

EUROPEAN EXTERNAL ACTION SERVICE



Global Agenda and Multilateral Relations
The Managing Director

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Chief Special Procedures Branch
OHCHR
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Subject: Reply to Joint Communication from Special Procedures
Ref.: AL OTH 98/2023

Dear Special Rapporteurs,

I would like to thank you for your letter of 17 August 2023 on the importance of the principle of non-refoulement and the respect of human rights in the partnership between the European Union and Tunisia. Your letter and the referenced reports have received my full attention.

The respect and protection of human rights and fundamental freedoms are at the core of the EU's partnership with Tunisia and enshrined in the Association Agreement between the EU and Tunisia (Article 2), which is the overarching legal framework for our bilateral relations. The European Union is firmly committed to human rights principles and to the protection of refugees, asylum seekers and migrants. This is central to our political dialogue with the Tunisian authorities, which is maintained in constant close contacts at every level, including through the EU delegation in Tunis.

The Memorandum of Understanding on a strategic and comprehensive partnership between the European Union and Tunisia, which was signed on 16 July 2023, provides a framework to intensify existing cooperation and tackle common challenges, seizing opportunities in five key areas, namely macro-economic stability, economy and trade, green energy transition, people-to-people contacts, and migration and mobility. The reinforced comprehensive partnership will support Tunisia in stabilising its economy and accelerate joint efforts on areas of strategic interests for both sides (youth empowerment, energy, digital etc.).

In the field of migration, the Memorandum of Understanding aims to support Tunisia in developing a more comprehensive migration policy, so to address its rising migratory pressure. The protection and respect of human rights of migrants and refugees in this strategy will be a crucial element of our cooperation. A clear reference to the respect for human rights is embedded in the Memorandum of Understanding under the migration pillar.¹

The implementation of the Memorandum of Understanding will also focus on improving the rights and protection of migrants, including victims of trafficking and asylum seekers and will ensure that migration management will comply with fundamental rights, international humanitarian law and principles, and the principle of non-refoulement. Our support takes these principles fully into account, in accordance with the Geneva Convention and other relevant legal obligations under international and EU law.

Equally importantly, all EU projects financed by the EU budget have to fulfil conditions and objectives with regard to environmental and labour standards and include strong human rights clauses². The guiding principles of all migration programmes is the full respect of human rights in accordance with the EU treaties, the EU Charter of Fundamental Rights and the EU Financial Regulation (including the sanctions regime for serious human rights violations and abuses).

To ensure the efficiency of EU spending and compliance with these principles, the Commission monitors its programmes through regular reports from implementing partners, external evaluation, verification missions and specific results-oriented monitoring exercises.

The Memorandum of Understanding builds on and complements the substantial ongoing EU support on the ground. In recent years, several programmes were implemented in Tunisia across all strands of migration-related support, in line with the Pact on Migration and Asylum and its comprehensive approach. These include specific actions to improve access to protection and socio-economic integration of migrants and refugees as well as reintegration of Tunisian returnees, to facilitate assisted voluntary returns, to strengthen the capacity of the authorities for search and rescue operations, border management and anti-smuggling, and to support host communities in Tunisia. The Commission works with implementing partners from the UN family, including the IOM, UNHCR and UNODC, as well as EU Member States agencies and International Non Governmental Organisations. A detailed list of projects on protection is available in the Annex to this letter.

Future EU support to Tunisia in the area of migration will be designed and implemented in full coordination with the Tunisian authorities, with our partners from the UN agencies and in consultation with the civil society organisations. This

¹ “This approach shall be based on respect for human rights and shall include combating criminal networks of migrant smugglers and human traffickers (...)”, Memorandum of Understanding on a strategic and global partnership between the European Union and Tunisia, 16 July 2023

² Contractual conditions: „The Beneficiary(ies) shall respect human rights and applicable environmental legislation including multilateral environmental agreements, as well as internationally agreed core labour standards.”

applies also to the EUR 105 million foreseen on migration-related programmes in Tunisia in 2023.

A specific legal framework with regards to safe third countries exists under the current Asylum Procedure Directive. This concept is defined by the set of criteria a third country has to meet in order to be considered safe, in line with the standards set in the Geneva Convention. In the meantime, negotiations are ongoing between the European Parliament and the Council on the Pact on Migration and Asylum.

On border management the EU is committed to continue enhancing and investing in migration governance and crisis preparedness and to strengthen the protection and rights of migrants and refugees and avoid loss of life at sea. A joint approach and cooperation with our neighbours, including Tunisia, is necessary to ensure the respect of human rights and manage migration in a safe and dignified way, with all actors assuming their responsibilities. This cooperation should not be qualified as “externalisation”. International partnerships are fundamental to finding common mutually beneficial international solutions to the global challenges we face today, and migration is no exception to this. This is also reflected in the close engagement of UN agencies in this work, including in direct cooperation with EU programmes.

The EU will continue to closely monitor both the condition of migrants at land borders and this year’s exceptional increase of smuggling activities and crossings of the Mediterranean, which lead to loss of life. We will support a balanced and comprehensive migration policy and will continue to promote the respect for human rights of migrants in line with international human rights law, and international humanitarian law. Our actions will never cease to be guided by the universality and indivisibility of human rights.

Yours sincerely,



Belén Martínez Carbonell

Annex:

EU-funded projects on protection in Tunisia

- The protection and safety of people in need, in particular women, minors, victims of violence, smuggling and trafficking are among our priority areas of action in Tunisia. Funding of EUR 13 million was adopted in 2022 and will be further supported in 2023.
- The EU finances a programme of UNHCR of EUR 8 million to improve access to basic services currently in particular to medical care, registration, food, health and cash.
- The EU Commission works also with an NGO consortium through the “ProMiTAD programme” to provide immediate relief in Sfax, while undertaking a needs’ assessment, implemented by Avocats Sans Frontières, Médecins du Monde, Terre d’Asile Tunisie, Save the Childrens in collaboration with the Ministry for Social Affairs. They have provided among others legal advice and support, provision of water, first aid, medical aid, emergency shelter, hygiene kits in mainly in Tunis, Sfax, Medenin and Zarziz (a programme funded under EUTF with EUR 4.3 million since 2021).
- A programme implemented by two NGOs “The European Committee for Education and Agriculture) and Terre d’Asile Tunisie (EUR 2 million as part of the Regional Development and Protection Programme phase III) supports migrant protection and economic resilience of migrants and host communities.
- Under the sixth phase of the AMIF-funded Regional Development and Protection Programme (RDPP) programme in Tunisia, UNHCR implements registration and refugee status determination activities in the country (EUR 1.1 million) and IOM supports the protection of migrants, in particular victims of trafficking (EUR 0.9 million).
- Furthermore, since 2021, the EU has made available EUR 5.5 million for Tunisia to protect stranded migrants, support assisted voluntary returns from Tunisia to countries of origin (with the International Organization for Migration as implementing partner) and sustainable socio-economic reintegration of Tunisian returnees through the national reintegration mechanism “Tounesna” funded by the EU (with Expertise France and the French Office of Immigration and Integration).