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# Externalizing Migration Control to the MENA Region: Tunisia

Spanning from Libya and Tunisia to Italy and Malta, the central Mediterranean route has become both the most heavily used and deadliest migration path for those trying to reach Europe. By 2023, Tunisia, in particular, had emerged as a vital bridge between Europe and sub-Saharan Africa, with the conflict in Libya and the start of the war in Sudan leading to a surge in migrant flows. As a result, Italy received 97,306 migrants from Tunisia in 2023, nearly double the number recorded in 2022. Over 400 migrant deaths were recorded between January and March 2023 alone, making it the deadliest quarter for migrants since 2017, according to the International Organization for Migration.

In response to this increase in migration numbers, EU member states urged the European Council to explore "new" comprehensive solutions to tackle the root causes of irregular migration by developing partnerships with third countries. In this vein, a European delegation, led by Italian Prime Minister Giorgia Meloni, the European Commission President Ursula von der Leyen, and former Dutch Prime Minister Mark Rutte signed a Memorandum of Understanding (MoU) with the Tunisian President Kais Saied in July 2023 for a "strategic and global partnership." Von der Leyen called this MoU a "blueprint for the future," paving the way for similar EU partnerships with other countries in the Middle East and North Africa (MENA), including Egypt and Lebanon. These deals share common purported goals: to help the struggling economies of these countries and enhance their ability to reduce irregular migration toward Europe.

This explainer addresses the EU-Tunisia migration strategy outlined in the MoU, focusing on its specific impacts on refugees and asylum seekers. It provides insight into the lack of legal protections for these groups in Tunisia and the reported experiences of human rights violations, and concludes with an analysis of the strategy's broader implications.

## The EU-Tunisia MoU in a nutshell

Border "externalization" refers to the EU's strategy of seeking to prevent and manage migration by shifting border control responsibilities and procedures to non-EU states—an approach that has become increasingly central to the bloc's migration policy.

The EU-Tunisia MoU establishes a partnership based on five main pillars: promoting macro-economic stability, enhancing the economy and trade, accelerating the green energy transition, fostering community

engagement, and managing migration and mobility. This partnership includes €105 million (around $112 million) specifically allocated to strengthen Tunisia's border control and curb irregular migration.

While the MoU is presented as a comprehensive framework to strengthen the ties between the EU and Tunisia, with a focus on border security, dismantling smuggling networks, and improving joint sea rescue operations, concerns have been raised about the connection between these funds and human rights abuses Tunisian authorities commit against migrants. Notably, Tunisian authorities have been repeatedly criticized for the detention, inhumane treatment, and forced expulsion of refugees and asylum seekers. The European Commission even withheld the findings of a human rights inquiry conducted in Tunisia prior to the deal's announcement. Dunja Mijatović, the Council of Europe's Commissioner for Human Rights, has criticized the MoU for its vague human rights language and the absence of concrete safeguards. She underscored the necessity of a comprehensive human rights risk assessment, full transparency in funding, independent monitoring mechanisms, and the suspension of any activities that could breach the rights of migrants, refugees, and asylum seekers.

On January 24, 2025, *The Guardian* reported that the European Commission was "fundamentally overhauling" its payment mechanisms to Tunisia following revelations of violations, including sexual violence against migrants, by EU-funded security forces. Accordingly, European officials are establishing criteria to ensure that future payments to Tunisia are contingent upon the non-violation of human rights.

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

Despite being a party to the 1951 Convention Relating to the Status of Refugees (Refugee Convention), its 1967 Protocol, and the 1974 Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention), Tunisia has yet to harmonize its domestic law with these international instruments. Although a comprehensive domestic legislation was drafted in 2014 to create a national protection system for refugees and asylum seekers, it has yet to be adopted and implemented. As a result, Tunisia lacks a unified legal framework that recognizes the particular vulnerability of refugees and asylum seekers and protects their rights.

Under domestic law, Article 32 of the Tunisian Constitution grants the right to asylum solely to political refugees, excluding other asylum seekers facing persecution on different grounds. Instead of a dedicated

asylum framework, Tunisia relies on fragmented laws pertaining to foreigners to address their situation, such as Law No. 68-7 of 1968 which regulates the condition of foreigners in Tunisia. This law grants the Ministry of the Interior significant discretionary powers to issue expulsion orders against foreigners deemed threats to public order and to designate where individuals unable to leave Tunisia must reside.

Within this legal framework, there is a significant risk of violating the principle of *non-refoulement*, which prohibits returning refugees to places where their life or freedom would be at risk, as Tunisia's laws do not provide specific safeguards to ensure compliance with this principle. While the Refugee Convention allows for expulsion under narrowly defined circumstances, such as threats to national security, it also emphasizes the necessity of procedural safeguards. These include access to legal representation, independent judicial review, and the opportunity to contest expulsion decisions. Moreover, the Convention Against Torture prohibits expelling or extraditing anyone to any state where there are substantial grounds to believe that they might be subject to torture. Tunisian law, however, does not offer such protections, meaning expulsion decisions could be made without adequate review or restrictions.

The absence of a comprehensive asylum framework leaves refugees and asylum seekers vulnerable, and forces them to navigate a system designed for foreigners more broadly, undermining their specific needs. This legal gap heightens the risk of arbitrary removals and leaves refugees without sufficient recourse to challenge decisions or ensure their rights are upheld under Tunisian law.

## The human rights situation of refugees and asylum seekers in Tunisia

Daily, refugees and asylum seekers in Tunisia struggle to meet their basic needs. Many arrive with prior income sources, hoping to continue their migration but rely on limited informal support. Access to essentials like healthcare, food, and education is scarce, particularly for youth and families. Without legal status, most cannot secure residence permits or the necessary documentation for formal jobs or services. A survey shows that three-quarters of migrants struggle to regularize their stay, with all interviewed workers finding it nearly impossible to extend legal status beyond the initial three-month permit. This situation deepens long-term precarity, pushing many to consider leaving Tunisia for better opportunities.

In Tunisia, the United Nations Refugee Agency (UNHCR) manages refugee registration and status determination, with over 12,000 refugees currently registered in the country. However, migrants in Tunisia endure long registration delays and lack adequate support, with minimal access to vital resources such as

food, shelter, and healthcare. Many are left to fend for themselves, relying on meager aid from local volunteers to fill the gap left by the inaction of the government and international aid organizations. Even when registered with the UNHCR, the lack of supporting national legislation renders the refugee's access to their rights largely ineffective: they neither grant access to essential services nor permit employment. As of June 2024, Tunisia has suspended the processing of asylum applications due to insufficient funding.

The EU-Tunisia MoU comes amid mounting evidence of serious human rights violations and abuses committed against refugees and asylum seekers by the Tunisian authorities, including rape, beatings, kidnapping, and forced removals at land and sea. Conditions are equally dire for those attempting to leave the country; reports indicate that Tunisian authorities employ hazardous tactics during interceptions at sea, such as using firearms, removing boat engines and fuel, and maneuvers that can cause boats to capsize.

A deeply troubling aspect of these abuses is the reported increase in sexual violence committed by Tunisian authorities. According to a report by the World Organization Against Torture, there has been a marked surge in acts of sexual violence and human trafficking, enforced disappearances, and family separations targeting refugees and asylum seekers between November 2023 and April 2024.

Anti-immigrant sentiment has also increased in the country, with reported acts of racial discrimination against migrants, including incidents in which migrants are denied access to shops, healthcare services, and public transportation. This situation has worsened under President Saied's administration, marked by repressive measures including arrests and investigations targeting organizations providing aid to migrants. On February 24, 2023, the country's National Guard spokesperson announced that Tunisians who shelter or employ irregular migrants would be subject to arrest. Soon after, President Saied made incendiary remarks that further fueled hostility. He framed the presence of sub-Saharan migrants as part of a "plot" to change Tunisia's demographic composition, calling them "hordes" bringing "violence, crime, and unacceptable practices." Saied warned that Tunisia risks becoming "just another African country" detached from its Arab and Islamic identity.

In the aftermath of these statements, racial discrimination and violent attacks targeting sub-Saharan migrants surged, forcing many to flee, face forced expulsions or be arbitrarily evicted from their homes, and lose their jobs. In response, the UN Committee on the Elimination of Racial Discrimination urged Tunisia's highest authorities to publicly condemn this inflammatory rhetoric and racist hate speech propagated by political leaders and public figures.

Tunisian authorities—including the police, national guard, and coast guard—appear to implement a coordinated policy of mass expulsions and deportations, particularly from the port city of Sfax. Hundreds of migrants and refugees have been forcibly displaced to the country's borders with Libya and Algeria, where they were reportedly abandoned in the desert without access to food or water. In addition, a number of expelled and stranded migrants in border areas have been evacuated and placed in migrant centers across Tunisia. These facilities are widely criticized by human rights organizations for their inhumane conditions and for operating like detention centers. Footage from El Ouardia detention center in Tunis revealed severe overcrowding, unsanitary conditions, mistreatment, and an overall lack of freedom.

## Will the EU-Tunisia deal succeed in achieving its goals?

The EU's migration management strategy has led to incalculable deaths, widespread human rights violations, and perilous migration routes. While European intervention has recently reduced irregular departures from Tunisia, the country remains a significant transit point. In 2023, Tunisian authorities intercepted around 70,000 migrants, 77.5 percent of whom were sub-Saharan Africans, as conflicts in the region have continued to drive displacement toward Tunisia.

While the European Commission's recent decision to overhaul funding to Tunisia to prevent human rights violations is commendable, it must be paired with strict benchmarks and a political will to evaluate the country's human rights record and specific measures developed with Tunisian civil society to ensure the full protection of migrants rights. Without such measures, the partnership risks fueling existing human rights abuses within Tunisia.

Moreover, without developing a comprehensive legal framework in Tunisia to protect refugee rights, and given the harsh realities migrants face there, this partnership may turn into a temporary and superficial solution that overlooks migration's deeper causes. Ultimately, this partnership will only increase the vulnerabilities of those it intends to support, while failing to effectively stem the continuing flow of people risking their lives to seek refuge in Europe.