

Balancing Borders and Rights: Evaluating EU-Tunisia Migration Agreements and Future Implications

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TABLE OF ABBREVIATIONS

ACHPR	African Commission on Human and People's Rights
CAT	Committee Against Torture
CFSP	Common Foreign and Security Policy
CMW	Committee on Migrant Workers
CPR	Common Provisions Regulation
EC	European Commission
ECtHR	European Court of Human Rights
EEAS	External Action Service
EU	European Union
FIDH	International Federation for Human Rights (<i>Fédération Internationale pour les Droits Humains</i>)
FRA	Fundamental Rights Agency
HRC	Human Rights Council
HRCttee	Human Rights Committee
HRW	Human Rights Watch
IACHR	Inter-American Commission on Human Rights
ICCPR	International Covenant on Civil and Political Rights
MoU	Memorandum of Understanding

NDICI	Neighbourhood, Development and International Cooperation Instrument
OHCHR	Office of the United Nations High Commissioner for Human Rights
RSF	Reporters Without Borders (<i>Reporters Sans Frontières</i>)
TEU	Treaty on the European Union
UNCAT	United Nations Committee Against Torture
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UNHCR	United Nations High Commissioner for Refugees
UNHRC	United Nations Human Rights Council
UNODC	United Nations Office on Drugs and Crime
UPR	Universal Periodic Review

EXECUTIVE SUMMARY

The European Union (EU) and Tunisia have maintained long-standing political, economic, and diplomatic ties, with migration management a critical aspect of their cooperation. Tunisia is a transit and origin country for migrants seeking to reach Europe, positioning it as a key partner in the EU's external migration policy. In 2023, the EU and Tunisia signed a Memorandum of Understanding (MoU) to curb irregular migration through financial assistance and border management support. However, this agreement sparked significant controversy by causing widespread human rights violations against migrants, raising concerns about the ethical implications of EU funding and the effectiveness of human rights safeguards.

One of the primary concerns surrounding the EU-Tunisia migration partnership is the treatment of migrants within Tunisia. Reports indicate that migrants and asylum seekers face arbitrary detention, forced expulsions, and racial violence. Human rights organisations have documented numerous instances of inhumane treatment, particularly against sub-Saharan migrants, often with indirect EU support. These violations have placed Tunisia under international scrutiny and have intensified criticism of the EU's approach to migration cooperation.

Despite the EU's attempts to condition financial aid on democratic and human rights improvements, enforcement mechanisms remain weak, limiting the effectiveness of such conditions. Migration agreements lack transparency and accountability, exacerbating human rights concerns. Tunisia's increasing political instability and authoritarianism under President Kais Saied have complicated EU-Tunisia relations. The EU now faces a growing dilemma in balancing its migration management objectives with its commitments to human rights and democratic governance.

The challenges observed in the EU-Tunisia migration deal are not unique, rather indicative of broader issues in the EU's external migration agreements. Similar concerns have been raised in partnerships with Egypt, Libya, Morocco, and Mauritania. Without robust safeguards, these agreements risk perpetuating human rights abuses and undermining the EU's credibility as a global advocate for human rights. Moving forward, the EU must take decisive steps to strengthen the human rights framework within its migration policies.

The EU should integrate legally binding human rights clauses into future agreements to ensure greater accountability and ethical migration management. Independent monitoring mechanisms must be established to oversee compliance and prevent human rights violations. Additionally, transparency should be enhanced by including civil society organisations in the negotiation and implementation of migration agreements. Financial aid should be strictly linked to measurable human rights benchmarks, with clear consequences for non-compliance.

Furthermore, comprehensive human rights impact assessments should be conducted before finalising migration agreements to identify potential risks and ensure adequate

protections for migrants. Investing in training programmes for border security forces can also help promote humane treatment and adherence to international human rights standards. Finally, expanding safe and legal migration pathways would provide alternatives to irregular migration and reduce the risks posed by dangerous routes and human trafficking networks.

The EU-Tunisia migration partnership exemplifies the complexities of balancing geopolitical interests with human rights obligations. Strengthening human rights safeguards, increasing transparency, and enforcing conditionality are essential to ensuring that EU migration policies align with international legal standards and ethical principles. By taking a more principled approach, the EU can enhance its credibility and effectiveness in managing migration while upholding its commitment to fundamental rights and democratic values.

INTRODUCTION

The European Union and Tunisia have maintained close political, economic, and diplomatic relations for decades, shaped by historical ties, geographical proximity, and shared strategic interests. Following its independence from France, Tunisia progressively strengthened its relations with the EU's precursor, the European Economic Community. Tunisia was also the first Mediterranean country to sign an Association Agreement with the EU in 1995.

Following the 2011 Tunisian revolution, the EU and Tunisia established a Privileged Partnership in 2012, which translated into the 2013-2017 Action Plan (a more targeted implementation of the instruments provided for in the Association Agreement).¹ In 2014, they established a Mobility Partnership, a joint declaration aiming to facilitate the movement of people between the EU and Tunisia and to promote a common and responsible management of existing migratory flows.²

Over the years, Tunisia has emerged as a key ally in the EU's Migration management policy, especially when regulating irregular movement around the Mediterranean. It serves as both a transit and origin for migrants trying to reach Europe. To improve border security, expertise in asylum processes, and assist development projects that tackle the underlying causes of migration, the EU has made large financial and technical investments in Tunisia. However, questions and concerns about migrant treatment, forced migration, and violations of human rights have led to a re-examination of the EU-funded projects in Tunisia.

This report aims to assess the role of migration management in EU-Tunisia cooperation, focusing on its human rights implications, funding and enforcement mechanisms, and their challenges. The report touches upon the EU's role in promoting human rights abroad and its funding mechanisms in third-world countries, explores geopolitical and political considerations, and provides forward-looking recommendations for improving the integration of human rights safeguards into EU migration agreements.

¹ European External Action Service, 'EU/Tunisia Action Plan' (*European Commission*, 2005).

² European Commission, 'EU-Tunisia: Towards a Privileged Partnership' (*Press release*, 27 February 2014) <https://ec.europa.eu/commission/presscorner/detail/en/ip_14_208> accessed 10 February 2025.

1. THE EU'S MIGRATION POLICY FRAMEWORK

1.1. THE EU'S APPROACH TO EXTERNAL MIGRATION MANAGEMENT

In 2015, a sharp surge in people arriving on Europe's shores pushed EU leaders to rethink how they handle migration. Since then, there's been a growing sense that the EU simply cannot manage these movements of people by focusing only on its borders. After all, many people come from or pass through countries outside of Europe, so it has become essential to collaborate closely with 'external' partners.³

A key part of this strategy involves making deals, sometimes called 'partnerships' or 'arrangements', with countries of origin and transit. One major example is the EU-Turkey Statement from 2016, which outlined that irregular migrants reaching Greece could be returned to Turkey in exchange for billions of euros in EU funding to support Turkey's large refugee population.⁴ Critics warned this move might overemphasise border security and leave people in tough conditions on the other side.⁵ Yet, from the EU's perspective, it slowed the immediate influx of arrivals and opened the door to more organised resettlement procedures.

Meanwhile, the EU's border agency, Frontex, has strengthened its efforts beyond the traditional EU frontiers. It is conducting more training, surveillance, and information-sharing with non-EU countries, such as the nations lining the North African coast.⁶ But debates continue about whether this is being done in line with international law, especially the principle of non-refoulement, which prohibits sending people back to countries where their life or freedom might be at risk.⁷

1.2. OVERVIEW OF EU FUNDING MECHANISMS FOR THIRD COUNTRIES

The EU leverages its financial influence through various funding instruments to support, and at times pressure, countries beyond its borders in managing migration. Today, one of the biggest funds is the Neighbourhood, Development and International Cooperation Instrument (NDICI) – Global Europe, which streamlines most of the EU's external financing

³ European Commission, Communication from the Commission on a New Pact on Migration and Asylum COM (2020) 609 final.

⁴ European Council, 'EU-Turkey Statement' (*Press Release*, 18 March 2016) <<https://www.consilium.europa.eu/en/press/press-releases/2016/03/18/eu-turkey-statement/>> accessed 10 February 2025.

⁵ Amnesty International, 'A Blueprint for Despair: Human Rights Impact of the EU-Turkey Deal' (2017) <<https://www.amnesty.org/en/documents/eur25/5664/2017/en/>> accessed 10 February 2025.

⁶ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard [2019] OJ L295/1.

⁷ Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention), art 33.

into one pot.⁸ This allows the EU to address everything from economic development to governance reforms, which are key factors influencing why people leave their home countries in the first place.

The EU Emergency Trust Fund for Africa (EUTF) deserves special attention, too. It was launched in 2015 mainly to tackle the ‘root causes’ of irregular migration, funding a variety of initiatives, including job training for young people at risk of smuggling, equipment for local border patrol units, and even help for returnees trying to reintegrate into their home communities.⁹

A recurring concern, though, is accountability. The European Court of Auditors has at times questioned whether the EU can truly keep tabs on where this money goes and whether projects actually deliver results on the ground.¹⁰ Even so, there is no doubt that without these funds, many local organisations, and even certain national governments, would struggle to cope with the pressures of migration management and humanitarian assistance.

1.3. THE ROLE OF TUNISIA IN THE EU’S MIGRATION STRATEGY

Tunisia might not make headlines as often as Libya or Turkey, but it is gaining attention as a significant transit—and departure—country for people aiming to reach Europe by sea.¹¹ In fact, some Tunisians are leaving because of economic hardship, while others from different parts of Africa pass through Tunisia on their way north. It is a complicated situation that has only been amplified by political instability and unemployment at home.¹²

Over the years, the EU has pursued closer ties with Tunisia—sometimes through official agreements and sometimes via smaller-scale projects. The EU-Tunisia Mobility Partnership (signed in 2014) encouraged Tunisia to strengthen its border controls and manage returns. In exchange, Tunisia received development aid and other support meant to bolster its economy.¹³ The idea is that if economic opportunities improve, fewer people will feel pressured to migrate.

⁸ European Commission, ‘Global Europe – Neighbourhood, Development and International Cooperation Instrument (NDICI)’ (Factsheet, 8 March 2022) <https://international-partnerships.ec.europa.eu/funding-and-technical-assistance/funding-instruments/global-europe-neighbourhood-development-and-international-cooperation-instrument_en> accessed 11 February 2025.

⁹ European Commission, ‘EU Emergency Trust Fund for Africa’ (Factsheet, 2022) <https://ec.europa.eu/trustfundforafrica/index_en> accessed 11 February 2025.

¹⁰ European Court of Auditors, *Special Report 32/2018: European Union Emergency Trust Fund for Africa: Flexible but lacking focus* (2018).

¹¹ Frontex, ‘Risk Analysis for 2023’ (Frontex Publications, 2023) <<https://www.frontex.europa.eu/media-centre/news/news-release/frontex-risk-analysis-2023-2024-discusses-challenges-at-eu-external-borders-J6vq05>> accessed 10 February 2025.

¹² World Bank, ‘Tunisia Economic Monitor’ (Spring 2022) <<https://www.worldbank.org/en/country/tunisia/publication/tunisia-economic-monitor-spring-2023-reforming-energy-subsidies-for-a-more-sustainable-tunisia>> accessed 10 February 2025.

¹³ European Commission, ‘EU-Tunisia Mobility Partnership’ (Press Release, 3 March 2014) <https://ec.europa.eu/commission/presscorner/detail/en/ip_14_208> accessed 11 February 2025.

Still, there is a delicate balance here. Some activists worry that the EU's emphasis on restricting migrants might push Tunisia to crack down on migrants in ways that breach human rights standards.¹⁴ Conversely, without EU funding, Tunisia (dealing with its own economic and political challenges) might not have the capacity to patrol its coasts or look after migrants passing through. Ongoing negotiations revolve around ensuring that any partnership benefits both sides and, most importantly, respects the dignity and rights of the people affected by migration.

2. HUMAN RIGHTS VIOLATIONS IN TUNISIA

2.1 OVERVIEW OF HUMAN RIGHTS CONCERNS IN TUNISIA

Tunisia's human rights situation remains deeply concerning despite the country's democratic transition after the 2011 revolution. While Tunisia was once hailed as a model for democratic progress in North Africa, numerous reports indicate that human rights violations persist, particularly in the context of migration, political repression, and police brutality.¹⁵ The 2014 Tunisian Constitution enshrined fundamental rights, such as freedom of expression, due process, and protection from torture, but there are inconsistencies between constitutional promises and the realities on the ground.¹⁶

Migrants and refugees in Tunisia have been among the most vulnerable to human rights abuses, with reports detailing mass arbitrary detentions, forced expulsions, and inhumane conditions in detention centres.¹⁷ The UN Committee against Torture (CAT) has repeatedly raised concerns about Tunisia's treatment of asylum seekers and undocumented migrants, noting that authorities often fail to uphold legal safeguards.¹⁸

Additionally, the criminalisation of irregular migration under Tunisia's Law No. 2004-6 on the Entry and Stay of Foreigners has led to migrants being treated as criminals rather than as individuals in need of international protection.¹⁹ The law imposes severe penalties, including imprisonment, for those found guilty of irregular entry or stay in Tunisia, even if they are fleeing persecution or war. As a result, migrants are often left with no legal pathways to protection, exacerbating their vulnerability to abuse by both state authorities and non-state actors, such as human traffickers.²⁰

¹⁴ Human Rights Watch, 'Tunisia: No Safe Haven for Black African Migrants, Refugees' (2023) <<https://www.hrw.org/news/2023/07/19/tunisia-no-safe-haven-black-african-migrants-refugees>> accessed 10 February 2025.

¹⁵ Amnesty International, 'Annual Report 2024: Tunisia' (2024) <<https://www.amnesty.org/en/location/tunisia/report-2024>> accessed 10 February 2025.

¹⁶ Constitution of Tunisia, 2014, art 49.

¹⁷ Human Rights Watch, 'Tunisia: Arbitrary Detention and Expulsions of Migrants' (2024) <<https://www.hrw.org/news/2024/01/15/tunisia-arbitrary-detention-expulsions>> accessed 3 February 2025.

¹⁸ UN Committee Against Torture (CAT), 'Concluding Observations on Tunisia' (2023) UN Doc CAT/C/TUN/CO/4.

¹⁹ Law No. 2004-6 on the Entry and Stay of Foreigners in Tunisia, art 23.

²⁰ Global Detention Project, 'Tunisia: Detention of Migrants' (2024) <<https://www.globaldetentionproject.org/tunisia-report-2024>> accessed 3 February 2025.

Furthermore, the Tunisian government has faced allegations of suppressing freedom of speech, targeting journalists and activists who expose human rights abuses.²¹ In July 2023, authorities arrested several human rights defenders who criticised the government's migration policies, highlighting a broader trend of political repression.²² The European Parliament has expressed concerns over the deteriorating human rights situation in Tunisia, warning that continued violations may jeopardise EU-Tunisia relations, particularly financial aid programmes linked to human rights benchmarks.²³

2.2. SPECIFIC ALLEGATIONS OF ABUSE

2.2.1. *Migrants: Arbitrary Detention and Inhumane Conditions*

One of the most serious human rights violations against migrants in Tunisia is their arbitrary detention in overcrowded and inhumane facilities.²⁴ Human Rights Watch has documented cases where migrants, including women and children, were detained without due process and held in squalid conditions.²⁵

For instance, in July 2023, over 1,200 migrants, primarily from Sub-Saharan Africa, were forcibly removed from their homes and detained in makeshift holding centres without access to legal representation.²⁶ Reports indicate that detainees were denied medical care, faced physical abuse from security forces, and were subjected to degrading treatment.²⁷ The UN Refugee Agency (UNHCR) condemned these actions, stating that Tunisia violated international standards, including the 1951 Refugee Convention, which it has ratified.²⁸

Moreover, testimonies from detained migrants indicate that many were subjected to physical violence by security officers.²⁹ Witnesses recounted being beaten with batons,³⁰ denied food for extended periods, and crammed into small, overcrowded cells where diseases spread rapidly. These accounts have been corroborated by medical professionals who treated released detainees suffering from malnutrition and untreated injuries.³¹

²¹ Reporters Without Borders, 'Tunisia: Crackdown on Journalists' (2024) <<https://rsf.org/en/tunisia>> accessed 4 February 2025.

²² European Parliament, 'Resolution on Tunisia's Human Rights Violations' (2023) <<https://www.europarl.europa.eu/news/en/press-room/tunisia-human-rights>> accessed 4 February 2025.

²³ *ibid.*

²⁴ Human Rights Watch, 'Tunisia: Migrants Arbitrarily Detained in Harsh Conditions' (2024) <<https://www.hrw.org/news/2024/02/10/tunisia-migrants-detention>> accessed 4 February 2025.

²⁵ *ibid.*

²⁶ Amnesty International, 'Tunisia: Arbitrary Detention of Migrants' (2024) <<https://www.amnesty.org/en/latest/news/2024/02/tunisia-migrant-detention>> accessed 4 February 2025.

²⁷ *ibid.*

²⁸ UNHCR, 'Tunisia and the 1951 Refugee Convention' (2024) <<https://www.unhcr.org/tunisia>> accessed 5 February 2025.

²⁹ Human Rights Watch (n 10).

³⁰ *ibid.*

³¹ Global Detention Project, 'Tunisia: Migrants' Detention Conditions' (2024) <<https://www.globaldetentionproject.org/tunisia-report>> accessed 5 February 2025.

2.2.2. *Vulnerable Groups: Forced Expulsions and Deaths at Borders*

Tunisian authorities have been accused of conducting mass expulsions of sub-Saharan migrants,³² often abandoning them in remote desert areas near the Libyan and Algerian borders. This practice, widely condemned by human rights organisations, has led to several deaths due to exposure, dehydration, and starvation.

In a high-profile case in August 2023,³³ Tunisian security forces expelled at least 600 Sub-Saharan African migrants, including pregnant women and children, to the Tunisian-Libyan border. Testimonies collected by Amnesty International revealed that many of these individuals were left without food or water in temperatures exceeding 40°C (104°F).³⁴ Several migrants, including a 7-year-old child,³⁵ reportedly died due to dehydration before rescue teams arrived.

Tunisia's actions violate numerous international agreements, including the International Covenant on Civil and Political Rights (ICCPR), which prohibits collective expulsions without due process. The African Commission on Human and Peoples' Rights has also criticised Tunisia's treatment of migrants, urging the government to implement safeguards to prevent further humanitarian crises at its borders.³⁶

2.2.3. *Refugees: Racially Motivated Attacks Against Migrants*

Another troubling development in Tunisia is the rise of racially motivated violence against Sub-Saharan African migrants. In early 2023, President Kais Saied made inflammatory remarks accusing Sub-Saharan Africans of being part of a 'plot' to change Tunisia's demographic composition.³⁷ These statements triggered a surge in xenophobic attacks, with migrants being assaulted in public spaces, evicted from their homes, and denied medical treatment.³⁸

Following Saied's speech, reports emerged of mobs attacking black migrants in Tunis and Sfax. In one case, a Malian refugee was reportedly lynched by a group of locals while others were chased out of their residences.³⁹ Rights groups, including The International

³² Amnesty International (n 26).

³³ *ibid.*

³⁴ *ibid.*

³⁵ *ibid.*

³⁶ African Commission on Human and Peoples' Rights, 'Tunisia Migration Report' (2024) <<https://www.achpr.org/tunisia-migration>> accessed 5 February 2025.

³⁷ UNHCR, 'Protection Concerns for Sub-Saharan Migrants in Tunisia' (2024) <<https://www.unhcr.org/protection-tunisia>> accessed 6 February 2025.

³⁸ Amnesty International, 'Tunisia: Violence Against Sub-Saharan Migrants' (2024) <<https://www.amnesty.org/en/latest/news/2024/03/tunisia-migrant-violence>> accessed 6 February 2025.

³⁹ Human Rights Watch, 'Xenophobic Attacks in Tunisia' (2024) <<https://www.hrw.org/news/2024/03/15/tunisia-xenophobia>> accessed 10 February 2025.

Federation for Human Rights (FIDH), condemned the government's rhetoric, calling on Tunisia to combat racist violence and hold perpetrators accountable.⁴⁰

However, Tunisian authorities have done little to avoid these attacks, with many victims reporting that the police refused to intervene and even arrested the migrants instead. As a result, many sub-Saharan Africans have sought refuge in foreign embassies, fearing their safety.

2.3. IMPACT OF HUMAN RIGHTS VIOLATIONS ON MIGRANTS AND TUNISIA'S REPUTATION

2.3.1. *Impact of Human Rights Violations*

The ongoing human rights violations in Tunisia have created a difficult situation for migrants and refugees. Many are left in legal limbo, unable to work, access healthcare, or return to their countries of origin due to ongoing conflicts or persecution. The Global Detention Project has documented instances where asylum seekers were detained indefinitely, with no clear legal recourse for release.

Furthermore, the deteriorating situation has made Tunisia an increasingly dangerous place for migrants, forcing many to seek alternative, often more perilous, routes to Europe. In 2024 alone, thousands of migrants attempted to cross the Mediterranean from Tunisia, resulting in numerous deaths at sea. The number of fatalities and missing persons in the Mediterranean in 2024 has exceeded 2,200, with almost 1,700 deaths occurring specifically along the central Mediterranean route.⁴¹

3. EU FUNDING AND HUMAN RIGHTS CONDITIONALITY

3.1. THE CONCEPT OF CONDITIONALITY IN EU FOREIGN POLICY

It is important to clarify the concept of conditionality before addressing it within the context of EU foreign policy. Accordingly, conditionality means granting certain benefits, especially financial aid, in exchange for implementing specific policies and reforms. As such, it creates a dependent relationship between those granting the benefits and those receiving them, as the former can influence the latter's decisions by either promising more substantial aid or threatening to stop it altogether.⁴² Within the European Union, for instance, recent

⁴⁰ FIDH, 'Documented Cases of Violence Against Migrants in Tunisia' (2024) <<https://www.fidh.org/en/migrant-violence-tunisia>> accessed 6 February 2025.

⁴¹ Giuffrida, A, 'More than 2,200 people died trying to reach Europe in 2024' (*The Guardian*, 3 January 2025) <<https://www.theguardian.com/world/2025/jan/03/more-than-2200-people-died-trying-to-reach-europe-2024>> accessed 10 February 2025.

⁴² Peter Becker, 'Conditionality as an Instrument of European Governance – Cases, Characteristics and Types' (2024) 63 (2) *Journal of Common Market Studies*.

regulations highlight that some programmes can be funded by EU money only if they comply with the EU Charter of Fundamental Rights, as explained in the 2020 Conditionality Regulation.⁴³

The European Union adopted its Common Foreign and Security Policy (CFSP) with the Treaty on the European Union (TEU) in 1993.⁴⁴ The CFSP has been developing since then, and currently, its main goals are preserving peace, promoting international cooperation, spreading the rule of law, and strengthening international security. To achieve these objectives, the European Union has applied the concept of conditionality in its foreign policy action.⁴⁵ Namely, the EU provides economic support to certain countries in exchange for these countries to perform actions in favour of the Union. A notable example of this was examined during the Syrian crisis when the EU donated €11 billion to support Syrian people in exchange for the Syrian government reducing the number of migrants seeking asylum in Europe.⁴⁶

3.2. EU'S ROLE IN PROMOTING HUMAN RIGHTS ABROAD

Article 2 of the TEU states that the Union is founded on the respect for fundamental human rights both within and outside its borders. Thus, it is remarkable that the EU is promoting respect for human rights and children's rights in non-EU countries⁴⁷ through targeted and diverse measures.⁴⁸ Such measures include bans and restrictions, strategies, and national frameworks.⁴⁹ One outstanding example is the 2021 Strategy for the Rights of Persons with Disabilities, which aims to improve the lives of people with disabilities both within and outside the EU and supports the implementation of the UN Convention on the Rights of Persons with Disabilities (UNCPRD).⁵⁰

A second notable example is the EU global election assistance and observatory strategy, whose goal is to define the characteristics democratic elections should have under the rule of law. By promoting rule of law values, the EU ensures that anyone can take part in their country's politics as afforded by the Universal Declaration of Human Rights.⁵¹

⁴³ European Union Agency for Fundamental Rights, EU Funds, 'Ensuring Human Rights Compliance' (2023) <<https://fra.europa.eu/en/publication/2023/eu-funds>> accessed 13 February 2025.

⁴⁴ Michal Malovec 'Foreign Policy: Aims, Instruments and Achievements' (*European Parliament*, April 2024) <<https://www.europarl.europa.eu/factsheets/en/sheet/158/foreign-policy-aims-instruments-and-achievements?utm>> accessed 13 February 2025.

⁴⁵ European Union, 'Foreign and Security Policy' <https://european-union.europa.eu/priorities-and-actions/actions-topic/foreign-and-security-policy_en?utm> accessed 12 February 2025.

⁴⁶ *ibid*.

⁴⁷ Commission, 'Communication from the Commission to the Council and the European Parliament – The European Union's Role in Promoting Human Rights and Democratisation in Third Countries' COM(2001) 252 final.

⁴⁸ European Union Law, 'EU Law: Summary of the Chapter on Foreign and Security Policy' <<https://eur-lex.europa.eu/summary/chapter/13.html>> accessed 12 February 2025.

⁴⁹ *ibid*.

⁵⁰ *Ibid*; European Commission, 'Union of equality: Strategy for the rights of persons with disabilities 2021-2030' (*EU*) <https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/disability/union-equality-strategy-rights-persons-disabilities-2021-2030_en> accessed 11 February 2025.

⁵¹ *ibid*; 'EU global election assistance and observation strategy' (*EU*, 2 March 2018) <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=legissum:r10105>> accessed 11 February 2025.

The EU has been promoting the protection of children's human rights for years. In particular, with a 2008 communication from the European Commission, the Union set some guidelines on addressing this issue outside of its member states' borders. Accordingly, the communication states that the EU is committed to protecting human rights abroad with a series of tools such as humanitarian aid to assist children affected by conflicts, political dialogue with EU partners stressing the importance of the UN Convention on Rights of a Child (UNCRC), the support for children and adolescents to raise their voices on these matters, and the development of trade policies consistent with the protection of children's rights.⁵²

Furthermore, when discussing the protection of human rights abroad, it is worth noting that the EU has adopted several restrictive measures (including sanctions and trade bans) against those countries that failed to protect human rights, such as North Korea, Russia, and Venezuela.⁵³

3.3. EXISTING HUMAN RIGHTS SAFEGUARDS IN EU FUNDING ARRANGEMENTS

As previously mentioned, the EU funds various programmes dealing with different fields, including humanitarian aid. When funding such programmes, the member states can withdraw money from the EU Structural and Investment Funds only if they comply with a set of established rules ensuring compliance with human rights. In other words, member states shall not fund any programme whose implementation involves violations of human rights law. Nonetheless, a series of fundamental human rights violations have been identified concerning the use of EU funds to marginalise vulnerable groups. In response, a more thorough mechanism to monitor human rights protection has been introduced, with a major role for national bodies involved with human rights protection.

Existing human rights safeguards include national frameworks for implementing the UNCRPD, collection of data and monitoring mechanisms, measures to combat segregation in all policy fields, support for an inclusive labour market, and access to quality services for vulnerable people and migrants. Additionally, the EU is promoting many funds as safeguard measures, such as the European Social Fund and the European Regional Development Fund.⁵⁴

⁵² *ibid*; 'Children as a focus of EU external action' (EU, 6 December 20216) <<https://eur-lex.europa.eu/EN/legal-content/summary/children-as-a-focus-of-eu-external-action.html?fromSummary=04>> accessed 11 February 2025.

⁵³ COM(2001) 252 final (n 47).

⁵⁴ Katrin Wladasch, Kristina Allram-Naaijer and Magdi BIRTHA, 'The Role of National Human Rights Bodies in Monitoring Fundamental Rights in EU Funded Programmes' (*Policy Brief: European Centre For Social Welfare Policy and Research*, February 2023) <<https://www.euro.centre.org/publications/detail/4668>> accessed 13 February 2025.

A second negative example of human rights violations that has been observed across Europe is the inadequacy of care units infrastructures created to house people with disabilities. To respond to this violation, in 2021, the EU introduced new requirements for funds listed in the Common Provisions Regulation (CPR) 2021-2027. According to Article 9 of the CPR, member states shall take all the necessary measures to protect human rights when funding programmes. Article 15 and Annex III of the CPR list the current enabling conditions to provide funding arrangements in compliance with human rights regulations. Such conditions are detailed and require member states to actively participate in their compliance and implementation.

Furthermore, it should be noted that the CPR covers an eight-year period, which enables member states to implement these measures over time. If any member states breach these conditions, they will be liable to sanctions. Overall, the European Union has stressed that compliance with CPR will highlight the importance of national human rights institutions and other EU member states' bodies that are held accountable when fundamental rights are not upheld. Finally, the Commission has underlined that complying with the CPR will mean a great victory for the Union as a whole, as it will demonstrate the EU's potential and the importance of cooperation between different EU bodies.

Lastly, it is important to highlight some of the most critical conditions set out in Article 15, Annex III of the CPR: compliance of the programmes supported by the fund with the Charter of Fundamental Rights must be ascertained; cases of non-compliance of operations supported by the fund must be reported to the monitoring committee; a national framework to ensure implementation of the UNCRPD must be created; accessibility policies, legislation and standards must be properly reflected in the implementation of the programmes supported by the fund; any complaints of non-compliance of the operations supported by the fund must be immediately reported per the rules under the UNCRPD.⁵⁵

4. CHALLENGES IN MONITORING AND ENFORCEMENT

Monitoring human rights violations is possible through the implementation of systematic collection, verification, and analysis of data, allowing for an analysis on potential instances and their lack of compliance with international human rights standards. Moreover, this practice allows for the crucial identification of instances of human rights violations, holding perpetrators accountable for their involvement, as well as ensuring state adherence to international obligations. International human rights violations are monitored through various interconnected international, regional, and national mechanisms.

On an international level, the UN is the primary actor in monitoring human rights violations. The Human Rights Council (HRC) is the main monitoring body which oversees global human rights conditions in treaty contracting states and promotes the global protection

⁵⁵ Peter Becker (n 42).

of human rights.⁵⁶ Some of its powers include holding Universal Periodic Reviews (UPRs) and employing special procedures of experts who report and advise on thematic or country-specific issues. Furthermore, the Office of the High Commissioner for Human Rights (OHCHR) is tasked with the provision of technical assistance as well as the investigation of abuses, aiding special rapporteurs in the documentation and gathering of data documenting these violations.⁵⁷

Furthermore, through the implementation of recommendations made by treaty body committees, states are able to implement regulatory standards protecting international human rights. Therefore, within the international arena, the HRC and the OHCHR, aided by various treaty body committees and special rapporteurs, play a significant role in overseeing compliance with core human rights treaties. Issuing recommendations based on periodic reviews conducted by the HRCtee, the CAT, and its special rapporteurs, oversee compliance with international human rights treaties whilst ensuring impartiality, effectiveness, and objective confidentiality.⁵⁸

For human rights monitoring to be conducted on an international scale, the interconnectedness of national, regional, and international bodies is necessary. Therefore there are several regional mechanisms in place within the European, Inter-American, and African systems. Within the European system, actors such as the European Court of Human Rights (ECtHR) enforce the ECHR through the issuance of judicial binding rulings against member states. Additionally, the EU Mechanisms, such as the Fundamental Rights Agency (FRA), the External Action Service (EEAS), and the CAT provide assessments and recommendations to the international bodies on issues of human rights violations. Furthermore, within the Inter-American system, Article 44 of the American Convention on Human Rights enables the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR) to issue precautionary measures adjudicating on cases, brought by a range of complainants regarding alleged human rights violations.⁵⁹ Additionally, the African Commission on Human and Peoples' Rights (ACHPR) and the African Court on Human and Peoples' Rights monitor human rights issues in Africa by conducting fact-finding missions and issuing legal opinions.⁶⁰

Finally, at a national level, media coverage and whistleblower programmes as well as the work of NGO and Civil Society organisations, such as Human Rights Watch, Amnesty

⁵⁶ Office of the High Commissioner for Human Rights (OHCHR), 'Human Rights Mechanism' (*OHCHR Europe*) <<https://europe.ohchr.org/human-rights/human-rights-mechanism>> accessed 13 February 2025.

⁵⁷ Peter Becker (n 42).

⁵⁸ Peter Becker (n 42).

⁵⁹ American Convention on Human Rights, OAS Treaty Series No. 36 (adopted November 22 1969, entered into force July 18, 1978) reprinted in *Basic Documents Pertaining to Human Rights in the Inter-American System*, OEA/Ser.L.V/II.82 Doc.6 Rev.1 at 25 (1992).

⁶⁰ African Union, 'The African Commission on Human and Peoples' Rights at the Forefront of Advancing Human Rights' (2 November 1987) <https://au.int/sites/default/files/documents/31520-doc-the_african_commission_on_human_and_peoples_rights_at_the_forefront_of_advancing_human_rights.pdf> accessed 14 February 2025.

International, and the International Federation for Human Rights (FIDH), play a crucial role in encouraging international cooperative action on monitoring the protection of human rights, despite facing potential national and regional political interference and funding constraints.

Despite the implementation of these national, regional, and international overseeing bodies, there are structural gaps within the EU's Monitoring System. In particular, ineffective impartial investigations at EU borders allows for instances of ill-treatment and the loss of life amongst migrants and refugees, and highlights the deficiency of accountability mechanisms to ensure protection of human rights and the implementation of justice within the EU border.⁶¹ An additional gap can be seen in the limited enforcement of democratic standards as annual auditing practices are often perceived ultimately as a monitoring tool rather than an effective practice linked to an enforcement mechanism holding individuals and Member States accountable for their actions.⁶² These issues present weaknesses within the EU which require action in order to strengthen the procedures revolving around investigation, accountability, and enforceability mechanisms necessary to uphold human rights standards.

At this point it is important to recall that the respective Tunisian authorities responsible for the alleged human rights violations have not been held accountable for their actions on the events taking place following the 2023 Tunisian elections. Pursuant to these elections, the alleged human rights violations taking place are on the matters of limitations to the freedoms of migrants and refugees, as well as the rights of expression, assembly, association, and right to a fair trial.⁶³ These events indicate the presence of a culture of impunity, which stems from unaddressed systemic issues within its political and judicial frameworks.⁶⁴ For instance, Security Forces are often not held to account following violations of international human rights,⁶⁵ and societal dissent is stifled when issues are raised, infringing on the right to free speech of Tunisian nationals, journalists, and lawyers. As aforementioned, the role of monitoring mechanisms is to provide advice and reports on incidents. However, often reporting of human rights infringements within the national territory of Tunisia are considered to fall within the scope of 'Decree-Law 54' of 2022, legislation which purports to bring an end to 'false news, data, rumours'. Ultimately, these previously mentioned factors present implications to the establishment of a robust

⁶¹ ENNHRI, 'Gaps in Human Rights Accountability at Border' (December 2021) <<https://ennhri.org/wp-content/uploads/2021/12/Gaps-in-Human-Rights-Accountability-at-Borders.pdf>> accessed 14 February 2025.

⁶² Jennifer Rankin, 'European Audit of Democracy Standards Too Positive, Says Human Rights Watchdog' (*The Guardian*, 14 October 2024) <<https://www.theguardian.com/world/2024/oct/14/european-audit-of-democracy-standards-too-positive-says-human-rights-watchdog>> accessed 14 February 2025.

⁶³ Amnesty International, 'Tunisia: Country Report' <<https://www.amnesty.org/en/location/middle-east-and-north-africa/north-africa/tunisia/report-tunisia/>> accessed 14 February 2025.

⁶⁴ *ibid.*

⁶⁵ Jennifer Rankin (n 62).

accountability system which responds accordingly to the national official's infringement of international human rights.

5. GEOPOLITICAL AND POLITICAL CONSIDERATIONS

5.1 EU-TUNISIA DIPLOMATIC RELATIONS AND MIGRATION AGREEMENTS

The cooperation between the EU and Tunisia formally started in 1995 when both parties signed the EU-Tunisia Association Agreement. Even though limited interaction between the parties on migration matters is mentioned in Article 69 of the agreement, in the modality of dialogues on the welfare of immigrant populations and the proper repatriation of citizens who are unlawfully resident on another's soil. In 1998, Italy was the first member state to bilaterally engage in migration control cooperation with Tunisia. Afterwards, adopting the Global Approach to Migration (GAM) (later replaced by the European Commission's Global Approach to Migration and Mobility - GAMM of 2011) was a crucial step in forming migrant alliances with third countries, especially in the Mediterranean region.

However, this dynamic changed when the number of irregular sea arrivals from Tunisia to Italy increased from January to September 2011 to 42,807, up from 10,000 in 2010 and 5,000 in 2009. The sharp increase was due to the Arab Spring, where 17,000 Sub-Saharan Africans and Libyans, 47 percent of whom were Tunisian, were affected by the civil war that had broken out in their nation. Soon after, these circumstances led to the launch of a Dialogue on Migration, Mobility and Security between the EU and Tunisia and the subsequent conclusion of a Mobility Partnership in 2014.⁶⁶

Between 2015 and 2019, Libya was the primary destination for migrants traveling via the Central Mediterranean route to the EU, with very few departures from Tunisia. The situation changed in 2022. With the 2022 'Action Plan' for Tunisia, the Commission concluded that the EU should prioritise seeking ways to improve collaboration in order to reduce departures.⁶⁷ Between January and June 2023, the departures of mostly Sub-Saharan from Tunisia to Italy rose due to the huge economic crisis of the country in combination with anti-migrant rhetoric in a speech by the Tunisian President.

Later, in 2023, the EU and Tunisia signed a MoU. The MoU is based on five pillars – macroeconomic stability, trade and investment, green energy transition, people-to-people

⁶⁶ European Commission, 'EU and Tunisia Establish Their Mobility Partnership' (*Press Release*, 3 March 2014) <<https://data.consilium.europa.eu/doc/document/ST-11392-2021-REV-2/en/pdf>> accessed 14 February 2025.

⁶⁷ Commission Services, 'Operationalization of the Pact - Action plans for strengthening comprehensive migration partnerships with priority countries of origin and transit: Draft Action Plan Tunisia' 11392/2/21 Rev 2 (*Council of the European Union*, 3 February 2022) <<https://data.consilium.europa.eu/doc/document/ST-11392-2021-REV-2/en/pdf>> accessed 14 February 2025.

contact, and most importantly, migration and mobility.⁶⁸ It prioritises measures against irregular migration, with the intention of preventing the loss of human life and creating lawful migration routes. The MoU also developed a common strategy to combat criminal networks of migrant smuggling and human traffickers while making sure that they respect human rights. €105 million was made available to help the Tunisian coast guard and border management. Additionally, the MoU suggested €150 million in indirect aid and €900 million in macroeconomic support.⁶⁹

5.2 THE IMPACT OF TUNISIA'S DOMESTIC POLITICAL LANDSCAPE ON EU RELATIONS

Tunisia's domestic political situation significantly impacts its diplomatic relations with the EU. The country has been navigating a complex landscape since the Arab Spring (a series of pro-democracy protests and uprisings in the Middle East and North Africa at the beginning of 2010 and 2011), marked by democratic transitions and economic challenges. Political stability in Tunisia is crucial for the EU, given its geographical proximity and the ongoing migration issues from the North Africa region. A stable Tunisia can serve as a model for democratic governance in the Arab world, which aligns with the EU's foreign policy objectives of promoting democracy and human rights.

However, the recent political unrest and government instability have raised concerns within the EU about Tunisia's ability to address these challenges effectively. The EU has expressed a strong interest in supporting Tunisia's democratic processes but requires tangible progress in governance and the rule of law. Furthermore, Tunisia's economic struggles, exacerbated by the COVID-19 pandemic, have made it imperative for the EU to engage economically, offering financial assistance and trade agreements. This economic support is seen as a way to ensure Tunisia remains a stable partner and counteracts extremist influences that could threaten regional security. Thus, Tunisia's domestic political dynamics are closely intertwined with its diplomatic relations with the EU, influencing both parties' strategic interests and responses to emerging challenges.⁷⁰

⁶⁸ European Parliamentary Research Service (EPRS), 'EU-Tunisia Relations: Recent Developments' (2023) <[https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/751467/EPRS_ATAG\(2023\)751467_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/751467/EPRS_ATAG(2023)751467_EN.pdf)> accessed 14 February 2025.

⁶⁹ *ibid.*

⁷⁰ Timea Zsivity, 'Potential Sticking Points between EU Accession Requirements and National Interests in Serbia, with Special Reference to Geopolitical and Minority Issues' (*EU Mirror*, 2024) <<https://folyoirat.ludovika.hu/index.php/eumirror/article/view/7150>> accessed 14 February 2025.

5.3 THE EU's BALANCING ACT: GEOPOLITICAL INTERESTS VS. HUMAN RIGHTS COMMITMENTS

The EU faces a difficult time balancing its commitment to human rights and its geopolitical interests. While maintaining regional stability and managing migration are still key concerns, the EU must also respect the principles of democracy, human rights, and the rule of law. However, accusations of hypocrisy and double standards have resulted from the EU's sustained political and financial backing for Tunisia despite allegations of human rights abuses against migrants.⁷¹

The EU's approach to Tunisia reflects a broader trend in its external migration policy, where security concerns often take precedence over human rights considerations. The EU has been criticised for prioritising short-term migration deterrence over long-term structural reforms that could address the root causes of migration and human rights violations.⁷² To maintain credibility and effectiveness, the EU must enhance transparency in its migration agreements, strengthen conditionality mechanisms, and ensure that financial aid is linked to measurable improvements in human rights protection.⁷³

In conclusion, the EU-Tunisia relationship exemplifies the delicate balancing act the EU must perform between its migration management goals and its commitment to human rights and democratic governance. Moving forward, greater oversight, stronger monitoring mechanisms, and a more principled approach to cooperation will be essential in ensuring that EU migration policies align with international human rights standards while maintaining strategic diplomatic relations with Tunisia.⁷⁴

6. RECENT DEVELOPMENTS AND SHIFTS IN EU POLICY

6.1 KEY CHANGES IN EU FUNDING TO TUNISIA AFTER HUMAN RIGHTS CONCERNS

In recent years, the EU has faced significant scrutiny over its funding to Tunisia, particularly concerning human rights violations linked to migration control efforts. A pivotal

⁷¹ Human Rights Watch, 'Tunisia: Authorities Expel Hundreds of Black African Migrants, Asylum Seekers' (3 July 2023) <<https://www.hrw.org/news/2023/07/03/tunisia-authorities-expel-hundreds-black-african-migrants-asylum-seeker>> accessed 11 February 2025.

⁷² European Council on Foreign Relations, 'Europe's Migration Dilemmas: Time for a Reset with Tunisia' (21 September 2023) <<https://ecfr.eu/article/europes-migration-dilemmas-time-for-a-reset-with-tunisia/>> accessed 11 February 2025

⁷³ European Commission, 'EU-Tunisia Memorandum of Understanding: A Strategic and Comprehensive Partnership' (16 July 2023) <https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3834> accessed 11 February 2025

⁷⁴ Mark Townsend, 'Europe overhauls funding to Tunisia after Guardian exposes migrant abuse' (*The Guardian*, 24 January 2025) <<https://www.theguardian.com/global-development/2025/jan/24/eu-human-rights-tunisia-migrant-security-forces-migration>> accessed 14 February 2025

moment occurred in July 2023 when the EU and Tunisia signed a memorandum of understanding (MoU). The MoU between the EU and Tunisia was presented as a strategic partnership to address shared economic and migration challenges. It aimed to strengthen Tunisia's economy while also reducing irregular migration flows to Europe, a growing concern for EU policymakers.⁷⁵ The agreement was part of the EU's broader approach to external migration management, which seeks to collaborate with transit countries to limit unauthorised entries into the European Union.

Despite the initial optimism surrounding the agreement, it quickly became a source of controversy due to Tunisia's deteriorating human rights situation under President Kais Saied. Reports emerged of violent crackdowns on migrants, forced expulsions, and abuses committed by Tunisian security forces, many of whom were benefiting from EU funding and training. Human rights organisations and European lawmakers criticised the agreement, arguing that it lacked adequate safeguards to prevent human rights violations against migrants and asylum seekers.⁷⁶

In response to the evidence of human rights abuses linked to EU-funded migration control efforts in Tunisia, the European Commission took decisive steps to reform its funding mechanisms. By January 2025, the EU introduced stringent human rights conditions for all future financial support provided to Tunisia, marking a significant shift in its approach to migration partnerships. The new framework was designed to ensure that EU funds are not misused and that Tunisian authorities uphold international human rights standards when implementing EU-supported programmes. The EU implemented a strict conditionality framework, linking continued financial support to Tunisia's adherence to human rights, the rule of law, and democratic governance. Tunisia is now required to demonstrate compliance with human rights protections, particularly concerning migrants, refugees, and asylum seekers. If Tunisian authorities fail to meet these conditions, the EU reserves the right to suspend, redirect, or withdraw funding, ensuring that EU money does not contribute to further abuses.

The EU also established a dedicated human rights monitoring team to track the implementation of funded projects, focusing on border management, migration policies, and security sector reforms. Moreover, independent human rights impact assessments are now required before releasing any funds, ensuring that financial aid aligns with EU values and international human rights law. These assessments involve input from civil society organisations, human rights watchdogs, and international legal experts.⁷⁷

⁷⁵ Amnesty International, 'EU-Tunisia Agreement on Migration Makes EU Complicit in Abuses Against Asylum Seekers, Refugees, and Migrants' (17 July 2023)

<<https://www.amnesty.org/en/latest/news/2023/07/eu-tunisia-agreement-on-migration-makes-eu-complicit-in-abuses-against-asylum-seekers-refugees-and-migrants/>> accessed 5 February 2025 ("Amnesty: EU Complicit in Abuses").

⁷⁶ Patrick Wintour, 'EU Introduces Human Rights Conditions on Funding to Tunisia after Abuse Reports' (*The Guardian*, 24 January 2025)

<<https://www.theguardian.com/global-development/2025/jan/24/eu-human-rights-tunisia-migrant-security-forces-migration>> accessed 10 February 2025.

⁷⁷ European Council on Refugees and Exiles (ECRE), 'EU External Partners: Commission Planning Overhaul of Funding to Tunisia Following Abuse Revelations' (30 January 2025)

<<https://ecre.org/eu-external-partners-commission-planning-overhaul-of-funding-to-tunisia-following-abuse-revelations-%E>

As part of the restructured funding framework, the EU created specialised subcommittees tasked with overseeing the integration of human rights considerations into all aspects of EU-Tunisia cooperation. These subcommittees operate under the EU-Tunisia Association Council, ensuring direct dialogue between EU institutions, Tunisian authorities, and human rights organisations. Their mandate includes reviewing migration policies, assessing the conduct of Tunisian security forces, and making recommendations for policy adjustments based on human rights findings. The subcommittees will remain active until at least 2027, ensuring long-term accountability and institutionalised human rights monitoring.

6.2 IMPACT OF TUNISIA'S INCREASING AUTHORITARIANISM ON EU POLICY

Tunisia's increasing authoritarianism under President Kais Saied has prompted the EU to reassess its policies, attempting to balance migration control with its commitment to democratic values. In response to Saied's consolidation of power and suppression of opposition, the EU has introduced stricter funding conditions, redirecting aid toward civil society and independent media, while tying government assistance to improvements in democracy and human rights. Reports of migrant abuses by Tunisian security forces have led to greater oversight of migration cooperation, with the EU reconsidering aspects of its €105 million border control deal.

Diplomatic tensions have grown, with the European Parliament and Commission condemning Tunisia's autocratic shift, though some EU states, particularly Italy and France, continue to prioritise migration control and regional stability. Meanwhile, the EU is expanding its support for NGOs, press freedom, and democratic initiatives. Moving forward, the EU faces a strategic dilemma: whether to maintain engagement with Tunisia for security and migration interests or take a firmer stance to uphold its commitment to democracy and human rights.⁷⁸

6.3 HOW THE EU IS ADJUSTING ITS APPROACH TO PROTECT HUMAN RIGHTS

The EU is adjusting its approach to protect human rights by imposing stricter conditions on financial aid, ensuring funds are tied to democratic governance and accountability. In response to migrant mistreatment by Tunisian authorities, it is reassessing migration cooperation with enhanced oversight. The EU is also redirecting funds toward civil

[2%80%95-commission-signs-e-3-billion-agreement-with-jordan-%E2%80%95-tunisian-mps-scrutinising-dr>](#) accessed 10 February 2025.

⁷⁸ Jennifer Rankin, 'EU Fears for Its Human Rights Credibility as Tunisia Crushes Dissent, Leak Shows' (*The Guardian*, 13 September 2024) <<https://www.theguardian.com/world/2024/sep/13/eu-fears-for-its-human-rights-credibility-as-tunisia-crushes-dissent-leak-s-hows>> accessed 15 February 2025.

society and independent media, increasing transparency on human rights impact assessments, and applying diplomatic pressure on Tunisia to uphold democratic values. While balancing security concerns with human rights commitments, the EU prioritises greater accountability and oversight in its external agreements.

7. IMPLICATIONS FOR FUTURE EU-MIGRATION DEALS

7.1 LESSONS LEARNED FROM THE EU-TUNISIA CASE

The EU-Tunisia migration agreement has revealed key challenges in balancing migration control with human rights commitments. One of the most critical takeaways is the risk of human rights violations when agreements lack strong oversight mechanisms. The 2023 MoU between the EU and Tunisia faced significant backlash due to reports of human rights abuses, particularly against migrants, as security forces benefiting from EU support were implicated in violent crackdowns.⁷⁹ This highlights the necessity of preemptive risk assessments in migration partnerships to prevent such abuses from occurring.

Another important lesson is the challenge of negotiating migration agreements with politically unstable or authoritarian governments. Since the signing of the EU-Tunisia agreement, Tunisia's domestic political landscape has shifted towards increasing authoritarianism under President Kais Saied, raising concerns about the sustainability and ethical implications of the EU's cooperation.⁸⁰ The EU's reliance on Tunisia as a partner for migration control has been called into question, particularly as the Tunisian government has demonstrated a disregard for human rights protections, affecting both migrants and its own citizens.⁸¹ Future agreements must account for the governance structures of partner countries and ensure that migration cooperation does not inadvertently legitimise or empower authoritarian practices.

The lack of transparency and public scrutiny in migration agreements has also emerged as a significant issue. Civil society organisations and human rights groups were largely excluded from the negotiation process of the EU-Tunisia deal, leading to concerns about accountability and the absence of mechanisms to ensure that EU funds were used appropriately.⁸² Without transparency, agreements risk being perceived as prioritising

⁷⁹ Amnesty International, 'EU-Tunisia Agreement on Migration Makes EU Complicit in Abuses Against Asylum Seekers, Refugees, and Migrants' (17 July 2023) <<https://www.amnesty.org/en/latest/news/2023/07/eu-tunisia-agreement-on-migration-makes-eu-complicit-in-abuses-against-asylum-seekers-refugees-and-migrants/>> accessed 5 February 2025 ("Amnesty: EU Complicit in Abuses").

⁸⁰ Nissim Gasteli, 'Tunisia: Kais Saied, the Embarrassing Ally of European Migration Policy' (*Le Monde*, 3 October 2024) <https://www.lemonde.fr/en/le-monde-africa/article/2024/10/03/tunisia-kais-saied-the-embarrassing-ally-of-european-migration-policy-ready-for-re-election_6728134_124.html> accessed 5 February 2025.

⁸¹ Philippe Dam, 'EU Commission Should Stop Ignoring Tunisia's Abuses Against Migrants' (*Human Rights Watch*, 28 September 2023) <<https://www.hrw.org/news/2023/09/28/eu-commission-should-stop-ignoring-tunisias-abuses-against-migrants>> accessed 5 February 2025 ("HRW: Stop Ignoring Tunisia's Abuses").

⁸² Mark Townsend, 'EU Human Rights Concerns over Tunisia Migration Deal as Security Forces Accused of Abuses' (*The Guardian*, 24 January 2025)

short-term political gains over long-term sustainable migration policies.

Additionally, the political and legal feasibility of conditionality remains a contentious issue. While EU officials have emphasised the inclusion of human rights clauses in migration agreements, enforcing these conditions in practice has proven difficult. Tunisia's non-compliance with democratic and human rights standards has highlighted the EU's limited ability to hold partner governments accountable when agreements lack concrete enforcement mechanisms.⁸³ This raises broader concerns about whether conditionality is an effective tool in migration governance or if alternative methods should be explored to ensure that human rights commitments are upheld.

Ultimately, the EU-Tunisia case demonstrates that migration deals must be carefully designed to align with the EU's human rights obligations while also addressing migration challenges. Lessons from this agreement should inform future policy decisions, ensuring that migration control efforts do not undermine fundamental rights and democratic principles.

7.2 RECOMMENDATIONS FOR STRENGTHENING HUMAN RIGHTS SAFEGUARDS IN FUTURE MIGRATION AGREEMENTS

The EU-Tunisia migration agreement has demonstrated the critical need for robust human rights protections in migration policies. To enhance safeguards in future agreements, the following recommendations are proposed:

01

Integrate Enforceable Human Rights Clauses

Future migration agreements should incorporate explicit, legally binding human rights provisions. These clauses must clearly define the rights of migrants and asylum seekers, obligating partner countries to uphold international human rights standards. The absence of such enforceable provisions in the EU-Tunisia agreement has been linked to human rights abuses.⁸⁴

<<https://www.theguardian.com/global-development/2025/jan/24/eu-human-rights-tunisia-migrant-security-forces-migration>> accessed 5 February 2025 ("The Guardian: Mark").

⁸³ 'In Tunisia, the EU Is Repeating an Old and Dangerous Mistake' (*Amnesty International*, 21 September 2023)

<<https://www.amnesty.org/en/latest/news/2023/09/in-tunisia-the-eu-is-repeating-an-old-and-dangerous-mistake/>> accessed 5 February 2025 ("Amnesty: EU is Repeating a Mistake").

⁸⁴ Amnesty: EU Complicit in Abuses (n 79).

02

Establish Independent Monitoring and Accountability Mechanisms

Implementing independent bodies to monitor and report on the enforcement of human rights within migration agreements is essential. These mechanisms should have the authority to conduct regular assessments, document violations, and recommend corrective actions. The lack of such oversight in the EU-Tunisia deal led to unchecked abuses against migrants.⁸⁵

03

Ensure Transparency and Inclusive Participation

The negotiation and implementation processes of migration agreements must be transparent and involve civil society organisations, human rights experts, and affected communities. The EU-Tunisia agreement faced criticism for its secrecy and exclusion of civil society input, which undermined accountability and public trust. Therefore, inclusivity is vital for legitimate and effective policy-making.⁸⁶

04

Condition Financial Support on Human Rights Compliance

Financial assistance to partner countries should be explicitly linked to their adherence to human rights standards. Clear criteria must be established to assess compliance, with mechanisms to suspend or withdraw funding in cases of violations. The EU's continued financial support to Tunisia, despite ongoing abuses, has been condemned by Human Rights Watch, highlighting the need for stringent conditionality.⁸⁷

05

Conduct Comprehensive Human Rights Impact Assessments

Before finalising any migration agreement, thorough human rights impact assessments should be conducted to identify potential risks and mitigate adverse effects on migrants and asylum seekers. Human rights organisations have pointed to the necessity of such assessments in pacts similar to the EU's Migration and Asylum Pact and its reforms that could heighten the risk of human rights violations.⁸⁸

⁸⁵ HRW: Stop Ignoring Tunisia's Abuses (n 81).

⁸⁶ Amnesty: EU is Repeating a Mistake (n 83).

⁸⁷ HRW: Stop Ignoring Tunisia's Abuses (n 81).

⁸⁸ 'EU Migration & Asylum Pact Puts People at Risk of Human Rights Violations' (*Amnesty International*, 4 April 2024) <<https://www.amnesty.org/en/latest/news/2024/04/eu-migration-asylum-pact-put-people-at-risk-human-rights-violations/>> accessed 5 February 2025.

06

Provide Training and Capacity Building for Partner Countries

Investing in training programmes for border security and immigration officials in partner countries can promote the humane treatment of migrants. These programmes should emphasise the importance of upholding human rights and provide practical guidance on protecting vulnerable populations. Documented abuses by Tunisian authorities indicate a pressing need for such capacity-building initiatives.⁸⁹

06

Facilitate Safe and Legal Migration Pathways

Establishing safe and legal channels for migration can reduce reliance on dangerous routes and diminish the power of human traffickers. This approach not only protects migrants but also aligns with international human rights obligations. Human rights organisations criticise the EU's deterrence-focused policies, advocating for the creation of safe and legal routes for asylum seekers.⁹⁰

7.3 THE POTENTIAL FOR SIMILAR ISSUES IN OTHER EU-MIGRATION PARTNERSHIPS

The EU has increasingly pursued migration agreements with non-EU countries to manage migration flows and enhance border security. However, these agreements raise several concerns regarding human rights, governance, and the long-term sustainability of such partnerships. The EU-Tunisia case has demonstrated various risks that could manifest in other migration agreements with countries like Egypt, Morocco, Libya, and Mauritania.

General Concerns in EU Migration Deals:

01

Human Rights Violations

Many EU migration agreements risk violating fundamental human rights. Migrants returned to countries with poor human rights records often face arbitrary detention, abuse, and lack of access to legal protection. The EU's cooperation with Libya, for example, has been widely condemned for

⁸⁹ 'Tunisia: Repressive Crackdown on Civil Society Organizations Following Months of Escalating Violence Against Migrants and Refugees' (*Amnesty International*, 16 May 2024)

<<https://www.amnesty.org/en/latest/news/2024/05/tunisia-repressive-crackdown-on-civil-society-organizations-following-months-of-escalating-violence-against-migrants-and-refugees/>> accessed 5 February 2025.

⁹⁰ 'EU Migration Policies Fuel Abuses Across Borders' (*Human Rights Watch*, 16 January 2025) <<https://www.hrw.org/news/2025/01/16/eu-migration-policies-fuel-abuses-across-borders>> accessed 5 February 2025.

supporting the Libyan Coast Guard, which returns intercepted migrants to detention centres where they suffer torture and forced labour.⁹¹

02

Legal and Ethical Concerns

The externalisation of migration control raises legal questions regarding the EU's compliance with international law, particularly the principle of non-refoulement. There are concerns that the EU's efforts to prevent migration to Europe may lead to individuals being sent to unsafe conditions, violating asylum laws.⁹²

03

Dependence on Autocratic Regimes

Many of the EU's migration partners, including Egypt and Tunisia, have been accused of human rights abuses. By financially supporting these regimes in exchange for migration control, the EU risks legitimising authoritarian governance and weakening its credibility as a human rights advocate.⁹³

04

Lack of Transparency and Accountability

Many migration agreements are negotiated behind closed doors, with limited input from civil society organisations and human rights groups. This lack of transparency has led to concerns over how funds are used and whether mechanisms exist to monitor compliance with human rights obligations.⁹⁴

While the EU's migration agreements follow a similar approach, the real impact depends on the country in question. Each partnership comes with its own risks, shaped by the country's political landscape, governance, and human rights record. Looking at Egypt,

⁹¹ Humzah Khan, 'From Tunis to Cairo: Europe Extends Its Border Across North Africa' (*Carnegie Endowment for International Peace*, 9 April 2024) <<https://carnegieendowment.org/sada/2024/04/from-tunis-to-cairo-europe-extends-its-border-across-north-africa?lang=en>> accessed 11 February 2025 ("Carnegie Endowment: Humzah").

⁹² *ibid* ; 'The Impact of Externalization of Migration Controls on the Rights of Asylum Seekers and Other Migrants' (*Human Rights Watch*, 6 December 2016) <<https://www.hrw.org/news/2016/12/06/impact-externalization-migration-controls-rights-asylum-seekers-and-other-migrants>> accessed 11 February 2025 ; Salvatore Fabio Nicolosi, 'The Externalization of EU Migration and Asylum Policy: The Legal Challenges of the EU Pact on Migration and Asylum' (2024) 71 *European Journal of Migration and Law* <<https://link.springer.com/article/10.1007/s40802-024-00253-9>> accessed 11 February 2025 ; Katrien Luyten, 'Addressing Pushbacks at the EU's External Borders' (*European Parliamentary Research Service*, October 2022)

⁹³ Claudio Francavilla, 'EU Deal with Egypt Rewards Authoritarianism and Betrays EU Values' (*Human Rights Watch*, 15 March 2024) <<https://www.hrw.org/news/2024/03/15/eu-deal-egypt-rewards-authoritarianism-betrays-eu-values>> accessed 11 February 2025.

⁹⁴ Amnesty: EU is Repeating a Mistake (n 83).

Morocco, Libya, and Mauritania, we see clear patterns of concern—some echoing the Tunisia case, others presenting unique challenges. These examples highlight why stronger human rights protections and greater accountability are crucial in EU migration deals.

Egypt

The EU's agreement was finalised on March 17th, 2024, with Egypt providing over €7.4 billion in financial assistance under the EU-Egypt Strategic and Comprehensive Partnership.⁹⁵ This agreement was framed as a means to support Egypt's struggling economy and manage migration flows, including €200 million specifically allocated for migration control. Critics have raised concerns that the agreement was rushed without parliamentary approval, undermining democratic oversight.⁹⁶

Egypt's human rights record remains a major point of contention. The country has been accused of suppressing civil liberties, detaining political dissidents, and restricting press freedom.⁹⁷ Given these issues, human rights organisations have criticised the EU for prioritising migration control and economic interests over fundamental rights.⁹⁸ The European Parliament has repeatedly condemned Egypt's human rights violations, and the European Ombudsman has warned that human rights safeguards should be established before finalising such agreements.⁹⁹

Additionally, regional instability—including the ongoing humanitarian crisis in Gaza and the conflict in Sudan—has increased migratory pressure on Egypt. As of September 2024, the country currently hosts over 789,767 refugees, with additional flows expected due to regional conflicts.¹⁰⁰ This raises concerns about Egypt's capacity to manage migration while ensuring adequate human rights protections. Ultimately, the EU-Egypt agreement has

⁹⁵ European Parliamentary Research Service, 'EU-Egypt Strategic and Comprehensive Partnership' (April 2024) <[https://www.europarl.europa.eu/RegData/etudes/ATAG/2024/760406/EPRS_ATA\(2024\)760406_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2024/760406/EPRS_ATA(2024)760406_EN.pdf)> accessed 11 February 2025.

⁹⁶ Directorate-General for Neighbourhood and Enlargement Negotiations, 'Joint Declaration on the Strategic and Comprehensive Partnership between The Arab Republic of Egypt and the European Union' (17 March 2024) <https://neighbourhood-enlargement.ec.europa.eu/news/joint-declaration-strategic-and-comprehensive-partnership-between-arab-republic-egypt-and-european-2024-03-17_en> accessed 11 February 2025.

⁹⁷ 'EU Must Address Egypt's Abysmal Human Rights Record' (*Amnesty International*, 23 January 2024) <<https://www.amnesty.org/en/latest/news/2024/01/eu-egypt-eu-must-address-egypts-abysmal-human-rights-record/>> accessed 11 February 2025.

⁹⁸ *ibid*; 'EU/Egypt: Put Human Rights at the Centre of All Cooperation' (*Amnesty International*, 15 March 2024) <<https://www.amnesty.org/en/latest/news/2024/03/eu-egypt-put-human-rights-at-the-centre-of-all-cooperation/>> accessed 11 February 2025.

⁹⁹ *ibid*; The Guardian: Mark (n 82).

¹⁰⁰ United Nations High Commissioner for Refugees (UNHCR), 'Refugee Context in Egypt' (September 2024) <<https://www.unhcr.org/eg/about-us/refugee-context-in-egypt>> accessed 11 February 2025.

been criticised for prioritising border security over human rights protections.¹⁰¹

Morocco

Morocco has been a key partner for the EU in controlling migration routes from West Africa to Europe.¹⁰² However, Moroccan security forces have been accused of excessive force against migrants and mass expulsions without due process.¹⁰³ Reports indicate that Moroccan authorities, funded by EU migration programmes, have forcibly relocated sub-Saharan migrants to remote desert areas, exposing them to life-threatening conditions.¹⁰⁴

Libya

The EU's cooperation with Libya remains one of its most controversial migration agreements.¹⁰⁵ The EU has provided funding and training to the Libyan Coast Guard, despite evidence of human rights abuses in Libyan detention centres.¹⁰⁶ The European Parliament has called for an end to these agreements, citing Libya's systematic mistreatment of migrants.¹⁰⁷

Mauritania

In early 2024, the EU signed a €210 million migration deal with Mauritania,

¹⁰¹ Carnegie Endowment: Humzah (n 91) ; 'EU Must Address Egypt's Abysmal Human Rights Record' (*Amnesty International*, 23 January 2024)

<<https://www.amnesty.org/en/latest/news/2024/01/eu-egypt-eu-must-address-egypts-abysmal-human-rights-record/>> accessed 11 February 2025.

¹⁰² Council of the European Union, General Secretariat, 'EU-Morocco Cooperation on Migration' (*Council of the European Union*, 13 February 2024) WK 2411/2024 INIT.

¹⁰³ Tomas Statius, Andrei Popoviciu, and Maud Jullien, 'Migrants Speak in the Sahara: 'The Moroccan Police Set Dogs on Us'' (*Le Monde*, 21 May 2024)

<https://www.lemonde.fr/en/le-monde-africa/article/2024/05/21/migrants-speak-in-the-sahara-the-moroccan-police-set-dogs-on-us_6672116_124.html> accessed 11 February 2025.

¹⁰⁴ BR, 'Abandoned in the Desert: Europe's Deadly Refugee Policy' (*ARD Mediathek*, 1 November 2024)

<<https://www.ardmediathek.de/video/Y3JpZDovL2JyLmRlL2Jyb2FkY2FzdFNjaGVkdWxIU2xvdC83MzgxZjc4ZS0zMjIjLTRiZWU0ODA4OS0xY2FhMTkxMGO4ZTg>> accessed 11 February 2025 ; Lighthouse Reports, 'Desert Dumps: The Hidden Reality of Morocco's Migrant Expulsions' (*Lighthouse Reports*, 2024)

<<https://www.lighthousereports.com/investigation/desert-dumps/>> accessed 11 February 2025.

¹⁰⁵ Hanan Salah, 'Already Complicit in Libya Migrant Abuse, EU Doubles Down on Support' (*Human Rights Watch*, 8 February 2023) <<https://www.hrw.org/news/2023/02/08/already-complicit-libya-migrant-abuse-eu-doubles-down-support>> accessed 11 February 2025.

¹⁰⁶ 'Libya/EU: Conditions Remain "Hellish" as EU Marks 5 Years of Cooperation Agreements' (*Amnesty International*, 31 January 2022)

<<https://www.amnesty.org/en/latest/news/2022/01/libya-eu-conditions-remain-hellish-as-eu-marks-5-years-of-cooperation-agreements/>> accessed 11 February 2025.

¹⁰⁷ 'Stop Cooperation with and Funding to the Libyan Coastguard, MEPs Ask' (*European Parliament News*, 30 April 2020) <<https://www.europarl.europa.eu/news/en/press-room/20200427IPR77915/stop-cooperation-with-and-funding-to-the-libyan-coastguard-meps-ask>> accessed 11 February 2025.

aiming to prevent departures from West Africa.¹⁰⁸ However, human rights groups have warned that Mauritania lacks the infrastructure and legal safeguards to process asylum seekers adequately, raising concerns about potential human rights violations if migrants are detained or deported under this agreement.¹⁰⁹

In summation, the EU's migration partnerships with Egypt, Morocco, Libya, and Mauritania pose significant challenges that mirror those seen in the EU-Tunisia agreement. Without stronger human rights safeguards, accountability mechanisms, and legal oversight, these deals risk perpetuating human rights violations and undermining international legal standards. Moving forward, the EU must balance its migration objectives with its human rights obligations to ensure that its policies do not contribute to further suffering and abuses.

¹⁰⁸ Lisa O'Carroll, 'EU Leaders Unveil €210m Mauritania Deal in Bid to Curb People-Smuggling' (*The Guardian*, 8 February 2024) <<https://www.theguardian.com/world/2024/feb/08/spain-and-eu-to-sign-migration-deal-with-mauritania-as-people-smuggling-rises>> accessed 11 February 2025.

¹⁰⁹ European Council on Refugees and Exiles (ECRE), 'EU External Partners: EU Signs Latest Migration Deal with Mauritania – Frontex's Cooperation with Libyan Coast Guard Despite Evidence of Abuse' (16 February 2024) <<https://ecre.org/eu-external-partners-eu-signs-latest-migration-deal-with-mauritania-%E2%80%95-frontexs-co-operation-with-libyan-coast-guard-despite-evidence-of-abuse-exposed/>> accessed 11 February 2025.

CONCLUSION

The EU-Tunisia Migration Agreement has been established as a main element of the EU's external migration strategy, driven by geopolitical interests, border security concerns, and economic cooperation. Tunisia, serving as both a transit and origin country for migrants, has received substantial EU funding to strengthen border management and reduce irregular migration. However, this collaboration has been the subject of significant criticism due to human rights violations by Tunisian authorities, including arbitrary detention, forced expulsions, and racial violence against migrants, particularly those from sub-Saharan Africa. Reports from international organisations highlight the mistreatment of migrants, raising concerns about the ethical implications of EU funding and its alignment with the EU's human rights commitments.

Moreover, Tunisia's increasing authoritarianism under President Kais Saied has further complicated EU-Tunisia relations. While the EU has sought to condition its financial assistance on democratic and human rights improvements, enforcement mechanisms have been weak, limiting the effectiveness of these conditionalities. The lack of transparency in migration agreements and limited civil society involvement have undermined accountability and raised questions about the EU's credibility as a global human rights advocate.

The challenges seen in the EU-Tunisia partnership also affect other migration agreements with non-EU countries, including Egypt, Libya, Morocco, and Mauritania. These agreements often prioritise migration control over human rights protections, exposing migrants to potential abuses and raising concerns over the EU's compliance with international legal obligations, particularly the principle of non-refoulement.

To address these challenges and strengthen the human rights framework in its migration policy, the EU should adopt the following measures:

- 1) **Integrate Enforceable Human Rights Clauses:** Future migration agreements should include explicit, legally binding human rights provisions that hold partner countries accountable for violations. These provisions should define clear legal obligations regarding migrant protection.
- 2) **Establish Independent Monitoring Mechanisms:** The EU should implement independent oversight bodies to monitor compliance with human rights standards. These bodies should conduct regular assessments, investigate reports of abuse, and ensure that EU funding is not contributing to human rights violations.
- 3) **Enhance Transparency and Civil Society Participation:** Migration agreements should be subject to public scrutiny, with active involvement from civil society organisations and human rights watchdogs. Transparency in negotiations and implementation is essential for maintaining public trust and accountability.

- 4) **Condition Financial Aid on Human Rights Compliance:** The EU should strictly link migration-related financial assistance to measurable human rights benchmarks. If violations occur, the EU should suspend, redirect, or withdraw funding to prevent being held responsible for human rights violations.
- 5) **Conduct Comprehensive Human Rights Impact Assessments:** Before finalising migration agreements, the EU should conduct a thorough impact assessment to evaluate potential risks to migrants and asylum seekers. These assessments should involve independent human rights organisations.
- 6) **Provide Training and Capacity Building:** EU-funded migration programmes should include training for border security forces and immigration officials on international human rights standards, ensuring humane treatment of migrants.
- 7) **Expand Legal Migration Pathways:** The EU should invest in safe and legal migration channels, reducing dependence on irregular migration and human rights traffickers while upholding its humanitarian commitments.

By implementing these recommendations, the EU can strengthen its role as a global human rights leader while ensuring that its migration policies remain effective, ethical, and legally compliant. A balanced approach that integrates migration control with strong human rights safeguards will enhance the EU's credibility and sustainability in managing migration agreements with third countries.

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