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Externalizing Migration Control to the MENA Region: Egypt

Amid ongoing conflicts and displacement in the Middle East and North Africa (MENA) region, the European Union Commission President Ursula von der Leyen and five other European leaders signed a joint declaration for a "strategic and comprehensive partnership" with Egypt on March 17, 2024. Von der Leyen stated that the partnership between the European Union (EU) and Egypt is of "critical importance," and that Egypt's strategic location in "a very troubled neighborhood" will only increase the importance of these ties over time.

The partnership with Egypt is not unprecedented. It follows a series of similar deals that the EU has recently rushed into signing with other countries in the MENA region, such as Tunisia, Lebanon, and Mauritania. The pattern in these deals is clear: the EU offers financial support to these struggling countries while boosting their capacities to curb irregular migration toward Europe.

This explainer outlines the EU's partnership with Egypt, focusing on its migration and mobility component, with a particular emphasis on non-Egyptians seeking to migrate to Europe from Egypt. It examines the legal framework, policies, and practices applied to refugees and asylum seekers in Egypt, showing that this partnership currently functions as a short-term security measure intended to stop refugees from reaching Europe.

The EU-Egypt partnership in a nutshell

According to the European Union's communication about the deal, the three-year partnership with Egypt is based on six pillars: strengthening political relations between Egypt and the EU; supporting economic stability in Egypt; promoting investment and trade; managing migration and mobility; collaborating on security and law enforcement; and developing human capital. The partnership comes with a financial package of €7.4 billion (about $8 billion at the time of signing), including €5 billion in soft loans, €1.8 billion to support investments, and €600 million in grants, of which €200 million are earmarked for migration control.

The EU said its partnership with Egypt is guided by the principles enshrined in the United Nations Charter and other relevant multilateral agreements between the EU and Egypt, including the EU-Egypt Partnership Priorities 2021-2027, of which controlling the migration and mobility is a key component.

The collaboration between the EU and Egypt on migration control is not the first of its kind. In 2022, the EU agreed to provide Egypt with €80 million ($84 million) to curb irregular migration by strengthening Egypt's coast and providing border guards with surveillance equipment. This approach aligns with the EU's longstanding migration externalization strategy, which aims at preventing migrants from reaching Europe by outsourcing the border control to non-EU countries.

Mirroring the EU deal with Tunisia, as the blueprint for migration control partnerships, the EU grants Egypt €200 million to "control illegal migration from border management to anti-smuggling and return." This is despite the fact that the Tunisia deal was widely criticized by human rights organizations for failing to achieve its purposes and instead increasing violations against migrants. The deal with Egypt purportedly aims to support Cairo in organizing legal migration pathways, addressing the root causes of irregular migration, combating smuggling and human trafficking, boosting border management, and securing dignified return and reintegration.

It is important to note that this deal comes in the context of the war on Gaza and the ongoing armed conflict in Sudan, both of which have contributed to a massive increase of refugees who have crossed the border into Egypt. According to the EU Commission President: "Egypt's role is vital for the security and stability of the Middle East; it hosts a growing number of refugees, and we have a responsibility to support it." To that end, the EU has pledged to support Egypt's efforts in hosting refugees, with both sides having assured their commitment to safeguard refugees' rights.

Domestic legal framework to protect refugees and asylum seekers' rights in Egypt

Egypt hosts nearly 9 million migrants according to governmental estimates, and as of September 2024, around 800,000 were registered as refugees with the UN Refugee Agency (UNHCR).

Egypt has acceded to the Convention Relating to the Status of Refugees (known as Refugee Convention) and its Protocol in 1981, in addition to the Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention) in 1980. However, Egypt did not have a comprehensive and unified legal framework governing refugees and asylum seekers until 2024, when it enacted a new asylum law.

Prior to passing the new asylum law, Article 91 of the Egyptian Constitution was the sole constitutional provision recognizing refugees. However, it focuses on protecting political refugees only and ignores those persecuted based on other grounds. In general, Egyptian law did not provide a unified framework to regulate

refugees' rights. Instead, it subjected them to various laws governing foreigners, such as Law No. 89 of 1960 and Ministerial Decree No. 8180 of 1996 that regulate the entry and residence of foreigners. Egyptian law also provided some selectively applied privileges to certain nationalities; for example, Sudanese, Yemeni, and Syrian refugees can access public education just like Egyptians, which is not the case for other nationalities.

Subjecting refugees to laws that govern foreigners did not adequately address the particular vulnerability of refugees. For instance, applying the legal provisions that regulate the work of foreigners to refugees imposed restrictions that fail to account for their circumstances, and their numbers in the country. These included limiting non-Egyptian employment in any facility to 10 percent of Egyptian workers and requiring at least three years of experience. The procedures also included complicated requirements for employers to secure work permits for refugees, including documents such as valid passports and professional and academic certificates, notarized by either the Ministry of Foreign Affairs or the Egyptian embassy in their country of origin.

Throughout the past seven decades, Egypt delegated to the UNHCR the responsibility to determine refugee status, facilitate durable solutions for refugees' voluntary repatriation or resettlement, and provide refugees with financial assistance. Doing so, Egypt had limited its responsibility to issuing residency permits and travel documents to those the UNHCR had granted refugee status.

On December 16, 2024, Egyptian President Abdel Fattah El-Sisi ratified a new law aimed at regulating the asylum and refugee affairs in the country for the first time. The UNHCR's delegated responsibilities were thus transferred to a newly-established governmental body, the Permanent Committee for Refugee Affairs. The law was passed with alarming haste and without properly consulting civil society or other stakeholders. An EU diplomat stated that the authorities' rush to enact this law was geared by pressure from the EU as part of the EU-Egypt partnership.

While enacting a unified law to protect refugees and asylum seekers in Egypt was a crucial step, human rights groups and lawyers see the new asylum law as highly problematic. Twenty-two Egyptian and international organizations have opposed it, stating that it poses grave risks to refugees and asylum seekers in the country. For example, the Permanent Committee for Refugee Affairs can revoke refugee status from anyone who criticizes the Egyptian government under the pretext of undermining national security—a charge commonly used by the Egyptian authorities against peaceful domestic critics.

The new law also risks violating the international principle of *non-refoulement*, allowing the deportation of individuals to countries where their lives and freedoms are at risk. Although it includes a provision prohibiting the *refoulement* of recognized refugees, the law fails to extend this protection to asylum seekers or those whose refugee status has been revoked.

Moreover, the law fails to provide any form of temporary protection or basic rights for asylum seekers while their applications are being processed—a significant regression from the UNHCR's practice, which provides temporary protection to asylum seekers and ensures their access to basic rights. According to Amnesty International, the law "unduly restricts the right to seek asylum, and enables unlawful returns without procedural safeguards. Further, it includes discriminatory provisions restricting refugees' and asylum seekers' freedom of movement, and fails to fulfil their rights to education, housing and social security."

The human rights situation of refugees and asylum seekers in Egypt

Asylum seekers and refugees in Egypt face numerous abuses that endanger their safety and wellbeing. For instance, Human Rights Watch documented how Egyptian authorities arbitrarily arrested at least 30 Sudanese refugees and asylum seekers between December 2021 and January 2022, subjecting some to forced labor and beatings. The Refugee Platform in Egypt also reported how asylum seekers, unaccompanied children, newborns, and individuals with expired documentation are especially vulnerable to exploitation and denial of their basic rights, including access to healthcare, education, and justice. Accessing these services often depends on presenting proofs of identity or valid residency permits—requirements that many of these individuals cannot easily fulfill.

Refugees and asylum seekers in Egypt are also subject to discrimination. The Refugee Platform in Egypt reported a wave of discriminatory and arbitrary arrests in early 2024 targeting refugees based on their skin color, irrespective of their residency status. The Refugee Platform also noted the "sharp escalation" of hate speech and anti-refugee rhetoric in Egypt in recent years, with calls to expel refugees under the pretext that they burden the county's economy. This anti-refugee rhetoric, particularly against those of African descent, has been fueled by the government's recent promotion of "racial nationalism." This discourse, which celebrates a supposed racial and pharaonic purity of Egyptians, risks legitimizing hate speech against black and other ethnic groups of refugees and migrants.

The mass *refoulement* of asylum seekers is also a common practice by Egyptian authorities. In April 2024, The New Humanitarian reported that Sudanese asylum seekers coming to Egypt had been captured and rapidly deported back to Sudan without any legal process. Some victims testified that they had been pursued by military vehicles, and that border control had fired live ammunition at their vehicles or in the air. In April 2022, UN experts condemned Egypt's expulsion of at least 68 Eritrean asylum seekers, including children, despite the risks of them facing torture, arbitrary detention, and enforced disappearance in Eritrea. Similarly, Amnesty International and UNHCR have reported on the mass deportation of thousands of Sudanese refugees and asylum seekers back to Sudan. These individuals have been subjected to mass arrests and endured cruel and inhuman detention conditions in Egypt, before being forcibly deported to an active war zone.

Will the EU-Egypt deal succeed in achieving its goals?

It is too early to analyze the deal's outcomes. However, a broader glance at the EU's externalization policy and similar deals with countries like Tunisia, Mauritania, Turkey, and others suggests that the EU's approach has not only failed to meet its objectives, but has also contributed to severe human rights violations against migrants.

The current EU deal with Egypt appears unlikely to achieve better results. Notably, previous deals with the country have not significantly reduced migration flows to Europe; they have merely shifted migration routes and resulted in riskier conditions and increased human rights violations. Given Egypt's inadequate legal framework for protecting refugees and asylum seekers, the widespread rights violations committed by Egyptian authorities against refugees, and the country's ongoing economic crisis, it is unreasonable to expect that this partnership will result in anything beyond a short-term solution to suppress migration in an *ad hoc* and unsustainable manner.

Moreover, by outsourcing border control to countries known for their bad human rights records, the EU empowers these regimes and risks contributing to widespread human rights abuses against migrants. For instance, according to an investigation published by *The Guardian* in September 2024, EU funding to Tunisia was used to empower security forces accused of beating migrants, raping women, and leaving them to die in the desert.

The EU's approach turns a blind eye to the ongoing human rights violations against refugees in Egypt, and enables the Egyptian regime to leverage them to receive more funding from the EU. Without conditioning

a meaningful and tangible human rights reforms in Egypt, along with adopting due diligence measures to ensure that the EU funding will not contribute to human rights abuses, the partnership appears to be only a reward for Egypt's short-term security actions to curb migration, with refugees likely to keep trying to find ways to leave for Europe, resulting in the same adverse outcomes seen from previous deals.