



# ASILE

Global Asylum  
Governance and  
the European  
Union's Role

## **Migration and asylum in Tunisia:**

Domestic interests,  
external influences,  
and policy outcomes.

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## LIST OF ABBREVIATIONS

|                        |  |
|------------------------|--|
| <b>ADA</b>             | Austrian Development Agency  |
| <b>AIHR</b>            | Arab Institute for Human Rights  |
| <b>BMP</b>             | Border Management Programme  |
| <b>CTR</b>             | Tunisian Refugee Council   |
| <b>DCFTA</b>           | Deep and Comprehensive Free Trade Area   |
| <b>ENP</b>             | European Neighbourhood Policy  |
| <b>EUTF for Africa</b> | European Union Emergency Trust Fund for Stability and Combating the Root Causes of Irregular Migration and the Displaced Persons in Africa |
| <b>FTDES</b>           | Tunisian Forum for Economic and Social Rights  |
| <b>GCM</b>             | Global Compact for Migration   |
| <b>GCR</b>             | Global Compact on Refugees   |
| <b>IBM</b>             | Integrated Border Management   |
| <b>ICMPD</b>           | International Centre for Migration Policy Development  |
| <b>ILO</b>             | International Labour Organisation  |
| <b>ISMariS</b>         | Integrated System for Maritime Surveillance  |
| <b>MMC</b>             | Mixed Migration Centre   |
| <b>NSM</b>             | National Strategy for Migration  |
| <b>OHCHR</b>           | Office of the United Nations High Commissioner for Human Rights  |
| <b>OTE</b>             | Directorate General for Planning and Monitoring Office for Tunisians Abroad  |
| <b>SAR</b>             | Search and Rescue  |
| <b>SEM</b>             | Swiss Government' Secretariat for Migration  |
| <b>SEMTE</b>           | State Secretariat for Migration and Tunisians Abroad   |
| <b>TAMSS</b>           | Tunisian Association for Management and Social Stability   |



## EXECUTIVE SUMMARY

Tunisia is a priority country for the European Union's foreign policy of migration. As a country of origin, transit, and destination, Tunisia has maintained an ambivalent migration policy since the democratisation process of 2011. The country took important steps in its legislative and human rights framework soon after the Jasmine Revolution and has since engaged on issues of refugee protection and migration, also through its endorsement of the Global Compact on Refugees and the Global Compact for Migrants. However, it still lacks a clear migration policy and a proper asylum system, and fails to meet the needs of asylum seekers and refugees through reception and integration. This report explores emerging policy preferences regarding asylum seekers and refugees through the lens of political responsibility. It traces the role of domestic and international policy actors in shaping three key sets of policy preferences: border management, reception arrangements, and integration of asylum seekers and refugees.

The report shows how domestic preferences overlap with or supersede competing external interests. We argue that the financial and technical assistance that the EU offers Tunisia for border management corresponds to the country's domestic priorities. In contrast, the development of protection, reception, and integration of refugees and migrants is less of a priority amidst ongoing economic, social, and political instability. Here, support from international actors (the European Commission, EU member states, and international organisations) has produced unintended negative outcomes.

### KEY FINDINGS

- Border management is prioritised to reduce irregular arrivals to the country and maintain control over the border with Libya;
- Parliament has yet to endorse the national law on asylum, which creates a legal and institutional gap;
- The Tunisia diaspora and the reintegration of returning Tunisians (voluntary or forced) from EU member states is prioritised;
- Political instability and the ongoing deterioration of the Tunisian economy are counterproductive to asylum and migration reforms;
- The financial and political support of EU member states align with institutional priorities on border management, reintegration programmes, and the labour mobility of Tunisians;
- The financial and political support of EU member states on asylum has produced political resistance to reforms.



## 1. Introduction<sup>1</sup>

Tunisia has long been identified as a priority country in the external dimension of migration management by the European Commission and member states. Several high-level visits from member states (e.g., Italy, Germany), the High Representative of the Union for Foreign Affairs and Security Policy, and increased financial assistance to the country indicate the country remains a focus of EU policymakers on issues of border management, asylum, reception, return, and reintegration.<sup>2</sup>

In 2018, Tunisia was already on the receiving end of mixed movement as a country of origin, transit, and destination for migrants, asylum seekers, and refugees, when it endorsed the United Nations Global Compact on Migration (GCM),<sup>3</sup> and the Global Compact on Refugees (GCR).<sup>4</sup> The two Compacts are concurrent in setting ambitious international goals for migration governance and refugee protection.

The GCM had been strongly supported by Tunisia, which had hosted an informal high-level dialogue on the GCM prior to the international conference in Morocco in 2018. The then Secretary of State responsible for immigration and Tunisians abroad noted that “For Tunisia, which currently has 1,200,200 Tunisians living in other countries and 60,000 foreigners living on Tunisian soil, it is imperative to strengthen the mechanisms of management and governance of migration as well as measurement and monitoring mechanisms to ensure the effectiveness of the Compact.”<sup>5</sup> Tunisia’s current domestic priority of supporting and engaging with the Tunisian diaspora aligns with GCM goal 19, “Migrant and Diaspora Contributions” and goal 21, “Dignified Return and Reintegration.”

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<sup>1</sup> The author is grateful to the reviewers for the comments, and to all the interviewees.

<sup>2</sup> Veron, P. (2020). “Tunisia: Possibilities for Reform and Implementation of Migrant Reception and Protection.” ECDPM, <https://ecdpm.org/publications/tunisia-possibilities-reform-implementation-migrant-reception-protection/>; Abderrahim, T. Fakhry, A., Rietig, V. (2021). “Walking a tightrope in Tunisia: the Aspirations and Limitations of Migration Policy Reform.” DGAP Report No. 12. DGAP project “From Here to EU: How to Talk about Migration in Africa? An Awareness Campaign for European Policymakers” funded by Stiftung Mercator.

<sup>3</sup> The GCM is the first-ever negotiated intergovernmental UN agreement on a common approach to managing international migration. See GFMD Mayors Mechanism. (2022). “Localizing The Global Compacts. First Report on Local Action for Migrants and Refugees.” <https://localaction.mayorsmechanism.org/>

<sup>4</sup> The GCR is a framework for more predictable and equitable responsibility-sharing, recognising that a sustainable solution to refugee situations cannot be achieved without international cooperation. The GCR aimed to strengthen solidarity with refugees and their host countries, enhancing refugee self-reliance, and to expand access to durable solutions such as resettlement or safe and dignified returns. See Ali, N. (2022). “Pledging and the Global Compact on Refugees: An Inclusive Process for Better Implementation?” ASILE FORUM, <https://www.asileproject.eu/pledging-and-the-global-compact-on-refugees/>

<sup>5</sup> United Nations (2018). “World Leaders Adopt First-Ever Global Compact on Migration, Outlining Framework to Protect Millions of Migrants, Support Countries Accommodating Them.” <https://press.un.org/en/2018/dev3375.doc.htm>



Little information exists regarding the GCR and its implementation in Tunisia. Although it has been endorsed, asylum-seeker and refugee issues lack national prominence, partly due to their low numbers relative to other countries in the region, but also due to policies adopted by the Tunisian state, which are the focus of this report.

We examine influences on Tunisia's asylum and migration policies, and their reflection of commitments to the Compacts, particularly the GCR. We acknowledge that some border management and integration policies apply to and affect both irregular migrants and asylum seekers. Tunisia's complex migratory dynamics make it an important case study in regard to three interlinked policy areas: border management, asylum, and the reception of asylum seekers and access to services that increase the autonomy of refugees.

Building on previous ASILE research on the financial and political instruments that compose the EU-Tunisia partnership and potential alignment with the GCR,<sup>6</sup> we analyse the GCR in Tunisia through the lens of *political responsibility*. That is, the link between policy outcomes on one hand, and institutions and processes on the other hand.

Literature on allocation of political responsibility distinguishes several factors. One school of thought focuses on individuals taking policy decisions that are perceived as responsible for the outcomes.<sup>7</sup> Another approach draws from political attribution in multi-level governance structures whereby policymaking authority is distributed in complex multi-level policymaking systems.<sup>8</sup> Multi-level governance results in a dispersion of authority between local, regional, national, and supra-national levels, and across spheres and sectors, including civil society. In Tunisia, multi-level governance unfolds predominantly between the state level, civil society, international organisations. The landscapes that emerge can offer opportunities for the state actors involved to "[...] dodge more easily responsibility for policies they have enacted themselves."<sup>9</sup> By looking at the institutional setting, one can identify whether specific opportunities exist for political actors to avoid or take credit for political responsibility.

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<sup>6</sup> Raach, F., Sha'ath, H., and Spijkerboer, T. (2022). "WP5 – Tunisia Country Report." ASILE Project. [https://www.asileproject.eu/d5-2\\_wp5-tunisia-country-report-final/](https://www.asileproject.eu/d5-2_wp5-tunisia-country-report-final/)

<sup>7</sup> Indicatively, see Hobolt, S.B. and Tilley, J. (2014). "Who's in Charge? How Voters Attribute Responsibility in the European Union." *Comparative Political Studies*, 47(6): 795–819 doi:10.1177/0010414013488549 ; Marsh, M. and Tilley, J. (2010). "[The Attribution of Credit and Blame to Governments and Its Impact on Vote Choice](#)." *British Journal of Political Science*, 40(1): 115–34. doi:10.1017/S0007123409990275

<sup>8</sup> Cutler, F. (2004). "Government Responsibility and Electoral Accountability in Federations". *Publius*, Vol. 34, No. 2, pp. 19–38.; Anderson, C. (2006). "Economic Voting and Multi-Level Governance: An Individual-Level Analysis." *American Journal of Political Science*, 50(2): 449–63.

<sup>9</sup> Rittberger, B., Schwarzenbeck, H., and Zangl, B. (2017). "Where Does the Buck Stop? Explaining Public Responsibility Attributions in Complex International Institutions." *JCMS: Journal of Common Market Studies*, 55: 909–24. doi: [10.1111/jcms.12524](https://doi.org/10.1111/jcms.12524).



Tunisia is a crucial case of political responsibility for GCR implementation for two reasons. First, its institutional setup is a mixture of the Ben Ali regime's legacy and the post-2011 revolution and democratisation process. Second, the governance structure for migration and asylum is complex and produces multiple instances of a politics of non-attribution. In other words, with few exceptions, political responsibility disappears due to the absence of official policies, which in turn is also a product of a convoluted institutional setup.

The analysis is based on qualitative research undertaken in 2022. This included document analysis and semi-structured interviews with domestic and international stakeholders in Tunisia and/or who had worked on Tunisia. A wealth of secondary material, particularly post revolution, is available. We utilised this to map the domestic context and the policies in place. Difficulties arose with stakeholder interviews, partly due to research fatigue and a lack of response from state representatives. Instead, the research turned to stakeholders that are either asked to implement policies regarding border management, reception, and integration, or those with direct insights from policymakers through research and previous collaboration. Some interviewees also highlighted the vulnerability of the current political situation, which proved an additional concern for participation. Ten in-depth interviews were conducted remotely with key stakeholders including researchers, academics, journalists, and those representing international organisations and civil society. Seven were based in Tunisia and three were in the EU. We adopted a snowball method, utilising personal contacts to identify potential participants. And we applied a semi-structured questionnaire to look at policy preferences for border management, asylum, and integration. To safeguard anonymity, any quotes are not attributed to specific organisations or individuals, while most findings have been incorporated directly into the analysis.

The discussion is structured along the lines of the themes examined, and where relevant for implementation of the Compacts, particularly the GCR: border management, asylum, and integration. To understand the specific policy preferences and political responsibility, we begin in section 2, with brief country profile covering migration, recent political developments, and Tunisia's relationship with the EU. Section 3 focuses on the institutional and legal framework for migration and asylum and the main elements that impact asylum and integration. The remaining sections (4–6) respectively address Tunisia's preferences on issues of border management, asylum, and integration, and seek to identify the domestic and/or international actors that produce specific policy preferences.



## 2. Country profile

Immigration is a consistent feature of countries to the south and north of the Mediterranean.<sup>10</sup> The most significant changes have occurred since the 1990s, as irregular migration, mainly by nationals of Maghreb countries, has emerged as a key feature.<sup>11</sup> The shift is due to changes in visa policy by EU member states, particularly Italy and Spain as main destination countries that introduced visa requirements for Maghreb nationals in 1990 and 1991 respectively,<sup>12</sup> in order to join the Schengen Area. Tunisian emigration had already shifted from France to Italy in the 1980s, due to Italy's growing informal economy.<sup>13</sup> Faced with a stricter visa regime and border controls, irregularity became a structural feature of Tunisian emigration.

Tunisians constitute one of the main nationalities arriving by sea in Italy since 2020,<sup>14</sup> alongside Egyptians, Bangladeshis, and Syrians.<sup>15</sup> A recent report by the Tunisian Forum for Economic and Social Rights (FTDES) indicates that the number of Tunisian migrants arriving in Italy from 1 January to 31 May 2022 (around 2,200 persons) amounted to 11% of total arrivals in Italy, in third place behind Egyptians and Bangladeshis.<sup>16</sup> Tunisian migrants (until May 2022) accounted for 31.12% of the total number of migrants prevented from crossing Tunisian territory, while other nationalities accounted for 68.87%.<sup>17</sup> The renewed focus on maritime patrols by the Tunisian border guard, as well as Italy's efforts to return Tunisians, have also pushed many towards Spain, strengthening their presence on the Western Mediterranean route.<sup>18</sup>

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<sup>10</sup> Bredeloup, S. (2012). "Sahara Transit: Times, Spaces, People." *Population, Space and Place*, 18: 457–67. <https://doi.org/10.1002/psp.634>

<sup>11</sup> Boubakri, H. and Simon, G. (2015). "Tunisie" in G. Simon (ed.), *Dictionnaire géo-historique des migrations internationales*, 308–15. Paris: Armand Colin.

<sup>12</sup> Czaika, M., de Haas, H., and Villares-Varela, M. (2018), "The Global Evolution of Travel Visa Regimes." *Population and Development Review*, 44: 589–622. <https://doi.org/10.1111/padr.12166>

<sup>13</sup> De Bel-Air, F. (2020). "Tunisian Migration to the EU: A Tale of Asymmetry" in R. Meijer, J.N. Sater, and Z.R. Babar, (eds.), *Routledge Handbook OF Citizenship in the Middle East and North Africa* (1<sup>st</sup> ed.). Routledge.

<sup>14</sup> ASF, ASGI and FTDES, (2022). "Etude sur les conditions de séjour et les trajectoires des migrantes tunisiennes rapatriées en Italie." <https://ftdes.net/etude-sur-les-conditions-de-sejour-et-les-trajectoires-des-migrant-e-s-tunisien-ne-s-rapatrie-e-s-en-italie/>

<sup>15</sup> "UNHCR Operational Portal: Italy" (n.d.). <https://data.unhcr.org/en/situations/mediterranean/location/5205>

<sup>16</sup> FTDES. (2022). "Rapport de Mai 2022 sur les mouvements contestataires et la mobilisation sociale." <https://ftdes.net/en/rapport-mai-2022-des-mouvements-sociaux-suicides-violences-et-migrations/> (transl.own)

<sup>17</sup> Ibid.

<sup>18</sup> FTDES and Migreurop. (2020). "Politiques du non-accueil en Tunisie: des acteurs humanitaires au service des politiques sécuritaires européennes." Rapport conjoint de mission. <https://ftdes.net/en/politiques-du-non-accueil-en-tunisie/>



Tunisia is also a transit and destination country for migrants and asylum seekers from Africa. Since the 1970s, Tunisia has welcomed migration from sub-Saharan countries, mainly made up of French-speaking students that attended public universities and eventually also the private universities that opened in the country. The relocation of the African Development Bank from Côte d'Ivoire to Tunisia for a decade (2001–2011) attracted a workforce, with families, from sub-Saharan Africa and facilitated the development of a diasporic network from Côte d'Ivoire that remains to this day. The exact number of migrants in Tunisia today is unknown; estimates range between 30,000 to 100,000.<sup>19</sup> While Libya remains the main country of transit for most nationalities arriving in Italy,<sup>20</sup> departures from Tunisia have increased in the past three years, as evidenced by the numbers documented in Italy but also by interceptions on the Central Mediterranean route.

Tunisia's relationship with the EU pre-exists the Arab Spring. An Association Agreement was signed in 1995,<sup>21</sup> the first with a north-African country. Tunisia was also approached under the European Neighbourhood Policy (ENP), launched in 2004 following enlargement. Cooperation was not fully in place during the regime of Zine al-Abidine Ben Ali, who remained in power from 1987 to 2011.<sup>22</sup> Progress towards democratisation was limited at best. The first EU-Tunisia Action Plan was signed in 2005, lasting eight years, and included cooperation on justice and home affairs. However, Tunisia's importance for migration is largely due to the Jasmine Revolution of 2010 and its aftermath, the Arab Spring of 2011. The period of political transition across the Maghreb has been marked by a moderate increase in arrivals by sea to Italy.<sup>23</sup>

The collapse of Libya and its ensuing civil war enhanced Tunisia's importance. Concerns over a potential spill over of the conflict to Tunisia, border crossings of jihadist extremists that would seek a way to Europe, and the need to support the only democratic regime to

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<sup>19</sup> Interviewees indicated that the official government figures are around 30,000 and that international organisations and civil society estimate the actual number of migrants present to be around 70,000 to 100,000. Most are from sub-Sahara Africa and neighbouring Libya.

<sup>20</sup> For the recent developments on EU-Libya cooperation on border management see Infomigrants (2022). "EU plans further cooperation with Libya on migrants despite criticism." <https://www.infomigrants.net/en/post/38117/eu-plans-further-cooperation-with-libya-on-migrants-despite-criticism>

<sup>21</sup> European Parliament. (2016). "EU policies in Tunisia before and after the Revolution." Directorate-General for External Policies, Policy department. EP/EXPO/B/AFET/2015/04.

<sup>22</sup> During that period, Tunisia was the fourth main beneficiary of ENPI funds behind Palestine, Morocco, and Egypt, with €775 million disbursed, representing approximately 8.5% of the total allocation (European Parliament, 2016).

<sup>23</sup> Approximately 25,000 Tunisians arrived in Italy between 1 January and 5 April 2011. A joint proposal by Italy and Malta was submitted to the European Justice and Home Affairs Council in April 2011, requesting that temporary protection be extended to Tunisian migrants across the EU. The proposal was rejected and resulted in a renewed effort on behalf of Italy to reduce and prevent future arrivals from Tunisia. See Pascouau, Y. (2011). "Schengen area under pressure: controversial responses and worrying signs" EPC. [www.europeanmigrationlaw.eu%2Fdocuments%2Fpoints-de-vue%2FSchengen\\_area\\_under\\_pressure\\_-\\_controversial\\_responses\\_and\\_worrying\\_signs.pdf&psig=AOvVaw1KEhYd1A7J8G8yqPNlw-e6&ust=1664605639459457](http://www.europeanmigrationlaw.eu%2Fdocuments%2Fpoints-de-vue%2FSchengen_area_under_pressure_-_controversial_responses_and_worrying_signs.pdf&psig=AOvVaw1KEhYd1A7J8G8yqPNlw-e6&ust=1664605639459457)



emerge from the Arab Spring all facilitated growth in the EU-Tunisia relationship on all issues, including migration and asylum. A Privileged Partnership was concluded in 2012 and an action plan covering the period from 2013 to 2017 was adopted.<sup>24</sup> The action plan addressed the protection of asylum seekers and refugees, and cooperation in migration, mobility, and security. In parallel, a Mobility Partnership was established in 2014.<sup>25</sup> The relationship between the EU and Tunisia reached a new milestone when Tunisia became an important beneficiary of EU funding, which “doubled to a total of €445m in the period 2011-2013, half of which was allocated to supporting the consolidation of democracy and economic stabilization, with security, civil society, economic integration and mobility as additional priorities.”<sup>26</sup>

Although negotiations began in 2016 for an EU-Tunisia Readmission Agreement, progress has stalled. A 2021 report by the European Commission indicates that Tunisia initially postponed negotiations in May 2019 due to the presidential and legislative elections and changes in government.<sup>27</sup> The report notes that “An additional element slowing down the negotiations is the request from Tunisia to discuss in parallel relevant provisions for an agreement on a Deep and Comprehensive Free Trade Area (DCFTA) in view of a holistic approach to migration ensuring the links between provision of services and visa issues.”<sup>28</sup>

Tunisia has signed – and generally respected- readmission agreements at a bilateral level with six member states (including Italy, Germany, and Belgium); however they are limited to Tunisian nationals only.<sup>29</sup> Even the readmission agreement with Italy of 1998, which includes the return of non-nationals, excludes the readmission to Tunisia of third-country nationals from Arab Maghreb Union member states.<sup>30</sup> As early as 2017, Tunisia had rejected EU’s proposals to “outsource” migration management, with the Tunisian Foreign Minister Khemaies Jhinaoui stating that “Tunisia will not accept to be pushed to address issues that do not concern it,” in reference to the idea of establishing migrant camps in Tunisia.<sup>31</sup>

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<sup>24</sup> Raach, F., Sha’ath, H., and Spijkerboer, T. (2022). Op.cit.

<sup>25</sup> Ibid, p. 23-24.

<sup>26</sup> Narbone, L. (2020). “The EU-Tunisian Relationship after 2011: Resilience, Contestation and the Return of the Neglected Socio-Economic Question.” *Middle East Directions Research Project Report 2020/18*. European University Institute.

<sup>27</sup> European Commission. (2021). Report from the Commission to the Council Assessment of third countries’ level of cooperation on readmission in 2019, Brussels, 10.2.2021 COM(2021) 55 final

<sup>28</sup> Ibid, p. 85

<sup>29</sup> For discussion of the bilateral agreements per country see Raach, F., Sha’ath, H., and Spijkerboer, T. (2022), pp. 24–30. Op.cit.

<sup>29</sup> Ibid, pp. 23–4

<sup>30</sup> Perrin, D. (2011). “Arab Revolts and Migration: Behind the Mediterranean Wall, the Unity of Europe.” IEMed Mediterranean Yearbook 2011. <https://www.iemed.org/publication/arab-revolts-and-migration-behind-the-mediterranean-wall-the-unity-of-europe/>

<sup>31</sup> Abderrahim, T. and Knoll, A. (2017). “EU-Tunisia Cooperation on Migration: Conflicting Agendas?” ECDPM Talking Points blog, <https://ecdpm.org/talking-points/eu-tunisia-cooperation-migration/>



Tunisia has been consistent in limiting its cooperation with the EU over migration and asylum management, largely due to the domestic constraints discussed in sections 4–6 of this report. Nonetheless, it remains an EU priority country for migration management, including border controls. The escalation of the conflict in Libya since 2021 has resulted in increasing arrivals in Tunisia. Although the country is increasingly difficult to leave irregularly, as some irregular migrants end up in detention camps or are pushed back to the Algerian or Libyan land border,<sup>32</sup> “most of the new arrivals see Tunisia only as the last stop on the way to Europe, which is why this is such a worry to the EU.”<sup>33</sup>

In October 2021, the Council of the European Union released an updated Action Plan for Tunisia. The Action Plan maintains the focus on development, trade, and migration while saying of political developments in the country that “Cooperation with Tunisia will be subject to its continued commitment to democracy, human rights, gender equality, and good governance.”<sup>34</sup> This renders migration and asylum governance in Tunisia’s democratisation project critical for the EU, yet Tunisia’s democratic transition has been complex, particularly in recent years.

Since 2011, there have been tensions between the Prime Minister, the President, and the Parliament (National Assembly). From 2011 to 2013, a three-party alliance governed the country and was responsible for establishing a Constituent Assembly that would produce a new constitution.

Successive changes in governance and complex party politics characterised the period from 2014 to 2019. Democratisation recently stalled following the 2019 election of President Kaïs Saïed. Since then, a power struggle within the National Assembly has resulted in political instability, with the president firing the prime minister in 2021, seizing control of the judiciary, and legislating by decree. In February 2022, the president dissolved the Assembly of Representatives and announced a referendum for a new constitution, held on 25 July 2022, and approved in August 2022.<sup>35</sup> The new constitution gives the president more authority over parliament.

Previous reform to the constitution occurred in January 2014 and included guarantees for political asylum and non-refoulement. This coincided with reforms to human rights law, strengthening civil society, and a draft national asylum law and migration strategy. As the following section will show, there has been little progress since.

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<sup>32</sup> Global Detention Project (2021). “Tunisia.”  
<https://www.globaldetentionproject.org/countries/africa/tunisia>

<sup>33</sup> Manganella, A., Mehdi, O., Novic, E., Wagman, J., and Zouaoui, R. (2020). *The Tunisian Response to the Covid-19 Pandemic – When the State of Exception Overlaps with the State of Emergency*. Avocats Sans Frontières.

<sup>34</sup> Council of the European Union (2021). Operationalization of the Pact – Action plans for strengthening comprehensive migration partnerships with priority countries of origin and transit Draft Action Plan: Tunisia (Council doc. 11392/1/21 REV 1, LIMITE, 8 October 2021).  
<https://migration-control.info/wp-content/uploads/2021/10/Tunisia.pdf>

<sup>35</sup> France24 (2022). “Tunisian President Dissolves Parliament after MPs Vote to Roll Back His Power Grab.” <https://www.france24.com/en/africa/20220330-tunisian-president-dissolves-parliament-after-mps-vote-to-roll-back-his-power-grab>



## 3. Institutional and legislative framework for migration and asylum issues

### 3.1. Institutional set-up

The political instability Tunisia faces currently, combined with social and economic structural problems, is important in determining priorities. Tunisia's institutional setup is also important in shaping domestic preferences. During the Ben Ali regime, decision-making power over migration was consolidated in the Office of the President and the Ministry of Interior responsible for the security forces of Tunisia. Boubakri argues that the security focus served a domestic agenda,<sup>36</sup> as it allowed the authoritarian state to increase its surveillance over the people and push for further security-oriented domestic policies. Some interviewees for this report reaffirmed this sentiment in relation to current political developments as well.

After the revolution, a complex institutional setup emerged. Migration and asylum governance was diffused amongst multiple ministries, while a growing civil society successfully promoted human rights at the heart of the reform agenda.

Throughout the period from 2012 to 2014, migration was a national priority, and an effort was made to bring together different actors involved in the governance structure. In 2012, a State Secretariat for Migration and Tunisians Abroad (SEMTE) was created under the umbrella of the Ministry of Social Affairs, and was mandated to establish a national strategy for migration. SEMTE has been dissolved and re-established multiple times,<sup>37</sup> and transferred between the Ministry of Social Affairs and the Ministry of Foreign Affairs. The repeated changes indicate "a turf war" between the ministries that has produced a "stalemate around immigration."<sup>38</sup>

Since 2014, the shifts in institutional make-up and division of different dossiers amongst ministries has remained:

- The Ministry of Interior is chiefly responsible for border management, and the Ministry of National Defence is also involved in maritime Search & Rescue (SAR) operations (see the discussion on border management in section 4). Our interviewees highlighted the influential role of the Ministry of Interior, partly due to its continuous presence on migration issues.
- The Ministry of Foreign Affairs has integrated migration policy amongst its functions, including the Directorate General for Planning and Monitoring Office for Tunisians Abroad (OTE).

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<sup>36</sup> Boubakri, H. (2013). "Revolution and International Migration in Tunisia." Migration Policy Centre, MPC Research Report 2013/04 . <http://hdl.handle.net/1814/29454>

<sup>37</sup> Interview 5, April 2022. See also Veron, P. (2020). Op.cit.

<sup>38</sup> Natter, K. (2018). "Rethinking Immigration Policy Theory beyond 'Western Liberal Democracies.'" *Comparative Migration Studies*, 6(4).



- The Ministry of Vocational Training and Employment, through the Directorate General for International Placement and Foreign Labour, is the competent body for developing labour migration policies and programmes, promoting job placement opportunities abroad, and conducting international migration agreements (with the Ministry of Foreign Affairs). It issues work permits for foreigners in Tunisia. Trade unions have actively pushed the ministry for national regularisation of migrants and the rights of migrant workers.<sup>39</sup>
- Housing and education issues fall under the Ministry of Social Affairs.

Interviewees highlighted that the ministries continuously change personnel, which means there is no continuity in policy or knowledge.<sup>40</sup> This has also impacted negotiations with the EU, which interacts with multiple people from different ministries that have competing priorities, often on similar – if not the same – issues. This produces a “bottleneck at national governance level” only made worse by the current political situation.<sup>41</sup> Any migration policies “that would create institutional implications and clear responsibility are low on the priority list at the moment.”<sup>42</sup>

Beyond the state institutions, Tunisia has a strong civil society, which is a product of the democratisation process. Our interviews suggest that despite the institutional structure, civil society organisations maintain good working relations with staff at various ministries. They have a critical role in issues of protection, reception, and integration, and seek change through the formalisation of certain policies and the adoption of a national migration and asylum policy. Nonetheless, many acknowledged that civil society is more effective in shaping practice than policy. Civil society representatives were highly critical of the EU’s role in Tunisia. They stressed that the country would make progress on protection and integration if the EU did not “push its externalisation agenda.”<sup>43</sup>

With few exceptions, policy regarding asylum seekers and refugees is informal or absent, which facilitates ambiguity that allows for flexibility. This has been conceptualised through the notion of *ad-hocracy*, utilised by Natter to describe Tunisia and Morocco’s migration and asylum policies.<sup>44</sup> Natter argues that *ad-hocracy* can be an “intentionally ambiguous governance strategy to secure state power.” The entire policy cycle is included in this approach, from policy-setting to implementation, and state power includes all political actors including bureaucracies.<sup>45</sup> There are three core components of *ad-hocratic*

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<sup>39</sup> Interview 10, May 2022.

<sup>40</sup> Interview 2, March 2022 and interview 4, April 2022.

<sup>41</sup> Interview 8, May 2022.

<sup>42</sup> Interview 9, May 2022.

<sup>43</sup> Interview 5, April 2022; interview 8, May 2022.

<sup>44</sup> The notion of *ad-hocracy* has been conceptualised in bureaucratic theory and public policy studies as an intentional institutional outcome and an unintentional outcome of policy implementation, respectively.

<sup>45</sup> Natter, K. (2021). “Ad-hocratic Immigration Governance: How States Secure Their Power over Immigration through Intentional Ambiguity.” *Territory, Politics, Governance*. DOI: 10.1080/21622671.2021.1877189



immigration governance: (1) flexibility; (2) pragmatism; and (3) the informality of case-by-case arrangements.<sup>46</sup> All three apply in the case of Tunisia. *Ad-hocratic* governance enables intentional ambiguity that allows the state to choose which policies to avoid, with which to comply, and where and when to respond to domestic pressures in favour or against certain policies.

In contrast to most *ad-hocratic* governance structures that seek to avoid responsibility before the domestic audience (i.e., voters), Tunisia's primary audience is the EU. Within Tunisia, asylum seekers and refugees do not appear in the public discourse, except where civil society is concerned. Instead, the absence of clear political responsibility facilitates negotiations and institutional relationships with the EU by allowing flexible and pragmatic policy choices (see discussion in section 5). This attempt to retain flexibility is partially reflected in some legislative initiatives regarding migration and asylum.

### 3.2. Legislative framework for migration and asylum

Tunisia's legislative framework remains largely restrictive towards irregular migrants and asylum seekers, although changes since 2011 include revisions and additional legislation. Nonetheless, immigration to Tunisia is consistently seen through the lens of criminalisation.

Migration to and from Tunisia in the pre-revolutionary period was governed by the "Law on entry and exit of foreign nationals," originally adopted in 1968 and amended in 1975 and 2004. The law penalised the irregular migration of both Tunisian and foreign nationals.<sup>47</sup> In the 2004 revision,<sup>48</sup> exceptions were included "for situations covered by the 1951 Refugee Convention, thus ensuring, at least on paper, that irregular migrants have the right to apply for protection status at the UNHCR office in Tunis."<sup>49</sup>

Following the readmission agreement with Italy (1998), the Ben Ali regime introduced "Organic Law N° 2004–6 of 3 February 2004 Relating to Passports and Travel Documents,"<sup>50</sup> which imposed strict sanctions on irregular migrants and those assisting or hosting them in Tunisia, including a hefty fine and the threat of up to 20 years' imprisonment for the migrants and the smugglers.<sup>51</sup> The law sought to align with the Protocol against the Smuggling of

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<sup>46</sup> For a detailed discussion of political and legal instruments, see Raach, F., Sha'ath, H., and Spijkerboer, T. (2022). Op.cit.

<sup>47</sup> Badalič, V. (2019). "Tunisia's Role in the EU External Migration Policy: Crimmigration Law, Illegal Practices, and Their Impact on Human Rights." *Journal of International Migration and Integration*, 20: 85–100. doi.org/10.1007/s12134-018-0596-7

<sup>48</sup> Parliament of the Republic of Tunisia (2004). "Organic Law N° 2004–6 of 3 February 2004 Relating to Passports and Travel Documents." Official Journal of the Republic of Tunisia. <https://legislation-securite.tn/law/45000>

<sup>49</sup> Badalič, V. (2019).

<sup>50</sup> Parliament of the Republic of Tunisia, "Organic Law N° 2004–6 of February 3, 2004" op.cit.

<sup>51</sup> Badalič, V. (2019).



Migrants (2000) but also criminalised any form of assistance offered to irregular migrants, including assistance offered on humanitarian grounds.<sup>52</sup>

We can trace a continuity in migration management in Tunisia after the revolution. Criminalisation of irregular entry and/or exit remains the prevalent approach. For example, the Global Detention Project notes that though there are no explicit legal grounds for administrative forms of immigration-related detention in Tunisian legislation: “the country explicitly criminalises irregular migration for both Tunisian nationals and non-citizens; Tunisian legislation provides penalties for the unauthorised exit of both nationals and non-nationals; fines and imprisonment for non-nationals who enter or exit the country without authorisation or documentation; and fines and imprisonment terms for non-citizens using false documents or providing inaccurate information.”<sup>53</sup> As a result, irregular migrants that may need international protection are in danger of being detained.

Tunisia has a visa free regime for nationals of several African countries (e.g., Côte d'Ivoire, Mali, Niger) that facilitates arrival in Tunisia, although “most of them are in transit to Europe.”<sup>54</sup> To remain in Tunisia after three months, one must secure work and residence permits. Failure to do so, based on Law 1968–7,<sup>55</sup> includes a cumulative fine and imprisonment up to one year. The majority remain in-country, in an irregular situation with fines that increase on a weekly basis and are often impossible to pay.

In the spring of 2020, the Tunisian government responded to the COVID-19 pandemic by suspending visa termination dates and announcing non-arrest for irregular migrants already in the country. However, it was unclear whether detention continued for those apprehended on entry at the Libyan-Tunisian border. Media reports in 2022 have indicated that migrants apprehended for irregular exit from Tunisia during interception at sea have been detained.<sup>56</sup> Officially, there are two administrative detention centres in the country for irregular migrants: Al-Wardia (Ouardia) outside Tunis, and a facility in Ben Guerdane. However, access is limited and exact detainee numbers remain unknown. In principle, detainees can seek asylum, although the process is not straightforward. Individuals need to write a letter to the designated personnel at the “Direction des Frontières et des Etrangers” and submit their request, which is then forwarded to the UNHCR.<sup>57</sup>

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<sup>52</sup> Ben Jemia, M. and Ben Achour, S. (2014). “Plaidoyer pour une réforme des lois relatives aux migrants, aux étrangers et à la nationalité en Tunisie.” Tunis: Centre de Tunis pour la migration et l’asile. [https://euromedrights.org/wp-content/uploads/2015/07/REMDH\\_CETUMA\\_Monia-BJ\\_Souhayma-BA\\_Plaidoyer\\_r--forme-des-lois-sur-la-migration-les--trangers-et-la-nationalite\\_fr-2.pdf](https://euromedrights.org/wp-content/uploads/2015/07/REMDH_CETUMA_Monia-BJ_Souhayma-BA_Plaidoyer_r--forme-des-lois-sur-la-migration-les--trangers-et-la-nationalite_fr-2.pdf)

<sup>53</sup> Global Detention Project. (July 2020). “Overview: Tunisia.” <https://www.globaldetentionproject.org/countries/africa/tunisia>

<sup>54</sup> Nasraoui, M. (2017). “Les travailleurs migrants subsahariens en Tunisie face aux restrictions législatives sur l’emploi des étrangers.” *Revue Européenne des Migrations Internationales*, 33(4): 159–78. <https://doi.org/10.4000/remi.9244>

<sup>55</sup> Badalič, V. (2019). Op.cit.

<sup>56</sup> TRT World (April 2022). “More than 150 Migrants Detained after Tunisia Boat Disasters.” <https://www.trtworld.com/africa/more-than-150-migrants-detained-after-tunisia-boat-disasters-56621>

<sup>57</sup> UNHCR (n.d.). “Tunisia, <https://help.unhcr.org/tunisia/faq/>.”



Migration legislation and policy in Tunisia focuses predominantly on the emigration of Tunisian nationals. A process began in 2012 to create a National Strategy for Migration (NSM) that would also address the needs of migrants in the country. The NSM, has a long history of revisions. Consultation was initiated with the International Centre for Migration Policy Development (ICMPD), the International Labour Organization (ILO), and the UNHCR, including local and national organisations to ensure harmonisation of term-usage. The NSM was then revised in 2016 “coinciding with the launch of work on the five-year plan for economic and social development (2016–2020),”<sup>58</sup> and in collaboration with civil society. A second revision took place in 2017 and according to one interviewee, a third revision is expected in 2022.<sup>59</sup> The last version available is a 12-page document that offers no concrete steps or indication of the direction of migration governance. The NSM makes explicit reference to Article 26 of the 2014 constitution, which recognises the right to political asylum, yet it only commits to “efforts” to develop a law that guarantees the rights of asylum seekers and refugees. The focus of the NSM is on Tunisians rather than migrants and asylum seekers in the country. It includes strengthening the search for employment opportunities and job placement schemes abroad, protection of rights (and advocacy) for Tunisians abroad, and awareness of irregular migration risks.<sup>60</sup>

Although the NSM strategy has not been formally adopted at Ministerial level, it does shape the policies and approaches of certain ministries and government agencies.<sup>61</sup> According to Abderrahim et al., the fact that the NSM has not been adopted at the ministerial council “does not represent a major challenge for implementation, since projects to operationalize the strategy are in place.”<sup>62</sup> This was partially confirmed by an interviewee who noted that pending the NSM’s formal endorsement, “the knowhow already exists because the drafting of the Strategy was a learning exercise in itself.”<sup>63</sup> Nonetheless, the delay is indicative of the government’s desire to retain flexibility in migration policy. The absence of a national strategy for migrants in Tunisia is complemented by a generally restrictive framework for employment and housing.

Access to employment remains severely restricted. Law No. 66-27 of 30 April 1966, promulgating the Labour Code, supplemented by Law No. 96-62 of 15 July 1996, introduces several restrictions concerning the employment of foreigners, through Article 258-2: “Any foreigner in Tunisia who wishes to carry out salaried work of any kind whatsoever must be in possession of an employment contract and a residence card marked ‘authorized to engage in salaried work.’” Legally, the recruitment of foreigners cannot be carried out when Tunisian skills exist for the specialties relevant to the recruitment. In practice, this means it is extremely difficult for migrants and asylum seekers to receive a work permit, as this requires a

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<sup>58</sup> Global Forum on Migration and Development. (2016). “Tunisian National Strategy for Migration”. [ote.nat.tn/wp-content/uploads/2018/05/SNM\\_FRA\\_FINALE.pdf](https://ote.nat.tn/wp-content/uploads/2018/05/SNM_FRA_FINALE.pdf)

<sup>59</sup> Interview 7, May 2022.

<sup>60</sup> Global Forum on Migration and Development (2016).op.cit.

<sup>61</sup> Veron, P. (2020), op.cit. and interview 6, 2022.

<sup>62</sup> Abderrahim, T., Fakhry, A., and Rietig, V. (2021). Op.cit.

<sup>63</sup> Interview 6, May 2022.



remunerated work contract to be approved by the Labour Ministry. A report by the Mixed Migration Center (MMC) in 2021 found that “as a result of a lack of access to residency and work permits, a large majority of refugees and migrants find work opportunities in the informal sector, without contracts or access to social security.”<sup>64</sup> This also renders them vulnerable to exploitation and discrimination. The Office of the United Nations High Commissioner for Human Rights (OHCHR) recommended in 2017 that Tunisia adapt its legislation on the work of migrants to align with international human rights instruments and standards.<sup>65</sup> Although other OHCHR of have been adopted (e.g., the establishment of an independent Human Rights Commission, and the combatting of human trafficking),<sup>66,67</sup> there is still no framework to protect migrant labour rights. The Voluntary National Report for Tunisia ahead of the GCM Regional Review for Africa released in 2021 references, among other things, future efforts to improve data collection on irregular migrants in the country,<sup>68</sup> protect the rights of workers, asylum seekers, and refugees, and develop a national employment strategy to address migrants and asylum seekers’ needs. The current political instability is unlikely to facilitate progress on these issues.

On top of the already restrictive framework for entry, access to employment, and residence, we should highlight the absence of a national asylum law that further impacts persons in need of international protection. Despite being a party to the 1951 Refugee Convention and the 1969 AU Refugee Convention, Tunisia does not have a national asylum system.

The right to asylum is enshrined in the Tunisian Constitution of 26 January 2014, which stipulates that “the right to political asylum shall be guaranteed as prescribed by the law. It is prohibited to surrender persons who have been granted political asylum.”<sup>69</sup> However, the law has yet to be approved by Parliament. This is one of the main contradictions in Tunisia’s asylum policy. Although some progress has been made on paper, in practice the

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<sup>64</sup> Mixed Migration Centre (2021). “Hidden hardship of an unnoticed workforce. The economic lives of refugees and migrants in Tunisia.” [www.mixedmigration.org](http://www.mixedmigration.org)

<sup>65</sup> Human Rights Council (2017). “Working Group on the Universal Periodic Review Twenty-Seventh Session.” A/HRC/WG.6/27/TUN/2. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/037/79/PDF/G1703779.pdf?OpenElement>

<sup>66</sup> Human Rights Committee (2016). “Concluding Observations on the Sixth Periodic Report of Tunisia.” <https://www.ohchr.org/en/documents/concluding-observations/ccprctunco6-human-rights-committee-concluding-observations-sixth>

<sup>67</sup> The Organic Law N° 2016-61 was enacted in July 2016 against human trafficking. Following recommendations from the OHCHR, Tunisia created the National Committee against Trafficking in Persons (NCTIP) to develop a national strategy and establish coordinated mechanisms to identify victims, care for and protect them, and prosecute offenders. The NCTIP has been active since then.

<sup>68</sup> GCM Voluntary National Report Tunisia (2020). “Regional Review: Africa.” Only available in Arabic. <https://migrationnetwork.un.org/resources/tunisia-gcm-voluntary-national-report-2020-regional-review-africa>

<sup>69</sup> Constitute Project. “Tunisia 2014.” [https://www.constituteproject.org/constitution/Tunisia\\_2014?lang=en](https://www.constituteproject.org/constitution/Tunisia_2014?lang=en)



asylum law has been pending since 2014 and little suggests it will pass in the immediate future (for discussion see section 5- Outsourcing responsibility).

Asylum determination procedure has been undertaken by the UNHCR since 1992, when Tunisia signed the first agreement (reaffirmed in 2011) for UNHCR to undertake refugee status determination. This includes provisional aid to vulnerable applicants, with vulnerability based on UNHCR assessment criteria. No legal aid is offered to applicants prior to or during the procedure.<sup>70</sup> The Tunisian state has “outsourced” the responsibility for the reception and refugee status determination to UNHCR.<sup>71</sup> Processing an application takes from several months to a year due to limited staff availability.<sup>72</sup>

Once in Tunisia, asylum seekers are legally allowed to stay for 60 days in reception centres set up by the UNHCR and its local partners. During that time, their claims for assistance should be processed. Since the document issued by the UNHCR is not recognised by Tunisian authorities, refugees face several difficulties in acquiring residency and work permits. In principle, refugees and asylum seekers are allowed to work in Tunisia. The UNHCR partners with the Tunisian Association for Management and Social Stability (TAMSS), which acts as an intermediary to assist refugees and asylum seekers with contracts, establish conditions equal to those of Tunisian employees, and seeks to match available skills with job openings.<sup>73</sup> In practice, several interviewees noted that it is extremely difficult for an asylum seeker to be employed in the formal labour market. Similarly, the MMC report notes that although access is theoretically possible, the absence of a national asylum law to guarantee rights to the labour market means that many are prevented it in practice.<sup>74</sup> UNHCR has partnership agreements with the Tunisian Refugee Council (CTR), the Arab Institute for Human Rights (AIHR), and the Tunisian Association for Management and Social Stability (TAMSS), covering protection, assistance, advocacy, and capacity-building. Thus, it is civil society and international organisations that take “responsibility” for asylum applicants and refugees, rather than the Tunisian state.

The absence of a national asylum law, and the current outsourcing of responsibility to the UNHCR indicates that Tunisia is less engaged in receiving, hosting, and integrating asylum seekers and refugees. Asylum is not a priority domestically and this is also reflected in policies on asylum and integration. The remaining sections will reflect on Tunisia’s asylum and migration management policy preferences and the actors that influence them.

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<sup>70</sup> Rafik Hariri Center For The Middle East. (2017). “Tunisia” in *Boon, Not Burden: How Successful Refugee Integration Might Contribute to Host Nation Economies*, 6–8. Atlantic Council., Atlantic Council, pp. 6–8. *JSTOR*, <http://www.jstor.org/stable/resrep16780.5>.

<sup>71</sup> Interview 4, April 2022.

<sup>72</sup> Interview 8, May 2022.

<sup>73</sup> UNHCR (n.d.). “Tunisia.”, <https://help.unhcr.org/tunisia/faq/>

<sup>74</sup> Mixed Migration Centre (2021).



## 4. Border management as a priority

For Tunisia, border management preferences are a product of historical continuity from the Ben Ali period, concerns over Libya, and a securitisation of migration that is influenced by – although not solely attributable to – the relationship with the EU. Border management is the one area in which the EU and Tunisia's interests converge.

Libya was one of Tunisia's main trading partners before 2011 and remains important largely due to the cross-border oil supply. Tunisia's eastern border used to be a space for the cross-border mobility of goods and people that fuelled local economies. The Libyan civil war severely impacted the Tunisian side through disruption to the cross-border oil supply and cross-border movement, and the fact that Tunisia cannot afford to seal the border entirely. For eastern Tunisia, bilateral borderland trade is imperative to its economic sustenance.<sup>75</sup> There is an unwillingness to relax border controls, while concerns remain over terrorist groups either utilising Tunisia as a crossing point to the EU and/or spilling over and destabilising Tunisia. Destabilisation is also linked with the "fragility" of democratisation, a recent and ongoing process.

Ministries play a critical role in sustaining the security-driven policy and in turn take political responsibility for it. The main actor is the Ministry of Interior, which is responsible for border management and is one of the few ministries with relative continuity in staff from the pre-2011 period.<sup>76</sup>

Both SAR and interceptions are undertaken by Tunisian Navy warships (under the Ministry of National Defence) and other auxiliary vessels with coastal surveillance stations, and the Tunisian Coast Guard (under the Ministry of Interior), which is the main law enforcement agency responsible for the security of Tunisian maritime space and SAR. For maritime operations, other entities are involved, such as the Ministry of Transport, which is responsible for weather radars and private assistance vessels. Until 2019, there was little coordination between the different ministries. In 2019, the State Secretariat of Maritime Affairs was introduced in order to hold responsibility for coordinating the different stakeholders. Yet our research encountered no mention of the specific department, with all interviewees referring to the impact and influence of the Ministry of Interior in guiding all border-control-related policy.<sup>77</sup>

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<sup>75</sup> For a discussion on the role of smuggling of goods and border crossings under the Ben Ali regime, see Meddeb, H. (2020). "The Volatile Tunisia-Libya Border: Between Tunisia's Security Policy and Libya's Militia Factions." Carnegie Middle East Center. <https://carnegie-mec.org/2020/09/03/volatile-tunisia-libya-border-between-tunisia-s-security-policy-and-libya-s-militia-factions-pub-82647>

<sup>76</sup> Interview 3, April 2022 and interview 10, May 2022.

<sup>77</sup> Roman, E. and Pastore, F. (2018). "Analysing Migration Policy Frames of Tunisian Civil Society Organizations: How Do They Evaluate EU Migration Policies?" Working Paper 18. MEDRESET project; Natter, K. (2021).



The securitisation of migrants and asylum seekers in Tunisia is not a product of recent years. Cassarino demonstrates that the security-related aspects of migration were first instrumentalised by former President Ben Ali and permeated remaining policy after the Tunisian revolution.<sup>78</sup> The security dimension of Tunisia is not a result of concerns over migration, but rather partially instrumentalises EU concerns to acquire broader security gains.<sup>79</sup> Thus, EU border management priorities have allowed the Tunisian Ministry of Interior and Ministry of National Defence to tap into technologies and processes that are useful for security purposes beyond migration control. These are exported through the integrated border management system (IBM) and through specific bilateral projects with EU member states.

IBM is implemented within the framework of the Border Management Programme for the Maghreb region (BMP Maghreb). The BMP Maghreb is designed as part of the “European Union Emergency Trust Fund for Stability and Combating the Root Causes of Irregular Migration and the Displaced Persons in Africa” (EUTF for Africa). The objective of the Programme “is to mitigate vulnerabilities arising from irregular migration and to combat irregular migration.”<sup>80</sup> It does so by assisting in the establishment of an institutional framework to monitor and control the borders, identify risks, and facilitate mobility.<sup>81</sup>

IBM is implemented on the ground by the ICMPS.<sup>82</sup> The organisation has supported different ministries and border actors through training and technical expertise, as well as in the National Migration Strategy of Tunisia (see the discussion above on Tunisia’s legislative framework). A standard operating procedure was developed as part of the IBM Tunisia project, which has also served as the basis for the National Strategy on Border Security endorsed by the president in December 2017.

Border management is also clearly prioritised from the perspective of the EU. Three different funding instruments are available for Tunisia, totalling €58 million: the Valletta Emergency Trust Fund (EUTF); the Asylum, Migration and Integration Fund (AMIF); and the regional European Neighbourhood Instrument (ENI). Of the €58 million, €55 million is utilised for border management.<sup>83</sup> The financing reflects EU priorities, both from the

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<sup>78</sup> Cassarino, J.-P. (2014). “Channelled Policy Transfers: EU-Tunisia Interactions on Migration Matters.” *European Journal of Migration and Law*, 16(1): 96–122.

<sup>79</sup> Interview 7, May 2022.

<sup>80</sup> Border Management Programme for the Maghreb region (BMP-Maghreb) (T05-EUTF-NOA-REG-07). <https://ec.europa.eu/trustfundforafrica/sites/default/files/t05-eutf-noa-reg-07.pdf>

<sup>81</sup> IBM includes the provision and maintenance of equipment for screening; surveillance and early detection; capacity-building for border guards, police, and coastguard; development of necessary standards and procedures at the national level; and exchange and cooperation between different national institutions.

<sup>82</sup> The organisation has been present in Tunisia since 2002 but particularly active since the Jasmine Revolution. In 2012, the EU launched the “EU-Tunisia Technical Cooperation Project on Migration” (ETMA) for 2012–2013, which made strengthening Tunisian capacities in terms of integrated border management a priority. ETMA was made operational by ICMPS.

<sup>83</sup> Mzalouat, H. (2020). “How is Europe Controlling Borders in Tunisia?” Inkyfada. <https://inkyfada.com/en/2020/03/20/financing-eu-tunisia/>; European Court of Auditors. (2018).



European Commission and individual member states (e.g., Italy) that provide financial assistance and technical expertise on aspects of IBM, thereby facilitating border management's prioritisation. For example, Germany has funded the setup of a regional centre for border guards and provided surveillance equipment for usage at the Tunisian-Libyan border.<sup>84</sup> More recently, part of the IBM has been the installation of the "Integrated System for Maritime Surveillance" (ISMariS), a "nationally developed communication solution for the Tunisian Garde Nationale Maritime, which is the policing unit of the Tunisian Coast Guard under the Ministry of the Interior."<sup>85</sup> ISMariS will enable monitoring of the entire coast. The system will facilitate search and rescue operations and interceptions by enabling "pull back" of vessels while in the Gulf of Tunis.

The question of SAR and interceptions is also integral to the discussion of border management. There is a lack of consistent data on practice from the Tunisian side, and a lack of clarity over the kinds of operation at sea the data reflects. A recent attempt by FTDES (2022) to document maritime operations refers to both crossings and interceptions.<sup>86</sup> It notes that from September to May 2022, 7,250 migrants were intercepted,<sup>87</sup> according to the Ministry of Interior, with another 2,206 having arrived in Italy. Yet the Ministry of Interior often announces search and rescue operations to the media instead of interceptions. Our interviewees spoke of SAR operations rather than interceptions; this is thus the term we utilise in reference to the insights from interviews, although we note that it is not reflective of all operations by the Tunisian coastguard.

Interviewees diverged in their views on SAR. For some, it is not a priority for Tunisia or not always effective.<sup>88</sup> One interviewee noted that unlike Morocco, this is not due to an attempt to instrumentalise migration but simply a lack of capacity and equipment.<sup>89</sup> The Tunisian coastguard lacks the appropriate vessels to undertake SAR and departures have increased since 2017.<sup>90</sup> Very often fishermen assist,<sup>91</sup> particularly in coastal communities

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"European Union Emergency Trust Fund for Africa: Flexible but Lacking Focus." Special report no 32/2018. <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=48342>

<sup>84</sup> Raach, F., Sha'ath, H., and Spijkerboer, T. (2022).

<sup>85</sup> Parliamentary questions (29 April 2020). Answer given by Mr Várhelyi on behalf of the European Commission. Question reference: E-000891/2020. [https://www.europarl.europa.eu/doceo/document/E-9-2020-000891-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-000891-ASW_EN.html)

<sup>86</sup> In the 2022 report by FTDES, there are recorded interceptions of 7,250 persons (see introduction). However, the report warns that the reports issued from the Ministry of the Interior are infrequent, and that they do not cover all operations; while those issued from the Ministry of Defence no longer provide details on the exact place of interception or rescue. The report concludes that the available data is a snapshot but not an accurate representation of interceptions.

<sup>87</sup> Designation used by the Ministry of Interior.

<sup>88</sup> Interview 3, March 2022.

<sup>89</sup> Interview 8, May 2022.

<sup>90</sup> Since the 2016 agreement with the European Union, the Libyan coastguard has been responsible for part of the search and rescue zone (SAR zone) near the Tunisian coast.

<sup>91</sup> Interview 9, May 2022.



like Zarzis that function as popular departure points. EU member states like Italy have committed resources to modernise the Tunisian National Guard's patrol boats,<sup>92</sup> yet significant improvements are still needed. For most interviewees from civil society, SAR was perceived as a political priority and as a necessity, since Tunisians also embark on the sea journeys, which creates an additional level of responsibility for the state vis-à-vis the EU. In other words, operations at sea are perceived to demonstrate cooperation with the EU.

Although interviewees identified gaps in disembarkation, referral procedure, and access to rights (see the discussion in section 5), in parallel they highlighted that SAR is both an issue on which they cooperate with the Ministry of Interior and the national security actors, and one for which they agree on its terms of implementation. The outcome, however, is unclear. There have been instances where Tunisian authorities have refused disembarkation of vessels, only to eventually agree on the provision that the migrants would immediately be deported to the country of origin.<sup>93</sup> In addition, detention does take place for those apprehended at the border on entry and/or intercepted on departure and financial penalties are imposed for those who seek unauthorised exit from the country (see section 3.2 on legislative framework). Considering the absence of a national asylum law and that asylum applicants rely on the UNHCR for their status determination with little hope of resettlement (see section 5), border controls end up directly and indirectly restricting and containing all non-nationals in a country unable to care for them.

The adoption of tools is selective from the Tunisian side. For example, the country has repeatedly rejected cooperation with Frontex on border management but is willing to acquire maritime border surveillance systems. Frontex would shift the focus to border policies specifically for migration, whereas at present the border management priorities are more oriented towards traditional security concerns. The Frontex 2021 action plan notes that “no direct border related activities have been carried out in Tunisia ‘due to Tunisian authorities’ reluctance to cooperate with Frontex.”<sup>94</sup> Selectivity also implies flexibility, both largely attributable to the Ministry of Interior that dominates the agenda on border management. In the case of border management all three core components of *ad-hocratic* immigration governance are present. Flexibility on what aspects to implement on border management; pragmatism in identifying areas of convergence; and informality in terms of outcomes produced (e.g., detention for those apprehended remains legally unregulated in Tunisia; see the discussion on legislative framework in section 3).

The two ministries, particularly the Ministry of Interior – which sets border policy – seem to welcome the tools that the European Union offers, ensuring control, precariousness, and the invisibility of migrants in the country, particularly those from sub-Saharan Africa.

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<sup>92</sup> Mzalouat, H. (2020). “How is Europe Controlling Borders in Tunisia”. Inkyfada.  
<https://inkyfada.com/en/2020/03/20/financing-eu-tunisia/>

<sup>93</sup> Reuters (2019). “Migrants Stranded in Boat off Tunisia as Authorities Say Centers Overcrowded.” <https://www.reuters.com/article/us-tunisia-migrants-europe/migrants-stranded-in-boat-off-tunisia-as-authorities-say-centers-overcrowded-idUSKCN1TC2E0>

<sup>94</sup> Statewatch (2022). “EU: Tracking the Pact: Tunisia Refuses Cooperation with Frontex but Will Set Up an ‘Integrated Border Surveillance’ System.”  
<https://www.statewatch.org/news/2022/april/eu-tracking-the-pact-tunisia-refuses-cooperation-with-frontex-but-will-set-up-an-integrated-border-surveillance-system/>



The result of this convergence of Tunisian and EU priorities is that “the same mobility control tools that the European Union uses against Tunisian nationals on European soil, Tunisia adopts against sub-Saharan African nationals on Tunisian soil.”<sup>95</sup> Thus, political responsibility for border management practices and policies can be clearly identified within Tunisian institutions, whose policy preferences are supported and influenced by the EU and individual member states that can and do negatively impact access to safety – for those intercepted and in need of protection – and protection.

## 5. Outsourcing responsibility

Tunisia’s relationship with asylum, including reception, is ambiguous. A key facet of its democratic reforms after the revolution, at least on paper, is that Tunisia still lacks an official asylum policy. According to interviewees, this is in fact the actual policy; its core element is the outsourcing of the responsibility for status determination and reception to international organisations.

There are several reasons for this. Tunisia is not presently a destination country for a significant number of asylum seekers and refugees. In June 2022, the UNHCR had approximately 9,000 persons under its mandate. They originated mainly from the Middle East, sub-Saharan Africa, and the Horn of Africa, and most “reach Tunisia by land or air from neighbouring countries, and within mixed movements, by sea or land to/from Libya/Algeria.”<sup>96</sup> The number of registered persons under the UNHCR mandate is low in comparison with the estimated presence of migrant numbers in the country, which may indicate that some opt out of the available protection system. Nonetheless, interviews for this report and existing literature both note that successive Tunisian governments feared a formal adoption of the asylum law would render the country an attractive destination for asylum applicants.<sup>97</sup> Thus, there is a certain continuity in Tunisia’s asylum policy.

Due to its low number of asylum applicants (in comparison with other countries in the region), Tunisia is not prioritised for resettlement, which is one of the main “third country solutions” of the GCR. In 2021, only 76 people were resettled from Tunisia<sup>98</sup>, with another 8 people resettled to third countries in 2022 and 52 cases pending approval<sup>99</sup>. Limited resettlement places mean that those who do receive UNHCR status are stranded in the country with documents that protect them from being forcibly returned but are nonetheless not recognised by the Tunisian state (see section 3.2.). They cannot travel

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<sup>95</sup> FTDES (2020).op.cit

<sup>96</sup> UNHCR (2022).

<sup>97</sup> See also Raach, F., Sha’ath, H., and Spijkerboer, T. (2022).

<sup>98</sup> UNHCR (2021). UNHCR Tunisia Operational Update December 2021.  
<https://reliefweb.int/attachments/dd0b3a57-dcfb-38e0-8abc-bc00c2d9df25/UNHCR%20Tunisia%20Operational%20Update%20December%202021.pdf>

<sup>99</sup> UNHCR (2022). UNHCR Tunisia Operational Update June 2022.  
<https://reliefweb.int/attachments/7724fb30-3cc7-468b-a3f6-2cd9c066021f/Tunisia%20operational%20update%20-%20June%202022.pdf>



outside the country as they hold no passport. The main country of origin for applicants in 2022 is Côte d'Ivoire, followed by Syria. Of the 9,703 individuals registered with the UNHCR in Tunisia, 35% had received positive responses, with the remaining applications pending for examination.<sup>100</sup> Interviewees from civil society reported not only the slow rate of response but also the fact that many applications are rejected.<sup>101</sup>

Civil society and international organisations respond to requests by border guards, according to our interviewees, following disembarkation, for emergency services, but numbers from the Tunisian government do not correspond to those they have assisted on disembarkation. It is unclear what happens to the majority of those intercepted and/or rescued at the maritime border, as they do not appear in official data, nor are they under the care of NGOs. This was confirmed by an interviewee from civil society who noted that the government had in the past indicated that 20,000 people had been rescued at sea. The interviewee highlighted that it is not known whether these figures were announced to show European partners that the Tunisian coast guards are doing their job and managing the borders, whether the figures are accurate, or if these people disembarked in Tunisia but had not been provided with any assistance or care.<sup>102</sup>

Although pushbacks are not systematic, Tunisia has been condemned for collective expulsions of migrants and asylum seekers on the border with Libya.<sup>103</sup> There also appears to be an informal approach whereby persons disembarked are not arrested but rather “rely on the goodwill of guards and police officers to turn a blind eye to their presence as there is no legal system in place to protect them or establish the parameters of their stay.”<sup>104</sup>

For those who wish to apply for international protection, there is a referral process in place. In principle, the UNHCR is usually on site to undertake screening and accommodation for the most vulnerable is available through shelters around the country, particularly near coastal towns. All applications are processed by the UNHCR, in cooperation with the Tunisian Council for Refugees.

Despite being a critical actor in refugee reception and protection, UNHCR Tunisia is facing budget cuts that are impacting its ability to address emerging needs. Limited cash assistance is available but is insufficient for individuals to live off. Accommodation is a critical aspect of reception for asylum seekers and is currently outsourced to the UNHCR and civil society actors. There are several accommodation sites across the country for those applying for asylum.<sup>105</sup>

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<sup>100</sup> UNHCR (May 2022). “Registration Factsheet Tunisia.”

<https://reporting.unhcr.org/document/2586>

<sup>101</sup> Interview 4, April 2022 and interviews 1 & 2, March 2022.

<sup>102</sup> Interview 6, April 2022.

<sup>103</sup> Global Detention Project (2021). Op.cit

<sup>104</sup> Interview 5, April 2020.

<sup>105</sup> It was not possible to ascertain an exact number.



Amidst a worsening political and socioeconomic situation in Tunisia in 2021, the UNHCR began evictions from its Medenine shelter, which is primarily used to accommodate people intercepted at sea by the Tunisian National Maritime Guard, as well as those who are most vulnerable. Eviction was accompanied by financial assistance for housing (250 TND per month for three months), as well as referral to a Tunisian employment association to potentially find a job,<sup>106</sup> although without a positive determination from the UNHCR people are not able to register for a work permit. Multiple reports stress that refugees do not wish to return to familiar conditions:<sup>107</sup> "Migrants face insufficient food, hygiene, difficulties in accessing necessary healthcare, and a lack of information on their fundamental rights" and would rather resettle in the EU.<sup>108</sup>

A demonstration began in Zarzis on 9 February 2022, with several migrants converging at the UNHCR offices in the south-eastern town. In February 2022, protests in front of UNHCR offices broke out in Medenine in the south of Tunisia, involving 200 people with limited access to basic material conditions. Eventually the protest moved to the UNHCR office in Tunis, where a sit-in protest took place until June 2022, when the Ministry of Interior undertook an evacuation to a shelter in Tunis.

Some interviewees consider the initial unwillingness of the government to address the situation in Zarzis and Medenine as further evidence of the government's unwillingness to take responsibility for the reception of asylum seekers and refugees.<sup>109</sup> One interviewee noted that the situation in Zarzis was framed as a "European problem,"<sup>110</sup> with the Ministry of Social Affairs that retains the portfolio for the integration of refugees and asylum seekers in Tunisia conspicuously absent. This resulted in a misrepresentation of the situation, with the UNHCR and the EU being "blamed" for what is in fact a Tunisian structural problem.<sup>111</sup> The situation contributed to the scepticism regarding European priorities on migration and asylum management.<sup>112</sup>

International organisations and civil society have initiated some positive steps in the provision of services, which is part of reception. In 2021, the UNHCR and its partner, the Arab Institute for Human Rights (AIHR), together with the International Organization for Migration (IOM), established a one-stop shop pilot service within the structure of the

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<sup>106</sup> Gasteli, N. (2022). "From Zarzis to Tunis, Exiles Demonstrate against the Lack of UNHCR Protection." <https://inkyfada.com/en/2022/04/23/demonstrations-demanding-asylum-hcr-zarzis-tunis-tunisia/>

<sup>107</sup> Indicatively: Wallis, E. (2022). "Months-Long Sit-In outside UNHCR Tunis Ends." InfoMigrants <https://www.infomigrants.net/en/post/41361/months-long-sit-in-outside-unhcr-tunis-ends> ; Alarmphone (February 2022). "When the UNHCR in Tunisia throws refugees on the streets like rubbish". <https://alarmphone.org/en/2022/02/18/when-the-unhcr-in-tunisia-throws-refugees-on-the-streets-like-rubbish/>

<sup>108</sup> FTDES. (2019). "Une inévitable tentative de suicide d'un réfugié en Tunisie." <https://ftdes.net/une-inevitable-tentative-de-suicide-dun-refugie-en-tunisie/>

<sup>109</sup> Interview 10, May 2022; interview 6, April 2022.

<sup>110</sup> Interview 2, March 2022.

<sup>111</sup> Ibid.

<sup>112</sup> Interview 10, May 2022.



Municipality of Raoued (Greater Tunis). Named the “Shamel Office” (meaning “reunion” in Arabic) it was funded by the Austrian Development Agency (ADA) and the Swiss Government’s Secretariat for Migration (SEM). The centre offers reception services, including information provision and referral of refugees, asylum seekers, migrants, and Tunisian migrants towards the relevant available services within the municipality, or offered through international and civil society organisations. On 9 June 2022, the IOM “inaugurated a rehabilitated border post in the south of the country near Medenine, which it said would ‘significantly improve the reception conditions for people transiting through Tunisia.’”<sup>113</sup> Thus, efforts are in place to improve reception conditions for asylum seekers, refugees, and migrants in Tunisia. However, it is non-state actors that initiate these efforts.

Despite the various initiatives, interviewees say capacity has not increased in proportion with demand. There is almost no care for asylum seekers, except for priority communities, like the LGBT community and minors, but care is quite limited even for these very vulnerable populations.<sup>114</sup> As the few reception centres are overcrowded and underfunded, the Tunisian government has resisted requests to open new ones, arguing that it lacks the capacity to offer reception services to asylum seekers.

Interviewees highlighted different reasons for the Tunisian state’s unwillingness to formally adopt the law on asylum, starting with the current legal backlog before the National Assembly. All interviewees stressed this and the literature confirms likewise.<sup>115</sup> Interviewees also suggested that the policy of delaying the formal endorsement of the asylum law is primarily a reaction to external factors that shape policy preferences at the top political level.

The absence of a legal framework on asylum allows Tunisia to cooperate with the EU, while simultaneously rejecting potential externalisation plans from the EU and member states (e.g., disembarkation platforms), beyond existing agreements. The Tunisian approach is largely a response to the European push towards the legal reforms on migration since 2014: “It is not accidental; Tunisia stopped moving forward with reforms as soon as the EU started pressuring Tunisia.”<sup>116</sup> In that sense, EU efforts to facilitate the establishment of a national asylum law have produced the opposite result. The funding offered for training, capacity-building, enabling refugee status determination and reception facilities, and cash assistance to refugees are associated at the political level with efforts to contain asylum seekers in Tunisia and prevent their journey across the Mediterranean.<sup>117</sup>

Tunisian governments were not receptive to the horizontal integration of migration and asylum issues across various portfolios discussed, especially since the migration and

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<sup>113</sup> Wallis, E. (2022). “Months-Long Sit-In outside UNHCR Tunis Ends.” InfoMigrants. <https://www.infomigrants.net/en/post/41361/monthslong-sitin-outside-unhcr-tunis-ends>

<sup>114</sup> Interview, March 2022.

<sup>115</sup> Roman, E. and Pastore, F. (2018). Op.cit.

<sup>116</sup> Interview 2, March 2022 and interview 4, April 2022.

<sup>117</sup> Raach, F., Sha’ath, H., and Spijkerboer, T. (2022).op.cit. p. 10.



treatment of Tunisians in the EU was not sufficiently addressed.<sup>118</sup> In 2018, the discussion on disembarkation platforms exacerbated the situation. As one interviewee highlighted, “even though migration is rarely an issue in the public discourse the news on disembarkation platforms was everywhere! It generated a strong social reaction.”<sup>119</sup> The level of publicity, alongside opposition from civil society, trade unions, and the public, produced the opposite result. At an early phase of discussions with the EU after 2011, there appears to have been a willingness to cooperate on migration and asylum but there was disappointment at what the EU offered, resulting in partial disengagement from the Tunisian side.<sup>120</sup> However, it is not only the EU that has sought to encourage Tunisia to formalise the asylum law. Civil society organisations in Tunisia and UN bodies have also asked for its formal endorsement, with little success.<sup>121</sup>

Asylum is the main area of divergence from the EU. From an EU perspective, a functioning asylum system is critical, primarily for the democratisation process. It would also mean that for most categories of applicants, Tunisia could be considered a safe third country,<sup>122</sup> thus facilitating returns. This is linked with the perception of Tunisia as a transit country. The formal adoption of the asylum law would facilitate returns, but numbers do not appear to be of sufficient scale to justify the current focus on the asylum law. Concern over the future and the particular situation in Libya is also crucial.

However, the delays in endorsement of the law are at the highest political level and political responsibility is harder to locate. The dominance of the Ministry of Interior in setting the agenda partially explains why asylum is not a salient issue, although it appears there is consensus across the Tunisian state, including all governments past and present, to delay asylum reform. This facilitates the utilisation of asylum as a negotiating tool with the EU and enables the outsourcing of responsibility to international organisations. Similarly to border management, there are elements of flexibility, pragmatism, and informality that produce specific policy outputs (i.e., no formal endorsement of the asylum law). The EU policies here also fall short of their intended aim. The immediate impact of non-responsibility is evident in the integration of asylum applicants and refugees, including those who are informal and unregulated.

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<sup>118</sup> Interview 8, May 2022.

<sup>119</sup> Interview 5, April 2022.

<sup>120</sup> Interview 10, May 2022; see also Natter’s analysis (2018).

<sup>121</sup> Euromedrights (2019). “Call for Tunisia to Respect its International Commitments and for the Establishment of an Effective Asylum System.” <https://euromedrights.org/publication/call-for-tunisia-to-respect-its-international-commitments-and-for-the-establishment-of-an-effective-asylum-system/>

<sup>122</sup> Considering that homosexuality is still penalised in Tunisia, there would be obvious exceptions to the “safe third country” application. Similarly, disembarkations do not meet European standards, as many end up without referral and without support in the country (interview 6, May 2022).



## 6. Informal integration

Tunisia does not have a national legal framework for the integration of refugees and migrants into Tunisian society. The lack of comprehensive data on migrants also means that local and state level actors have no knowledge of the exact number of people who would need to be integrated across the country. In principle, integration is a two-way process whereby the government and local authorities, alongside society, facilitate the integration of non-nationals legally residing in the country. Yet various studies have shown that irregular migrants are also allowed into some spheres of society – usually informally – while they are simultaneously excluded from others.<sup>123</sup> This is the case in Tunisia, where access to health and education is established in principle, yet work and residence permits remain restricted.

The constitution of 2014 guarantees that every individual has “the right to live, in dignity, and with respect of private life” and in 2018 Tunisia took a step further in adopting a law on the elimination of all forms of racial discrimination. Despite these positive steps, refugees, asylum seekers, and migrants remain vulnerable to discrimination and exploitative working conditions. Tunisia has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, or ILO Conventions 97 and 143 on migrant workers, and 189 on domestic workers.<sup>124</sup> The existing legal framework is insufficient to safeguard against the violation of labour rights, particularly for irregular migrants and applicants for asylum whose status is pending.<sup>125</sup>

Housing and employment are also not easily accessible for those whose applications are pending. Employment contracts are not possible for irregular migrants and rare for asylum seekers. This forces them to work in the informal labour market, where demand for labour fluctuates. Until the COVID-19 pandemic, opportunities for informal work existed particularly in agriculture and construction but the pandemic significantly impacted demand for labour. This in turn resulted in loss of income, which also results in home evictions. Precariousness has pushed some “to prostitution as the only way to support their needs.”<sup>126</sup> Trade Unions are active in advocacy for the labour rights of migrants and refugees and in 2018 the Tunisian General Labour Union (UGTT) identified focal points on labour migration in the cities of Medenine, Sfax, Sousse, and Tunis. Their aim has been to function as initial points of contact for migrant workers in Tunisia, provide

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<sup>123</sup> De Genova, N. (2013). “Spectacles of Migrant ‘Illegality’: The Scene of Exclusion, the Obscene of Inclusion.” *Ethnic and Racial Studies*, 36(7): 1180–198; Mezzadra, S. (2011). “The Gaze of Autonomy: Capitalism, Migration and Social Struggles” in V. Squire (ed.), *The Contested Politics of Mobility: Borderzones and Irregularity*, 121–42. London: Routledge.

<sup>124</sup> Mixed Migration Centre (2020). “Urban Mixed Migration – Tunis Case Study.” <http://www.mixedmigration.org/resource/urban-casestudy-tunis/>

<sup>125</sup> For information on labour migration conditions in Tunisia, see Mixed Migration Centre (2021). “Hidden Hardship of an Unnoticed Workforce. The Economic Lives of Refugees and Migrants in Tunisia.” [www.mixedmigration.org](http://www.mixedmigration.org)

<sup>126</sup> Interview 8, May 2022.



assistance regarding migrant workers' rights, and share information about living and working conditions in Tunisia.<sup>127</sup> Despite such initiatives, the absence of national legislation is a key obstacle to integration for foreign nationals.

For those who receive international protection, prospects are similarly poor. Financial support is insufficient to cover rent and basic needs and the absence of state support means that NGOs are asked to facilitate the shift to autonomous living and income. For most beneficiaries of protection, access to public services remains difficult. The procurement of documents is one of the main administrative obstacles. According to our interviewees, international efforts that seek to promote livelihoods and economic self-reliance are very limited. This pushes many asylum seekers and recognised refugees into precarious living, that is, short-term arrangements prone to exploitation.

Minors have access to public schooling, but there are no specific programmes for them or adapted programmes to facilitate integration to education. They can be integrated into public schools, but need to speak the language, and many do not originate from Arab-speaking countries. There are no specific reception facilities for minors. Even though Tunisian law recognises that unaccompanied and accompanied minors enjoy the same rights as Tunisian minors, there are no specific reception and care facilities for unaccompanied minors or asylum seekers.

Emergency assistance provisions exist for food assistance and civil society is mobilised. However, precariousness remains the norm for most, who either wait for their asylum application to be processed for years or who have opted out of the asylum process altogether in the hope of leaving Tunisia for the EU. The Tunisian government stepped in during COVID-19 to provide support to refugees and migrants by setting up a platform for assistance. Research by the MMC showed that few were aware of it and those who were did not utilise it due to language barriers.<sup>128</sup> NGOs and civil society, alongside municipalities (e.g., Ariana and Raoued municipalities in Greater Tunis), have also stepped in during the pandemic to offer basic needs assistance.<sup>129</sup>

Integration also depends on nationality. Libyan nationals enjoy preferential treatment and access to rights, and thus tend to opt out of the asylum process. As noted by one interviewee, their presence is "tolerated" in Tunisia, partly due to the large presence of a Libyan diaspora, as well as the relations between the two countries.<sup>130</sup> This contrasts with sub-Saharan Africans, who face discrimination in Tunisia; housing and the risk of

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<sup>127</sup> ILO. (2018). "The Tunisian General Labour Union (UGTT) Takes Action to Support Migrant Workers in Tunisia." [https://www.ilo.org/global/topics/labour-migration/news-statements/WCMS\\_614909/lang--en/index.htm](https://www.ilo.org/global/topics/labour-migration/news-statements/WCMS_614909/lang--en/index.htm)

<sup>128</sup> Mixed Migration Centre (2020). Op.cit.

<sup>129</sup> Ibid.

<sup>130</sup> Interview 5, April 2022 and interview 7, May 2022.



residential segregation is increasingly a cause for concern.<sup>131</sup> Language is also a barrier for those originating from English-speaking countries.

As the presence of foreign nationals increases, there is less willingness to open pathways for some to semi-regularise their stay. There is increasing tension between foreigners and residents. The current visa regime allows nationals from specific countries (particularly from Côte d'Ivoire) to travel to Tunisia for studies or to seek job opportunities. One interviewee highlighted that this will likely be more of a domestic issue in the future as "domestic workers were predominantly Tunisians but in recent years they are being replaced by women from Côte d'Ivoire. This, in combination with high unemployment, is impacting households."<sup>132</sup> In the end, asylum seekers and migrants face the same obstacles, and with no legal framework or formal policies in place, they are rendered indistinguishable in the eyes of the Tunisian state.

This institutional setup facilitates and cultivates the emergence of an informal multi-stakeholder model whereby no legal framework exists and irregular migrants, persons applying for protection, and/or those who have received protection are allowed to remain in the country without becoming part of it.

Unlike asylum and border management, the integration of non-nationals in Tunisia has not been supported financially by the EU and the member states. A recent report by the European Training Foundation on projects implemented under the EU Trust Fund for Africa notes that "international projects have not focused on labour integration of refugees and irregular immigrants in Tunisia."<sup>133</sup> Instead, emphasis has been placed on the mobility (through training and job placement) and reintegration of Tunisians. For example, the "German-Tunisian Advisory Centre for Jobs, Migration and Reintegration" in Tunis is considered the flagship programme since 2017,<sup>134</sup> offering job counselling and social and economic reintegration options for those who have been deported or who have voluntarily returned from Europe. Similarly, additional funding under the EUTF has been allocated – €3.9m was contracted at the end of 2021 following €2.5m of support – to support the socioeconomic reintegration of returnees via a Tunisian-led reintegration programme from which 100 people have benefitted so far.<sup>135</sup>

In principle, political responsibility for integration lies predominantly with the Ministry of Social Affairs and Ministry of Labour (for employment). Interviewees highlighted the turf war on migration priorities between the Ministries of Interior, Foreign Affairs, and Social Affairs as an obstacle to the development of a national integration system. A legislative

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<sup>131</sup> Pastore, F. and Roman, E. (2020). "Framing Migration in the Southern Mediterranean: How do Civil Society Actors Evaluate EU Migration Policies? The Case of Tunisia." *CMS*, 8(2). (2020). <https://doi.org/10.1186/s40878-019-0160-4>

<sup>132</sup> Interview 9, May 2022.

<sup>133</sup> European Training Foundation (2021). "Skills And Migration Country Fiche-Tunisia." [www.etf.europa.eu/en/publications-and-resources/publications/](http://www.etf.europa.eu/en/publications-and-resources/publications/)

<sup>134</sup> This is jointly operated by the German development aid agency (Gesellschaft für Internationale Zusammenarbeit) and the Tunisian government.

<sup>135</sup> *ibid*



framework that cultivates integration would transfer the full responsibility to the Tunisian state. Similarly to asylum, a flexible, informal, and pragmatic policy is applied that can be adjusted according to needs and domestic priorities. Unlike asylum and border management, little effort has been made by the EU and member states to encourage the integration of migrants and refugees in the country.

## 7. Conclusions: Domestic preferences over external influences

This report discussed influences on Tunisia's asylum and migration policies, and their reflection of commitments to the Compacts, particularly the GCR.

Cross-cutting themes are the continuity of a securitisation approach from the Ben Ali regime, the complex and ever-changing institutional setup alongside political instability, the situation in Libya, and Tunisia's unwillingness to become a country of destination and transit – although in practice this is already underway. The policy direction is also heavily determined by the influence of specific ministries, for example the Ministry of Interior and the Ministry of Foreign Affairs. In this complex domestic setup, the EU, and its member states, as well as international organisations, function as external actors seeking to influence policy direction, but not always successfully.

*Ad-hocratic* governance of migration and asylum in Tunisia enables resistance to external pressures. It is both a legacy of the previous regime and a conscious strategy of non-attribution. In this sense, it is also an exercise in political agency. The absence of specific policy outputs (e.g., a national asylum law) is *the policy*. Its impact is first and foremost felt amongst the asylum seekers and recognised refugees in the country, but also amongst migrants, with the two categories fundamentally indistinguishable as regards access to services and integration.

The interests of the EU (and its member states) and Tunisia clearly converge on border controls. Restricting and regulating access to territory, as well as preventing departures, appear to be two elements the two sides agree on. Both share concern over Libya, and of Tunisia transforming into a fully-fledged transit country for irregular migrants. For Tunisia, border controls are also a way of reducing irregular entries of people who will likely remain in the country (see the discussion in section 3).

Divergence exists over asylum and integration. The EU has pushed for the adoption of the asylum law and interviewees have highlighted how this has been counterproductive. Fear of Tunisia being considered a “safe third country” and being thus pushed to receive more asylum seekers has resulted in an indefinite pause on the adoption of the asylum legislation. Disappointment colours aspects of Tunisia's relationship with the EU, and produces spill-over effects that are evident in the stalled legal progress and in outsourcing to international organisations and civil society.<sup>136</sup>

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<sup>136</sup> Interview 2, March 2022.



The adoption of intentional ambiguity allows the Tunisian state to make progress on border management while stalling all progress on asylum. Flexible compliance with EU priorities characterises the relationship and as one interviewee stressed, “Tunisia will not undertake reforms without knowing the exact outcomes, no matter what the EU offer.”<sup>137</sup> Different priorities have yielded the opposite outcomes, and this is unlikely to change soon. The initial unwillingness of the Ministry of Interior to engage with the sit-in outside the UNHCR office in Tunis and its eventual intervention in support of the organisation serves as an example of disengagement with the domestic situation.

Policy preferences also do not appear to be affected by the GCR and the GCM, although Tunisia has endorsed both. Neither the literature nor our interviewees referred to the Compact; however, a limited convergence of interests is visible, assisted by EU financial instruments. Through the EU Trust Fund for Africa, funding has been allocated for mobilisation of the diaspora, and socioeconomic reintegration of returnees, thereby encouraging implementation of specific GCM goals (19 and 21). Yet there is evidence of preference in funding allocation, with border management alone receiving €34.5 million from the €89 million in total allocated.

This is less the case with the GCR, where engagement appears limited largely due to the absence of an institutionalised asylum system and a national law on asylum. With no asylum law and no integration strategy, the protection, reception, and integration of asylum seekers and refugees remains outside the responsibility of the Tunisian state. Here, the EU’s financial and political instruments have produced unintended consequences. Rather than encouraging, the EU has discouraged the state’s from implementing reforms, despite the offer of financial assistance. The GCR appears to have neither facilitated nor discouraged policy preferences, which suggests that domestic constraints in this case are the main determinants of policy.

Tunisia’s reforms in migration and asylum have stalled. The deteriorating economy, the COVID-19 pandemic, and renewed political instability since 2019 mean that significant support is needed to ensure Tunisia undertakes reforms that improve the lives and rights of migrants, asylum seekers, and refugees in the country. What type of support and what types of incentives would help align priorities better and reassure Tunisian decision-makers in proceeding with reforms on asylum and migration?

Considering that policy governance in Tunisia has been *ad-hocratic* (flexible, pragmatic, and informal), incentives need to adjust accordingly, factoring in Tunisian preferences. Incentives could include increasing availability for Tunisians to legally migrate to Europe; providing investment opportunities in Tunisia to boost labour market opportunities; increasing resettlement places from Tunisia to send a signal of cooperation and solidarity on refugees; funding municipalities directly to set up reception (including accommodation) shelters for asylum seekers and vulnerable groups; facilitating the transfer of best practices on local integration; and financially supporting the establishment (training, hiring) and functioning of an asylum law and national asylum agency to gradually undertake the transfer of responsibility from the UNHCR to the Tunisian state. Any progress requires consistent, long-term commitment and investment

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<sup>137</sup> Interview 3, March 2022.



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from both sides. As noted by one interviewee, it is in the overlaps where fruitful cooperation can emerge. Finding such overlaps and positive ways forward that meet the interests of the EU and its member states, Tunisia, and especially migrants and refugees, is the main challenge ahead.



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## ASILE

Global Asylum  
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