



Promotion of Labour Standards through the European Neighbourhood Policy: Lessons from Moldova and Morocco¹

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A feature of European Union (EU) external action is to promote labour standards in third countries through its trade policy, including in its closest neighbours to the south and east. The EU has done so primarily through the inclusion of labour provisions in its trade agreements and/or market integration strategies, accompanied by a series of additional measures to ensure implementation. Has this policy strategy led to improvements in labour standards in third countries? If yes, through which mechanisms and under what conditions? What are the lessons from efforts to implement the approach? How can the EU further enhance conformity with international and EU labour standards?

This brief focuses on the European Neighbourhood Policy (ENP), a key element of the foreign policy of the EU that seeks to use market integration as an incentive to promote domestic reforms, including in the area of labour standards, among sixteen neighbouring countries (NCs). The ENP regulatory governance approach is based on the legal and institutional foundations of bilateral trade agreements, but has been accompanied by a set of measures and tools adapted from the EU's successful enlargement experience² (Kelley, 2006). As such, it constitutes a critical empirical case to examine the prospects and limitations of the ability of the EU to promote labour standards through its trade policy.

Drawing on empirical findings of researchers at the Central European University and University Institute of Lisbon that focused on the implementation of the ENP in Moldova and Morocco³ (Pal et al 2021), this policy brief highlights ENP-led improvements in labour standards, measures and mechanisms responsible for their achievement, as well as limitations in effectiveness.

Promoting labour standards in NCs is of outmost importance. The socio-economic wellbeing of the EU is inextricably tied to economic and social progress in the neighbourhood. Poor labour conditions in NCs have a ripple effect on the EU, precipitating concerns about mass

¹ This project was supported by European Union Horizon 2020 research and innovation grant 770680 (RESPECT).

² Kelley, J. (2006). New wine in old wineskins: Promoting political reforms through the new European Neighbourhood Policy. *JCMS: Journal of Common Market Studies*, 44(1), 29-55

³ Pal, T; Maduko, F. and Bruszt, L. (2021). EU promotion of labour standards in its neighbourhood: prospects and limitations of the EU's transnational regulatory approach (forthcoming).



migration, unemployment, and insecurity. Thus, the promotion of labour standards in NCs should remain a crucial component of the ENP.

The ENP has been implemented in Moldova and Morocco since its launch in 2004. Notwithstanding significant differences across their national settings, the two countries shared similar shortcomings with respect to labour laws, regulations and practices in the early 2000s. The ENP governance approach to address these concerns in the two countries was largely similar from 2004 to 2014. Thereafter, marked divergence arose with the EU's Deep and Comprehensive Free Trade Area (DCFTA) coming into force in Moldova, and an interruption of closer political cooperation with Morocco after a trade conflict related to the disputed territory of Western Sahara⁴. Key similarities and differences in effectiveness are discussed below.

ENP-Led Improvements in Morocco and Moldova

The ENP has resulted in a series of incremental changes in labour standards of modest magnitude in both countries, particularly over the first decade of its implementation, but have followed different trajectories over the past years.

Upon the launch of the ENP in 2004, both countries adopted a series of reforms to bring themselves in conformity with ENP expectations regarding labour standards. These entailed legal and regulatory reforms, especially with respect to the elimination of child labour, non-discrimination, and at a later stage, occupational safety and health (OSH). Since 2015, Moldova has embarked on a path of additional ambitious reforms to meet the DCFTA requirements regarding harmonisation with EU labour directives, with no comparable progress in the case of Morocco. Regulatory improvements regarding freedom of association and collective bargaining have been largely absent. Morocco still refrains from ratifying ILO Convention 87 on freedom of association and right to organise.

There have also been some improvements at the implementation level. State enforcement of national regulation improved in the formal sector, particularly in Moldova, as the state labour inspectorates benefitted from training regarding the organisation of inspections, better management of human resources, registry of work accidents, and prevention of non-compliance. In the case of Moldova, however, major legal and regulatory reforms since 2015 were accompanied by a significant deterioration of national enforcement capacity of the state labour inspectorate, as the government adopted a series of reforms to reduce regulatory burden on private companies. The ENP has also contributed to strengthening of social dialogue in both

⁴ The European Union, 2019. 'The EU Support to Morocco: Limited Results So Far' https://www.eca.europa.eu/Lists/ECADocuments/SR19_09/SR_Morocco_EN.pdf.



Moldova and Morocco, particularly at the tripartite national level, although with limited influence on promoting greater protection of workers.

A summary of the areas of convergence and divergence between Moldova and Morocco is shown below:

Table 1: ENP-Led Changes in Labour Standards Over Time

	<i>Moldova</i>	<i>Morocco</i>
Initial State (2004)		
<i>Regulatory Framework</i>	<ul style="list-style-type: none"> • Ratified all (Moldova) and most (Morocco) relevant international conventions. • Relatively adequate national framework, with caveats: <ul style="list-style-type: none"> ○ Some groups of workers not covered by the Labour Code; ○ Freedom of association and collective bargaining too constrained; ○ Insufficient protections in the areas of child labour, gender equality and OSH. 	
<i>Implementation</i>	<ul style="list-style-type: none"> • Implementation undermined by weak public administration. • Prevalence of informal employment, union right violations, child labour, gender inequality, and high accident rates. 	
Change over Time (2005-2015): Modest but continuous improvement		
<i>Regulatory Framework</i>	<ul style="list-style-type: none"> • Reforms to harmonise with international (Morocco) and EU (Moldova) standards, especially in the areas of gender inequality and OSH. • Government programmes to combat child labour and gender inequality, sometimes with ENP funding. 	
<i>Implementation</i>	<ul style="list-style-type: none"> • Improvements in state monitoring and enforcement capacity, especially in the areas of child labour and OSH. • Strengthening of tripartite social dialogue at the national level to engage social partners. • Decline in child labour, OSH and gender inequality (in Moldova). 	
Key Changes since 2016: Divergent Pathways		
<i>Regulatory Framework</i>	<ul style="list-style-type: none"> • Major reforms to transpose EU directives in the areas of labour relations, OSH and gender equality. 	
<i>Implementation</i>	<ul style="list-style-type: none"> • Significant deterioration of the enforcement capacity of the state labour inspectorate. 	<ul style="list-style-type: none"> • Continued collaboration between EU-OSHA and Moroccan INCVT⁵

Mechanisms of Influence

The main mechanism of influence to encourage reforms in Moldova and Morocco has consisted of a combination of light pressure, persuasion and policy guidance at the inter-state level. This has taken place primarily in the framework of regular encounters of Association/Cooperation committees, based on the Action Plans that set reform objectives to achieve over three-to-five years periods, and regular monitoring of the progress achieved. Major benefits included

⁵ INCVT stands for national Institute of Working Life, while EU-OSHA stands for European Agency for Safety and Health at Work



increased familiarity of NCs governments with EU standards, greater sensibility towards human and labour rights issues, and policy learning.

The promise of greater trade privileges might have encouraged reforms initially. However, NCs have realized relatively quickly that they would have retained eligibility for financial assistance even without making sufficient progress in areas of lower priority for the EU. Labour reforms were also not connected with the use of alternative material incentives (or sanctions), such as mobility arrangements and financial assistance, that were used primarily to encourage reforms in other policy areas.

In both countries, financial incentives mattered more for improving domestic state labour administrative and enforcement capacity. Labour ministry officials and labour inspectors from both Moldova and Morocco have participated on a regular basis in twinning training programs with EU counterparts. A notable impact of these trainings is the higher importance placed on risk assessment, preventative labour inspections, and OSH.

Limitations

The approach to the implementation of the labour standards promoted through the ENP also reveals a series of important limitations that are somewhat interrelated.

A first limitation refers to the low prioritisation of labour standards throughout the ENP implementation process, especially over the past years. Material incentives and more intense political pressure have never been used to address concerns with poor labour standards in their national contexts. The low importance attached to the promotion of labour standards through the ENP has become particularly evident over the past years as the ENP underwent major reforms to respond to political and security crisis, in 2011 and 2015 respectively. This is reflected by *Table 2* that reports the frequency with which specific labour standards were assessed by the ENP. With the exception of OSH, there has been a declining trend in labour standards' reporting after 2011, as compared to the previous period.

Table 2: Labour Standards Evaluated in Progress Reports and their Frequency of Reporting (%)

	Social Dialogue	Freedom of Association	Child Labour	Non-Discrimination	Health and Safety
All countries	70.4	65.9	53.6	89.4	38.0
Moldova	93.8	56.3	93.8	100	87.5
Morocco	90	90	80	100	30
Pre 2012	76	76	49	92	18
Post 2011	49	38	34	82	21



A second shortcoming refers to the selective scope of ENP labour governance approach, that focused on some labour standards while neglecting others, in function of their coherence (or lack thereof) with other key objectives. As illustrated by *Table 2*, the ENP has promoted reforms primarily in the realm of fundamental labour rights, that were more coherent with its ambitions to promote human rights. Standards related to working conditions (adequate pay, working hours, formality of employment), that might be at odds with the competitiveness of NCs as cheaper manufacturing sites for offshoring and outsourcing activities of EU companies, have mostly been neglected. The only exception in this regard is OSH, that is also related to product health and safety standards, and as such is more compatible with the market integration objective.

Thirdly, relying on the use of political dialogues through the ENP favoured progress at the formal level, with limited influence on the actual implementation of labour standards as it: 1) limited involvement of NCs actors to top government officials and state bureaucrats, 2) restrained focus on more “reportable” regulatory reforms at the *de jure* level, and 3) failed to compel compliance when NC governments were reluctant to adopt more difficult reforms. The promotion of social dialogue did not compensate for these deficiencies. At the national level, the participation of non-state actors remained mediated through and controlled by their national governments. The ability of labour unions to represent workers’ interests has been limited by prioritisation of economic competitiveness by national governments, often as a result of, or in alliance with, internationally-oriented domestic companies and industry associations. Civil Society Forums have not yet been able to facilitate the engagement of domestic labour organisations that are often unaware of the existence of these institutions and generally lack the power to influence discussions and raise labour issues.

Finally, the financial and technical assistance provided thus far has largely failed to build domestic capacity to enforce reforms, or make workers benefit from new market opportunities. EU assistance provided to Moldova and Morocco through the ENP has been largely insufficient and inadequate to improve labour standards on the ground. With respect to state administrative capacity, for example, the material and human resources available to relevant ministries and labour inspectorates remain inadequately low. This has been particularly prominent in the case of Moldova, where the introduction of more legally binding conditionality through the DCFTA was not accompanied by sufficient emphasis on and support for state administrative capacity to improve prospects for implementation. In fact, the number of labour inspectors has declined in both countries.



Interaction with domestic and international actors

In absence of a more effective ENP implementation approach, the relevance of domestic and other international organisations active in Moldova and Morocco has become more accentuated.

Domestic labour unions have played a more important role in supplementing or complementing weak state enforcement in Moldova, where the national labour union confederation is more representative and unified, than in Morocco. The influence of domestic industry associations appears more mixed, but large export-oriented companies and export processing zones have undermined improvements in union rights and practices in both countries.

In both contexts, the most relevant international organisation has been the International Labour Organisation (ILO). The ILO has, for example, played an important role in both countries in combatting child labour, and in providing technical assistance to relevant state and non-state actors, both in terms of labour regulatory capacity and worker training. These interventions were at times directly connected to the ENP Action Plan commitments of NCs governments; but more often, overlapped merely in the objectives pursued.

While the ILO has largely reinforced EU efforts to promote labour standards in its eastern and southern neighbours, other international organisations, multinational enterprises (MNEs) and the World Bank, have at times undermined progress. Interviews with domestic stakeholders suggest that the administrative reforms encouraged by the World Bank in Moldova eventually led to a significant decline in the ability of the state labour inspectorate to conduct unannounced visits and a shift of its authority to a regional agency without adequate capacities.

Concluding remarks

As one of the most ambitious foreign policies of the EU, the ENP reflects both prospects and limitations to promote labour standards in third countries through trade-based governance. This brief argued that the use of soft measures through the ENP led to incremental improvements in workers' protection in developing countries. However, major drawbacks still remain, especially in its implementation and limited success only in the formal sector.

Prioritising some areas is crucial to address these drawbacks. This includes: an increased priority of labour issues in the ENP implementation approach; a broader scope of ENP labour governance approach that focuses on all aspects of labour standards; greater emphasis on building domestic capacity – both of state and non-state actors, to facilitate conformity; and coordination with domestic and international actors such as the ILO and labour unions in the national contexts, to achieve better results.



Our findings provide support for treating labour standards as parts of development programmes aiming to improve the conditions of domestic gains from increased trade. Such approach requires linking the enforcement of non-trade related rules to improvements in the capacity of domestic public and private actors to benefit from increased trade. Isolated, or fragmented policies that target civil society organisations (CSO), states' administrative capacity or tripartite institutions alone have little effect, if they are separated from assistance that can increase domestic benefits from trade. Such assistance includes financial but also technical assistance to facilitate the realisation of an ambitious set of goals for NCs. Without sufficient targeted funding, enforcement of labour reforms is difficult.

Lastly, the EU can leverage the presence of other international organisations in NCs by engaging these organisations in dialogue and coming up with a complementary or synergistic approach that utilises the resources of all the parties, without any of them constraining another.