post-arrival reception and reintegration assistance thanks to the support of the EU-IOM Joint Initiative for Migrant protection and reintegration. Migration management actions also include implementing awareness raising campaigns on the risks of irregular migration and the opportunities of regular migration (almost 453,000 individuals reached to date), supporting regional mobility and legal migration and fighting against networks of smugglers and traffickers.

Through the EU Trust Fund for Africa, we assist our partners in Mali, Senegal, Cabo Verde, Guinea and Ivory Coast in the rollout of a secure civil registry system and biometric database for identity and travel documents. These systems enable citizens to exert their basic rights: being registered in a secured and modern identification and civil registry system provides the population with access to voting registries, property registries, driving licenses or even ease the procedure to open a bank account. It also enables them to freely move in the ECOWAS area for example, and access social services such as public health and education. These programmes focus mainly on the reform of the administration in partner countries and are thought of as leverage to reach similar standards of data protection in partner countries as in the EU.

The right to identity is a human right, and ensuring verifiable identities through appropriate registration and documentation is incumbent on States as duty-bearers. Proper registration of migrants can greatly facilitate assistance provision and adequate referrals, contribute to the prevention of disappearances as well as

accountability of authorities. It is thus a key protection measure.

Any support to capacity building on personal data management targets exclusively relevant governments – **which is and should remain the sole owner of any of the data management systems as well as the personal data collected contained in the databases**. Centralisation and inter-operability of the registration systems needs to be ensured, through capacity building as well as institutional and legal reforms. Moreover, personal data collection needs to be undertaken and managed in accordance with international data protection standards to safeguard the protection of migrants against any potential misuse of the data collected. This is what the EU strives to achieve through projects funded by the EU Trust Fund for Africa.

The EU will neither have access nor be processing the data collected in the partner countries. All data collected under the projects remain the property of the governments of partner countries, and is not to be shared with the EU or any project implementing partners. In the event that irregular migrants arrive to Europe, the Consulates of the countries of origin will be in charge of identifying their nationals. We would also like to stress that data to be collected only concern identity and civil status of citizens.

In addition, we would like to specify that mitigation measures are in any case put in place:

- we foresee measures to protect human rights, notably by providing capacity building to ensure that partner countries enforce a proper legal framework.
- we provide trainings for national authorities and support awareness raising campaigns on the use of biometric data.

Finally, we have found the following inaccuracies in your report:

- The GDPR does not apply to EU institutions such as the Commission, but a specific Regulation applies: Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC
- Regulation 2018/1725 aims to align as far as possible the data protection rules for Union institutions with data protection rules under GDPR.
- There is no obligation or need for the Commission to carry out a data protection impact assessment for EU Trust Fund Projects.
- Where the Commission acts as data controller, Article 39 of Regulation (EU) 2018/1725 foresees in certain, limited cases the obligation to carry out a data protection impact assessment.
- This obligation is however not applicable where the Commission funds projects under the responsibilities of our partners (see above comment to further develop explanation indirect management/budget support). As in the cases mentioned here, since the Commission does not access or further process any personal data related to the funded projects databases, the Commission does not need to carry out a data protection impact assessment.

Best regards,

The Trust Fund Coordination Team



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-----Original Message-----

From: [REDACTED]@privacyinternational.org>
Sent: Monday, September 23, 2019 [REDACTED]
To: DEVCO EUTF AFRICA <EuropeAid-EUTF-AFRICA@ec.europa.eu>
Subject: EUTF & the Right to Privacy - Recommendations

To whom it may concern

I'm writing from Privacy International, an NGO based in London which works around the world to protect the right to privacy. I would like to share some analyses and recommendations related to the EU Trust Fund for Africa and the right to privacy.

We believe the Fund presents both threats and opportunities for promoting the rights to privacy around the world. Our analyses is attached, and is available at https://urldefense.proofpoint.com/v2/url?u=https-3A_www.privacyinternational.org_advocacy_3220_policy-2Dbriefing-2Dfuture-2Deu-2Dtrust-2Dfund-2Dafrica&d=DwIFaQ&c=8NwulVB6ucrjuSGiwL_ckQ&r=MSZRCT8jGQDdzqwVwntTyY9Wm4_g3QH7TW25gCwYy6CFT8NCGMgjK-8AY2EOKn&m=HKRr-4ttFVOPR69Wfw1oc5hxf9wiA2ci-1hKfoGSlcE&s=9O19yZa41C7l-LCFhllhxAjhhZHEgCRa_iKbxQQYPkY&e=

We have also put together a summary of issues and policy recommendations related to the proposed NDICI. It is attached and is available online at https://urldefense.proofpoint.com/v2/url?u=https-3A_www.privacyinternational.org_advocacy_3219_policy-2Dbriefing-2Deu-2Dneighbourhood-2Ddevelopment-2Dand-2Dinternational-2Dcooperation-2Dinstrument&d=DwIFaQ&c=8NwulVB6ucrjuSGiwL_ckQ&r=MSZRCT8jGQDdzqwVwntTyY9Wm4_g3QH7TW25gCwYy6CFT8NCGMgjK-8AY2EOKn&m=HKRr-4ttFVOPR69Wfw1oc5hxf9wiA2ci-1hKfoGSlcE&s=RY5klsR-D2biaIlVH0P5Izq1oedMNA8PotSt8G_RRn4&e=

We would really appreciate it if you could share with persons who may find it of interest. We would be happy to answer any questions and would welcome any feedback.

All the best

[REDACTED]

[REDACTED]

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