



UNFORESEEN DILEMMAS: THE EU-TUNISIA MIGRATION DEAL IN LIGHT OF HUMAN RIGHTS CONCERNS. WAS IT A MISTAKE?

Nargiz Mustafazade

May 2024

About EUROPEUM

EUROPEUM Institute for European Policy is a non-profit, non-partisan, and independent think-tank focusing on European integration and cohesion. EUROPEUM contributes to democracy, security, stability, freedom, and solidarity across Europe as well as to active engagement of the Czech Republic in the European Union. EUROPEUM undertakes original research, organizes public events and educational activities, and formulates new ideas and recommendations to improve European and Czech policy making.



**Co-funded by
the European Union**



With Libya bolstering its border security over the last two years, Tunisia, particularly the city of Sfax, has emerged as the primary exit point for asylum seekers and refugees, especially those originating from sub-Saharan African nations. Since the number of arrivals to the Italian island of Lampedusa reached staggering 85,000 in the first six months of 2023¹, the EU reacted to this problem by strengthening its cooperation with Tunisia through a signing of a Memorandum of Understanding with President Kais Saied. However, the EU's partnership with Tunisia raises concerns over apparent oversight of ongoing human rights abuses in the country, putting the partnership between the EU and Tunisia under question. Is the EU about to make another mistake after similar agreement with Türkiye² which is often seen as a means through which the ruling party AKP (Justice and Development Party) was able to withstand EU's criticism following Turkey's domestic measures after the 2016 coup only to strengthen its authoritarian rule as a result³.

Tunisia under ruling of Kais Saied

As a series of protests from early 2010's, currently known as Arab Spring, evolved into a wave of revolutions across the Middle East and North Africa, these movements initially found a strong support from the EU Member states, much like from the rest of the world. However, dissatisfaction arose in the Western hemisphere regarding the nature and priorities of the newly formed governments which were expected to bring change and democratize the region. As the achievements of popular uprisings in the region gradually dissipated, the resulting chaos posed a challenge to the EU. Newly created instability, coupled with a

¹ International Organization for Migration; Global Data Institute, Europe Arrivals 2023 (<https://dtm.iom.int/europe/arrivals>)

² European Commission portal, EU Turkey Agreement, 2016 (<https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>)

³ Freedom House country reports for Turkey from 2016 to 2023 (<https://freedomhouse.org/country/turkey/freedom-world/2023>)

growing influx of irregular migration from Sub-Saharan Africa, prompted EU governments to enact various measures to address the issue.

The EU's agreement aimed at curbing irregular migration seeks to impede the flow of migrants through the Mediterranean via Tunisia. However, the Mediterranean has become both a tragic graveyard for migrants and a stage for Tunisia's harsh measures to deter them, representing an inhumane approach which should be condemned by the EU. Recent actions by Tunisian security forces, such as rounding up migrants and abandoning them at the borders of Libya and Algeria, do not offer a sustainable solution but rather exacerbate the issue. Even if the EU were to achieve significant progress in curbing irregular migration and minimizing casualties in the Mediterranean, the anti-migrant rhetoric, and policies of the Saied government in Tunisia suggest a potential deepening of the problem.

In contrast to Kais Saied projected image of a principled politician who emphasizes the importance of the rule of law, transparency, the preservation of democratic gains, and adherence to the principles of the 2011 popular revolution, which was witnessed during his presidential campaign in 2019, he swiftly disrupted political balances in the country and exhibited efforts towards a reversion to authoritarianism through his subsequent decisions. Saied effectively monopolized the interpretation of the Tunisian constitution, thereby creating an absolute sphere of action for himself.

Turmoil and insecurity within Libya, which was for a long time seen as the easiest route to Europe, made internal travel perilous for migrants, prompting a gradual shift in the route towards Tunisia. Since the beginning of 2023, more than half of the irregular immigrants have used Tunisian coast as a starting point. Moreover, last year influx to Italian island Lampedusa was significantly higher than in the previous years which was a main indicator of a further potential rise in migration to Europe through Tunisia.

Concerns raised in Brussels over EU-Tunisia deal

On July 16, 2023, President of the European Commission Ursula von der Leyen accompanied by Italian Prime Minister Giorgia Meloni whose country suffer the increasing number of illegal refugees, and Dutch Prime Minister Mark Rutte, travelled to Tunisia to sign a "strategic partnership" agreement aimed at addressing the surge in boats departing from North Africa for Europe by combating human traffickers and enhancing border controls.

The agreement with Tunisia was modelled after the 2016 agreement signed by the EU with Turkey, which, although sometimes controversial, was quite successful in reducing the flow of illegal migrants to Europe. In order to protect his autocratic government, Erdogan has been using the flow of illegal migrants to Europe as a threat for many years, and it can be expected that Europe will refrain from taking certain politically sensitive steps against this undemocratic regime for years to come. It can be argued that the same scenario can repeat with Kais Saied as he continues to strengthen his one-man-centered power just like Erdogan does, while using the leverage of the deal with the EU to his benefit.

Of particular concern is the absence of human rights conditionality within the agreement between the EU and Tunisia. It is obvious from the agreement that there are no provisions for assessing or monitoring the agreement's impact on human rights, nor mechanisms for suspending cooperation in cases of abuse⁴. This lack of safeguards raises doubts about the EU's commitment to the protection of human rights in its cooperation with Tunisia. The European Commission made a decision to negotiate an agreement in secret, as they could have anticipated it could lead to more human rights problems for migrants and refugees based on

⁴ Memorandum of Understanding on a strategic and global partnership between the European Union and Tunisia, 16 July 2023
(https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3887)

previous experience in Libya where the continuous violence against people on the move was recorded⁵. Responding to these concerns, the European Ombudsman has sought clarification from the Commission on how it plans to ensure human rights are respected within the agreement⁶. This action reflects multiple efforts to hold the Commission accountable and ensure that any collaboration with Tunisia prioritizes human rights considerations. To prevent the EU from being involved in human rights violations and repression, it's important for its interactions with other countries on migration to have strict conditions and monitoring tools which can uphold basic human rights.

According to the agreement the funds going to Tunisia were split into 2 parts: first €60 million to support Tunisia's regressive economy and around €67 million to strengthen border controls and deter migrant boat departures. However, after a while Saied changed his mind about the previously agreed-upon and partially paid agreement of €127 million and refused the idea of Tunisia being a guard country for Europe⁷. In reaction to this, Olivér Várhelyi, the European Commissioner responsible for enlargement and neighbourhood policies, escalated the situation by openly suggesting that Tunisia should return the €60 million if it does not wish to accept it. On October 9, Tunisian government handed back the mentioned amount which caused the further deterioration of the relationships.

⁵ EU External Partners: Violence Against Migrants in Tunisia and Libya Continues — EU to Determine Upcoming Funding Decision for UNRWA Amid “Strong Concern” Over the Dramatic Humanitarian Situation — Europe Looking for New Partners to Externalise Asylum, 2 February 2024 (<https://ecre.org/eu-external-partners-violence-against-migrants-in-tunisia-and-libya-continues—eu-to-determine-upcoming-funding-decision-for-unrwa-amid-strong-concern-over-the-dramatic-hum/>)

⁶ Ombudsman asks Commission about respect for fundamental rights in EU agreement with Tunisia, 25 September 2023 (<https://www.ombudsman.europa.eu/en/news-document/en/175203>)

⁷ Tunisia is free to 'wire back' EU money if it doesn't want it, says European Commissioner, 5 October 2023 (<https://www.euronews.com/my-europe/2023/10/05/tunisia-is-free-to-wire-back-eu-money-if-it-doesnt-want-it-says-european-commissioner>)

Conclusion

The fate of the EU-Tunisia agreement remains uncertain, although the Tunisian coast guard has reconciled its differences with Brussels and resumed its operations since October 2023. Months after the signing of the agreement, the influx of migrants arriving in Italy has significantly decreased, although there are still individuals risking their lives to reach Europe. At the same time, Saied's potential future actions remain unpredictable, and the current cooperation can be short-lived.

While there is no exact conclusion of the (un)successful deal with Tunisia, von der Leyen's Commission seems to be committed to the establishment of such partnerships also with other countries of the region, as on March 17, 2024, the EU entered into a similar deal with Egypt, planning to provide €87 million and new equipment to continue a migration management project initiated in 2022. In the meantime, the European Parliament and the Council of the EU finally reached an agreement on the New Pact on Migration and Asylum, legislation which seeks to put additional focus on the cooperation with third countries.

Given the current political atmosphere within the EU, it is extremely important that the EU updated its migration policies and has therefore more tools to tackle illegal migration. However, the EU should not overlook human rights abuses occurring in countries which are seen as our crucial partners in the field of migration. Clear conditions on the protection of human rights have to be implemented in any future deals while current situations in Tunisia or Egypt, where mistreatment of refugees and migrants is taking place on daily basis, has to be prevented. Although the EU is slowly finding its way on how to tackle migration, it has to learn from its past mistakes within the agreements with Tunisia, Türkiye, and Libya.