

# DGAP REPORT

# Walking a Tightrope in Tunisia:

# The Aspirations and Limitations of Migration Policy Reform



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# Preface

This paper is published as part of the project “From Here to EU: How to Talk about Migration in Africa? An Awareness Campaign for European Policymakers.” The one-year project is led by the Migration Program of the German Council on Foreign Relations (DGAP) and funded by Stiftung Mercator.

## GOALS

This project aims to inform German and European policymakers about migration debates and policies in select African countries to inform their present and future communication with representatives from that continent. The results aim to inform the European Union-African Union summit planned for 2021.

Its research provides insights on migration policies and their framing in five significant countries of origin, transit, and destination of migrants in Africa: Egypt, Ethiopia, Ghana, Tunisia, and South Africa. Drawing lessons from these national contexts, the project develops policy recommendations for German and European politicians, policy experts, and practitioners to foster a more constructive debate about future African-European cooperation on migration.

## OUTPUTS

1. Two closed-door expert conferences under the Chatham House Rule that brought together policymakers and experts from Brussels and Berlin with African country experts in the fall of 2020
2. Four country case studies, authored by African country experts on migration policies and practices in Egypt, Ghana, Tunisia, and South Africa
3. One summary analysis, authored by DGAP experts, that distills the main lessons from the country case studies and the Chatham House discussions
4. One public online event to present the main findings of the project and link it to other initiatives in the growing field of migration cooperation between Europe and Africa

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# Key Recommendations

Tunisia is transforming into a small but important migration hub in North Africa. It grapples with a range of migration challenges that include growing mixed movements, irregular sea crossings, and brain drain. Europe has been nudging Tunisia to overhaul its migration governance system for years, but practical and political challenges stand in the way of reform for the young democracy.

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- Europeans should resist the temptation to publicly pressure Tunisia to overhaul its migration policy. Elevating migration from its traditionally low-priority position in Tunisian society to higher levels risks triggering a more toxic debate, greater criticism by Tunisia's burgeoning civil society, and decreased maneuvering space for the government.
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- Europeans should shift their approach to protection in Tunisia. Instead of primarily trying to nudge Tunisia to adopt a lackluster asylum law that has (for good reasons) been pending for years, they should try to increase the protection of refugees and migrants by supporting the provision of practical services by civil society, international organizations, and the government.
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- German and European policymakers should consider amending the draft readmission agreement with Tunisia by removing the provisions concerning third country nationals. The Tunisian government and many civil society actors have voiced their opposition to the clause on the readmission of third country nationals, but they have not closed the door on a readmission agreement in its entirety.
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## 1 INTRODUCTION

European interest in Tunisia and its migration policies has increased substantially in recent years. Geography is destiny: As a direct neighbor of the EU that has seen an increasingly dynamic migration situation on top of a systemic change to democracy in 2011, European policymakers today care deeply about the country's developments.

Tunisia's migration profile has shifted fundamentally since the early 2000s. No longer primarily the country of origin it had been since the 1970s, it has become a country with the triple migration profile of country of origin, transit, and – increasingly – destination. While data on migration is patchy, statistics indicate that the foreign population in Tunisia increased by half in just ten years, from around 35,000 people in 2004 to 53,000 in 2014, most of them from other North African countries. This number does not include the more than 10,000 irregular migrants estimated to be in the country, many of whom hail from sub-Saharan Africa. These migrants settle in Tunisia either by choice or lack of alternative. While many come with the intention of staying, many also find themselves stuck in the country. Others are left with few options but to continue on to Europe.<sup>1</sup>

The protracted conflict in neighboring Libya has triggered additional influxes. The population of refugees and asylum seekers in Tunisia has increased in recent years, although official estimates are likely too low: As of October 2020, the United Nations High Commissioner for Refugees (UNHCR) reported nearly 6,000 refugees and asylum seekers,<sup>2</sup> up from less than 1,000 in 2018.<sup>3</sup> But the number of Libyans in the country that do not register as refugees, even though they have been displaced due to the ongoing conflict, is much higher. In 2014, Tunisia's national census estimated that less than 9,000 Libyans were officially registered residents in Tunisia. Yet during the same year, over 1.8 million entered the country and another 1.4 million exited Tunisia,<sup>4</sup> rendering estimations of the size of the Libyan population residing in Tunisia difficult. Whatever the size of its refugee population, Tunisia's protection system so far remains inadequate to these new pressures.

Tunisia's role as a transit and origin country is of particular interest to Europeans. Sea arrivals of Tunisians have been on the rise since 2017 and represented the first nationality of sea arrivals in Italy in 2020 with 13,000 persons out of 34,000. But other nationalities also use Tunisia as their crossing point to Italy, including migrants coming from the East from Bangladesh, Pakistan, Afghanistan, and Egypt, or from the West and South from Cote d'Ivoire, Algeria, and Sudan.<sup>5</sup> Migration management and border controls thus remain a key priority, especially as irregular migration affects Tunisia's relationship with its major partners – the European Union (EU) and its Member States.<sup>6</sup> Regular departures of the highly skilled are on the rise as well, putting the spotlight on brain drain and its long-term impact on the country's development.

As Tunisia's migration situation has become more complex, its governance has changed. The country has made some positive strides toward reforming migration governance since the 2011 revolution, albeit at times under external pressure. The evolving migration landscape following the ouster of Ben Ali, President of Tunisia between 1987 and 2011, has provided an impetus to develop a long-term migration policy. Tunisia's successive governments developed a National Strategy for Migration and set up new institutions, and the legislative branch adopted several laws related to migration.

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*Unlike in Europe, migration is rarely a standalone issue in Tunisia.*

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Yet despite the greater salience of migration within Tunisia's domestic and regional context, the issue is still not a priority for the government. Migration is virtually absent from the political and public discourse, as the focus is placed on even more pressing issues, including socio-economic

1 REACH, *Tunisia, country of destination and transit for sub-Saharan African migrants* (October 2018), p. 1: [https://reliefweb.int/sites/reliefweb.int/files/resources/reach\\_tns\\_subsaharan\\_migration\\_in\\_tunisia\\_report\\_october\\_2018.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/reach_tns_subsaharan_migration_in_tunisia_report_october_2018.pdf) (accessed September 13, 2020).

2 UNHCR, "Operational Portal. Tunisia," (as of October 31, 2020): <https://data2.unhcr.org/fr/country/tun> (accessed November 23, 2020).

3 UNHCR, "Tunisia," Fact Sheet, UNHCR (March 31, 2018): <https://reliefweb.int/sites/reliefweb.int/files/resources/63549.pdf> (accessed November 23, 2020).

4 World Bank, *Impact of the Libya Crisis on the Tunisian Economy* (February 2017), p. 5: <http://documents1.worldbank.org/curated/en/517981490766125612/pdf/ACS16340-WP-P158090-PUBLIC-Impact-of-Libya-Crisis-on-the-Tunisian-Economy-Long-Version.pdf> (accessed September 13, 2020).

5 UNHCR, "ITALY: Sea arrivals dashboard" (December 2020): [https://reliefweb.int/sites/reliefweb.int/files/resources/2020\\_12\\_Sea\\_Arrivals\\_Dashboard\\_December.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/2020_12_Sea_Arrivals_Dashboard_December.pdf) (accessed March 30, 2020).

6 Jacopo Barigazzi, "Uptick in Irregular Migration from Tunisia Worries Rome," *Politico*, August 8, 2020: <https://www.politico.eu/article/tunisia-italy-migration-irregular> (accessed September 13, 2020).

development, corruption, and security. In the few instances when it is discussed publicly, migration is generally framed within other dominant issues through its impact on relations with the EU and socio-economic development. Unlike in Europe, migration is rarely a standalone issue in Tunisia.

This paper answers three sets of questions to shed light on the Tunisian migration landscape:

- **How have migration policies and debates developed in Tunisia since the 2011 revolution, and who shapes migration policymaking in the country?**
- **What do Tunisians talk about when they talk about migration – which issues are most relevant in the Tunisian context, and what are the government's priorities and implementation challenges in these areas?**
- **What should German and European policymakers consider to find ways for more effective cooperation in the future?**

The first section explains the institutional and legislative migration framework in Tunisia. It maps internal and external actors involved in the migration dossier, and the legislative framework for migration management, including Tunisia's new National Migration Strategy (NMS) and the disparities between the policy and its implementation. The next section then explores the main migration issues in Tunisia, highlighting brain drain and efforts to engage the diaspora, border management challenges, and the country's growing population of refugees and protection seekers. Finally, the paper provides recommendations for German and European policymakers to enhance European-Tunisian cooperation on migration.

## 2 MIGRATION POLICIES AND DEBATES IN TUNISIA SINCE 2011

The wave of revolutions that shook North Africa in 2011 provoked radical changes in not only the political but also the migration dynamics across the region. In the years that followed, a burgeoning civil society pressed policymakers in Tunisia to revise the institutional and legislative framework

for their migration policy, often in ways that clashed with European demands.

### 2.1 An Ever-Evolving Institutional Framework

A wide spectrum of actors intervenes in the governance of migration in Tunisia as it intersects with different policy issues, including external relations, employment, and security (Figure 1). But two main actors jostle for the central responsibility on migration governance: the Social Affairs and the Foreign Affairs Ministries.

In the 1980s, the Social Affairs Ministry took on the role of pacemaker on migration policy with pioneer work on diaspora affairs. Today, it leads the development and implementation of the government's migration strategy. This includes a 360-degree mandate that encompasses emigration and diaspora policy, international cooperation on migration, and to a lesser extent immigration.

The Social Affairs Ministry also hosts two important migration bodies. The first is the National Observatory for Migration, founded in 2014 and tasked with collecting and producing reliable data and analyses on migration.<sup>7</sup> The second is the Office for Tunisians Abroad (*Office des Tunisiens à l'Etranger*, OTE),<sup>8</sup> a cornerstone of Tunisia's diaspora policy. Founded in 1988, the OTE supports the Tunisian diaspora through the provision of language, educational, and cultural programs abroad. Despite making Tunisia one of the first countries to adopt a diaspora engagement policy, the OTE lacked effectiveness under Ben Ali's regime.<sup>9</sup> Its work was curtailed due to poor management, corruption, and lack of human resources, and it was manipulated by the former regime to benefit friends and allies abroad.<sup>10</sup> The criticism lives on. Many activists from the Tunisian diaspora argue that the OTE's activities lack innovation and are ineffective, undermining its capacity to effectively engage Tunisians abroad.<sup>11</sup> Besides, the limited financial resources of the Ministry mean that many vacant positions in OTE's offices abroad are not filled, further affecting its ability to deliver results.<sup>12</sup>

The Foreign Affairs Ministry has been a main competitor for the lead on migration in the country's external affairs. Following calls from diaspora organizations to shift the issue

7 Tunisian Ministry of Social Affairs, "Migration and Tunisians Abroad," [in Arabic]: <http://www.social.gov.tn/index.php?id=221> (accessed September 13, 2020).

8 Ibid.

9 Katharina Natter, "Revolution and Political Transition in Tunisia: A Migration Game Changer?" Migration Policy Institute (May 28, 2015): <https://www.migrationpolicy.org/article/revolution-and-political-transition-tunisia-migration-game-changer> (accessed September 13, 2020).

10 La Cour des Comptes, "Office of Tunisians Abroad," [in Arabic] (December 11, 2012): <https://bit.ly/2KMAgPi> (accessed September 13, 2020).

11 Tarek Ben Hiba, "Will Tunisians abroad be (again) forgotten by the future government?" [in French], *Kapitalis*, February 4, 2020: <http://kapitalis.com/tunisie/2020/02/04/les-tunisiens-de-letranger-seront-ils-encore-les-oublies-du-futur-gouvernement> (accessed November 23, 2020).

12 Tunisian Ministry of Social Affairs, Annual Plan for Capacity for Performance for 2020 [in Arabic] (October 2020): <http://www.social.gov.tn/fileadmin/gbo/budget/PAP2020.pdf> (accessed September 13, 2020).



FIG. 1: TUNISIA'S MIGRATION INSTITUTIONAL FRAMEWORK: WHO DOES WHAT?

Ministries	Main government actors				
	Ministry of Social Affairs	Ministry of Foreign Affairs, Migration, and Tunisians Abroad	Ministry of Employment and Vocational Training	Ministry of Interior	Ministry of Justice
Relevant departments and agencies	Directorate General for International Cooperation Directorate General for Planning and Monitoring Office for Tunisians Abroad (OTE) National Observatory for Migration (ONM)		National Agency for Employment and Independent Work (ANETI) Technical Agency for International Cooperation (ATCT) Emigration and Foreign Workforce Bureau (BEMOE)	National Guard	
Main tasks in migration management	Policy definition	●			
	International and bilateral cooperation	●	●		
	Emigration and diaspora	●	●		
	Immigration		●	●	
	Border enforcement			●	
	Legal framework				●

Source: Author's compilation.

of Tunisians abroad to this Ministry,<sup>13</sup> the current government renamed it the Ministry of Foreign Affairs, Migration, and Tunisians Abroad in a recent cabinet reshuffle in 2020. Inter-ministerial coordination on migration is an important challenge.<sup>14</sup> Many in the diaspora perceived a lack of coherence between the Foreign Ministry (their main point of contact abroad through embassies and consulates) and other departments involved in diaspora issues, such as the Social Affairs Ministry. But it remains to be seen whether this new title will effectively translate into a broader portfolio with regards to migration.

Other ministries are tasked with managing further aspects of migration policy. These include the Ministry of Interior, which leads on border management and the enforcement of immigration policy, the Ministry of Justice, which oversees the elaboration of the legislative framework on migration,

and the Ministry of Employment and Vocational Training,<sup>15</sup> which regulates – through various agencies – the employment of Tunisians abroad and of foreigners in Tunisia.

Since 2011, successive governments have attempted to transform and upgrade the institutional framework for migration. But two widespread challenges in the Tunisian administration are the lack of a clear strategic vision and the entrenched turf battles between government actors that lead to frequent institutional shake-ups. The Secretary of State for Migration and Tunisians Abroad (*Secrétaire d'Etat à la Migration et aux Tunisiens à l'Etranger*, SEMTE)<sup>16</sup> is a case in point. The position was established in December 2011 under the Social Affairs Ministry with three main tasks: developing Tunisia's national migration policy, enhancing national and international cooperation on migration, and advising the government on migration issues. However, it was re-created several

13 See for example: Kais Ben Ganem, "Proposing a Secretary of State for Migration and Expanding the Prerogatives of the Ministry of Foreign Affairs: Positive Step Pending Confirmation" [in Arabic], *Voix des Deux Rives*, August 25, 2020: <https://bit.ly/3pXB0uq> (accessed September 14, 2020).

14 Interview with a representative of an international organization conducted by the author in August 2020.

15 It was merged with the Ministry of Youth and Sports following the 2020 cabinet reshuffle.

16 The position was renamed Secretary of State for Immigration and Tunisians Abroad (*Secrétaire d'Etat à l'Immigration et aux Tunisiens à l'Etranger*, SEITE) before returning to its original title in 2020.



times under different governments, and moved between the Social Affairs Ministry and the Prime Minister's Office, before it was finally removed from the government structure in early 2020. While the ministerial position was removed, the departments created under SEMTE – the Directorate General for International Cooperation and Directorate General for Planning and Monitoring – continue to exist under the Social Affairs Ministry. As the Tunisian government grapples with an acute political crisis, its 'trial and error' approach to migration policy is likely to remain in the coming years.

## 2.2 Pressure from Two Fronts: Civil Society and EU Pressures on Migration Policy

The participation and growing influence of civil society organizations (CSOs) in the public debate is an illustration of Tunisia's ongoing democratization process. Before 2011, the Ben Ali regime placed severe restrictions on civil society, effectively excluding them from policymaking. With the growing space for civil liberties after the revolution, CSOs working on migration have mushroomed and evolved into major advocates of immigrants' and refugees' rights.<sup>17</sup> These include, for instance, the Tunisian Forum for Economic and Social Rights (FTDES), which promotes the access to employment and economic rights of Tunisians and migrants in Tunisia, the Association of African Students and Trainees in Tunisia (AESAT), which represents the interests of sub-Saharan students, and *Terre d'Asile Tunisie*, which promotes the rights of refugees and migrants in Tunisia. Abroad, multiple diaspora organizations actively try to consolidate connections among Tunisian expatriates.<sup>18</sup>

Leftovers from the autocratic era remain, however. The Tunisian administration had long been used to excluding civil society, so inclusive debates and reforms are sometimes still difficult to attain.<sup>19</sup> Besides, government and civil society actors tend to have divergent views on how to work on migration. Just like in Europe, civil society actors tend to push for a more robust human rights-based approach to migration, while the government's approach is broader and needs to encompass security and other societal concerns.

The EU has also had a key role in steering migration policy-making in Tunisia in recent years. EU funding for migration and mobility initiatives has significantly increased in the past several years, translating into a plethora of projects, such as its flagship project on integrated border management, projects on return and reintegration, and overall consolidated migration governance. Between 2012 and 2017 alone, the EU funded migration related projects for a total of €68 million,<sup>20</sup> including a couple of million for the elaboration to operationalization of the National Migration Strategy (cp. Chapter 2.4).<sup>21</sup>

As irregular arrivals on European shores increased, the EU seized the changing domestic and regional landscape in 2011 and tried to place migration at the top of the political agenda in Tunisia. Yet some Tunisian officials felt forced into adopting European priorities as their own.<sup>22</sup> In negotiations with the EU, the Tunisian government thus needs to perform a delicate balancing act. On the one hand, it needs to secure the EU's political and economic assistance as the country's first external partner and thus be open to EU priorities. On the other hand, it is under mounting pressure from domestic human rights groups and public opinion and does not want to appear too heavy-handed or overly focused on enforcement.

Indeed, Tunisia's civil society does closely monitor the government's cooperation with the EU on migration. For instance, between 2016 and 2019, civil society participated in the EU-funded Tripartite Dialogue program that brought together EU institutions, Tunisian authorities, and CSOs to discuss the main areas for cooperation, including migration. A unique initiative in the region, the Tripartite Dialogue granted civil society unprecedented access to monitor and influence migration debates. CSOs put special pressure on the negotiations regarding the parallel agreements on readmission and visa facilitation launched since 2016 (in the framework of the Mobility Partnership, see Box, p. 10). While these negotiations revealed the divergent views of the EU, the Tunisian government, and the Tunisian civil society, they also showed some level of convergence between government and civil society actors in Tunisia, reinforcing the Tunisian position vis-à-vis European partners.<sup>23</sup>

17 Natter, "Revolution and Political Transition: A Migration Game Changer?" (see note 9).

18 Migration Policy Centre, MPC Migration Profile: Tunisia (June 2013): [http://www.migrationpolicycentre.eu/docs/migration\\_profiles/Tunisia.pdf](http://www.migrationpolicycentre.eu/docs/migration_profiles/Tunisia.pdf) (accessed September 13, 2020).

19 Interview with a Tunisian civil society activist conducted by the author in June 2020.

20 Federica Zardo and Tasnim Abderrahim, "Migration and Mobility: The Challenge of Thinking Outside the 'Crisis box,'" in *The EU-Tunisia Privileged Partnership – What Next?*, ed. Emmanuel Cohen-Hadria (April 2018), pp. 84-110: [https://www.euromesco.net/wp-content/uploads/2018/04/EuroMeSCo-Joint-Policy-Study\\_EU-Tunisia-Partnership.pdf](https://www.euromesco.net/wp-content/uploads/2018/04/EuroMeSCo-Joint-Policy-Study_EU-Tunisia-Partnership.pdf) (accessed September 13, 2020).

21 The EU is actively involved in the implementation of the strategy that it funds through the project ProGreS Migration, funded by the European Union Trust Fund (EUTF). A myriad of international agencies and organizations – mostly European – are leading the implementation: Agence Française de Développement (AFD), Expertise France, Office Français de l'Immigration et de l'Intégration (OFII), the German Corporation for International Cooperation (GIZ), ICMPD, Mercy Corps, and GRDR Migration-Citoyenneté. This project has four main components: 1) operationalize the National Migration Strategy, 2) mobilize the diaspora, 3) support Tunisian migrants' socio-economic reintegration, and 4) management of migration at the local level.

22 Zardo and Abderrahim, "Migration and Mobility: The Challenge of Thinking Outside the 'Crisis box,'" p. 91.

23 Emanuela Roman and Ferruccio Pastore, "Analysing Migration Policy Frames of Tunisian Civil Society Organizations: How Do They Evaluate EU Migration Policies?" Working Paper, MEDRESET (June 2018), p. 23: [https://www.iai.it/sites/default/files/medreset\\_wp\\_14.pdf](https://www.iai.it/sites/default/files/medreset_wp_14.pdf) (accessed September 13, 2020).

# Three Roadblocks for EU-Tunisia Talks on Migration

The EU and Tunisia launched a Mobility Partnership (MP) in 2014. It offers a comprehensive framework for cooperation on migration, including parallel negotiations on EU readmission (EURA) and visa facilitation agreements. This double approach, a key policy tool of the EU-Mediterranean cooperation on migration and mobility, aims to encourage partner countries to cooperate more effectively on migrant returns and border management in return for a relaxed visa policy for specific groups. The EU and Tunisia have held a total of four rounds of negotiations since October 2016, but overall progress on EU-Tunisia cooperation on migration remains limited by stark differences on three main points.

## 1. The return of third country nationals:

Disagreements on readmissions revolved less around the readmission of Tunisians, but rather those of third country nationals (TCNs), meaning non-Tunisian nationals who transited via Tunisia before reaching Europe. For the EU, the clause on TCNs represents the added value of the agreement and falls under the wider objective of increasing the numbers of returns. Tunisia has rejected this proposal because of its practical and political risks, and because officials perceive this clause as the EU offloading its responsibility. Tunisia would then have to take up the likely fruitless talks with countries of origin regarding the readmission of their citizens from Tunisia, and risk seeing a growing population of failed transit migrants stuck within its own borders. Conceding to this demand would thus create a practical problem while also proving unpopular among the public in Tunisia.

The country remains committed – at least in its rhetoric – to readmitting its own citizens, but disagreements remain on practical details in the draft agreement. For example, Tunisia rejected the use of so-called *laissez-passers* – temporary travel documents issued by a

European country (instead of the origin country), which make deportations easier. However, this bypass of official Tunisian documentation is seen as an infringement of national sovereignty. The Tunisian government and civil society alike have made this argument, consolidating the Tunisian position in the negotiations.

## 2. Limited visa facilitation agreements:

As for the agreement on visa facilitation, the Tunisian government and civil society consider that the EU proposal does not effectively liberalize access to Schengen visas for Tunisians and that the process remains highly bureaucratic and costly.<sup>24</sup> They perceive the draft agreement as “elitist,” facilitating access for groups of people that are often able to secure visas – such as businesspeople and researchers. However, even for this group, the agreement does not offer visa waivers in the long-term. While the EU attempted to use the visa agreement as an incentive to obtain better cooperation from Tunisia on readmissions, incentives remained below the expectations of the southern neighbor.

## 3. Controversial disembarkation platforms:

Proposals for regional disembarkation platforms, which have been popping up in Brussels repeatedly for decades (under different names, but with similar content), resurfaced again in 2018. Tunisia emerged as a likely candidate for hosting such a platform due to its proximity to Europe, relatively favorable human rights record, and need for financial assistance. The Tunisian government’s outright rejection of this proposal was based on political and practical considerations. Politically, Tunisia did not want to gain a reputation as a “gendarme of the EU,” and Tunisians would not welcome such a deal. Practically, Tunisia would be left to grapple with the management of a migrant reception facility, from service provision to ensuring the respect of human rights. Again, there is no guarantee here that countries of origin would cooperate on the return of their citizens. This could potentially turn the temporary disembarkation platform into a facility for hosting migrants in the long-term, something Tunisia has little appetite for. The debate in Europe has – for now – moved beyond this proposal.

<sup>24</sup> The application process for Schengen visas can last from 15 to 60 days and costs €80. In addition, some Schengen states require being consulted during applications lodged by, and after a visa is issued to, Tunisian nationals in other Schengen states (up to another seven days). European Commission, “Processing of a visa application,” Migration and Home Affairs: [https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/visa\\_application\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/visa_application_en) (accessed March 30, 2020). Besides, despite the harmonization of the procedure, national differences in the application of the Schengen visa policy remain. See, for instance, the case of Morocco: Federica Infantino, “State-bound Visa Policies and Europeanized Practices. Comparing EU Visa Policy Implementation in Morocco,” *Journal of Borderlands Studies* (May 12, 2016), pp. 171–186.

### 2.3 A Slowly Improving Legislative Framework Leaves Protection Gaps

Tunisia has a broad legislative arsenal on migration that has grown in recent years. One of the most important pieces of legislation on migration in Tunisia is the rather restrictive “Law on entry and exit of foreign nationals,” originally adopted in 1968 and amended in 1975. It penalizes the irregular migration of both Tunisian and foreign nationals, yet its provisions are not always applied to those apprehended while attempting to cross irregularly.<sup>25</sup> Irregular stay is also considered a crime that can be punished with fines and imprisonment.<sup>26</sup> For many sub-Saharan nationals who benefit from entry visa exemptions but overstay their visas, this means that they can be fined for the duration of their irregular stay in Tunisia upon exit. As many migrants often do not have the means to pay these fines, they find themselves trapped in Tunisia. Labor regulations also impose a restricted access to work for migrant workers, regardless of their legal status.<sup>27</sup> While civil society organizations have repeatedly called for reforms, the government has resisted them, citing concern that removing penalties for irregular entry and stay might result in a pull factor for migrants.

Recent years have brought some promising changes toward reducing exploitative situations for migrants and Tunisians alike. Following the ratification of the UN Convention against Transnational Organized Crime (UNTOC) and adoption of its three associated Protocols,<sup>28</sup> Tunisia amended its 1975 law on passports and travel documents in 2004 by toughening penalties for smuggling and human trafficking.<sup>29</sup> In 2016, Tunisia achieved a major milestone with the adoption of a law on countering human trafficking, and another in 2018 with the establishment of the National Committee against Trafficking in Persons (NCTIP). Since then, the Committee has been working with the Justice and Interior Ministries to train officials and engaging with other actors

– like the Ministries of Health and Women – to provide protection to victims of human trafficking.<sup>30</sup> Efforts to identify victims also increased, which led to a rise in the number of registered victims of human trafficking in Tunisia, from less than 800 in 2018 to more than 1,300 in 2019.<sup>31</sup> Despite the significant progress on victim identification and investigation, prosecution lags behind due to judges’ unfamiliarity with the law – an issue the Committee wishes to address by investing in training criminal justice personnel to ensure better enforcement of the law.<sup>32</sup> Tunisia also took an unprecedented step in the region when it adopted a law criminalizing racism in October 2018, after a surge in reported racist attacks on sub-Saharan nationals since 2011.<sup>33</sup> Yet language barriers and limited awareness about the existence of this law hamper victims’ access to justice.

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*Many sub-Saharan nationals who cannot afford overstay fines find themselves trapped in Tunisia.*

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Tunisia still lags behind its own international commitments on asylum. The country ratified both the 1951 Geneva Convention and the 1967 Protocol in 1968,<sup>34</sup> but domestic legislation at the time did not provide for the right to asylum, partly because Ben Ali’s regime did not make human rights and asylum a political priority, and partly because

25 Law No. 7 of 1968, dated March 8, 1968, relating to the situation of foreigners in Tunisia [in Arabic], <https://legislation.securite.tn/ar/node/45206> (accessed September 15, 2020). Luca Lixi, “After Revolution, Tunisian Migration Governance has Changed. Has EU Policy?” Migration Policy Institute (October 18, 2018): <https://www.migrationpolicy.org/article/after-revolution-tunisian-migration-governance-has-changed-has-eu-policy> (accessed September 13, 2020).

26 Law No. 7 of 1968 dated March 8, 1968, relating to the situation of foreigners in Tunisia.

27 Sara Hanafi, “Indicators for Human Rights of Migrants and their Families in Tunisia,” KNOMAD (April 2017) p. 15: [https://www.knomad.org/sites/default/files/2017-04/WP24\\_Indicators%20for%20Human%20Rights%20of%20Migrants%20and%20their%20Families%20in%20Tunisia.pdf](https://www.knomad.org/sites/default/files/2017-04/WP24_Indicators%20for%20Human%20Rights%20of%20Migrants%20and%20their%20Families%20in%20Tunisia.pdf) (accessed September 15, 2020).

28 The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition.

29 Law No. 40 of 1975, dated May 14, 1975, relating to passports and travel documents [in Arabic]: <https://legislation.securite.tn/ar/node/45002> (accessed September 15, 2020).

30 Rim Dhaouadi, “Tunisia Must Put its Human Trafficking Laws to Work,” Institute for Security Studies (January 16, 2020): <https://issafrica.org/iss-today/tunisia-must-put-its-human-trafficking-laws-to-work> (accessed September 13, 2020).

31 Shems FM, “Raoudha Laabidi: 1,313 Cases of Human Trafficking in Tunisia in 2019” [in Arabic], (January 24, 2020): <https://bit.ly/369hxyz> (accessed September 13, 2020).

32 Rim Dhaouadi, “Tunisia Must Put its Human Trafficking Laws to Work.”

33 Anna Knoll and Chloe Teevan, “Protecting migrants and refugees in North Africa: challenges and opportunities for reform,” Discussion Paper No. 281, ECDPM (October 2020): <https://ecdpm.org/wp-content/uploads/Protecting-Migrants-Refugees-North-Africa-Challenges-Opportunities-Reform-Discussion-Paper-281-October-2020-ECDPM.pdf> (accessed November 23, 2020).

34 UNHCR, “UNHCR and Tunisia: A Long-standing Humanitarian Cooperation,” The United Nations System in Tunisia: [https://www.unu-tn.org/Publications/Articles/34\\_UNHCR\\_and\\_TUNISIA\\_A\\_longstanding\\_humanitarian\\_cooperation](https://www.unu-tn.org/Publications/Articles/34_UNHCR_and_TUNISIA_A_longstanding_humanitarian_cooperation) (accessed September 13, 2020).

regional migration dynamics at the time did not show an urgent need for a refugee protection regime. Tunisia's new Constitution of 2014 recognizes the right to asylum, which brought the country closer to its international engagements, but the constitutional text has not yet translated into a functioning refugee and asylum legislation.

## The threat of the “safe country” recognition has given a reason for Tunisian decision-makers to resist an asylum reform.

A draft asylum bill has been pending adoption since 2018 – leaving UNHCR in charge of registration, documentation, and refugee status determination. In spite of a six-year drafting process and lobbying efforts by the EU and UNHCR, Tunisian decision-makers have resisted adoption of the bill for two reasons. From a cooperation perspective, there is fear that the law may further the “European project of externalization of asylum procedures in North Africa.”<sup>35</sup> The premise is that if Tunisia adopts an asylum law, it can become more susceptible to EU pressure as a safe country to accept contentious proposals – like establishing a migrant reception center or a regional disembarkation platform (see Box, p. 10). From a practical perspective, with over 80 draft bills in the pipeline, the Tunisian parliament is unlikely to prioritize migration-related laws when there is an array of laws awaiting adoption in relation to more compelling priorities, and because asylum does not represent a domestic priority for the Tunisian public opinion. The government is thus likely to continue to perform a balancing act by resisting passing the asylum bill, while slowly increasing de facto protection for asylum seekers to meet international commitments

and attenuate the criticism from human rights organizations (cp. Chapter 2.4).

### 2.4 The National Migration Strategy: A Rocky Road to Implementation

The most far-reaching change in migration governance in the last decade is Tunisia's National Migration Strategy. It is the government's attempt to create a comprehensive strategy on migration that reflects Tunisia's new migration roles as not just a country of origin, but also as one of transit and destination. The Strategy identifies five major objectives: first, strengthening migration governance as a whole, including out- and inward migration; second, protecting the rights and interests of Tunisians abroad and strengthening their links to Tunisia; third, strengthening the contribution of migration (and especially of Tunisian emigrants) to socio-economic development at the local, regional, and national levels; fourth, promoting regular migration of Tunisians and preventing irregular migration; and fifth, ensuring the rights of migrants, refugees, and asylum seekers in Tunisia.<sup>36</sup>

Multiple factors triggered the development of the Strategy. One was the changing domestic and regional migration context after the 2011 revolution. In the wake of the ouster of Ben Ali, nearly 30,000 Tunisians took advantage of the lax border controls to set out for Europe.<sup>37</sup> At the same time, the escalating situation in neighboring Libya led to a massive flow of migrants and asylum seekers into Tunisia: Over a six-month period, around one million of them arrived in Tunisia – including 200,000 non-Libyan nationals. At the peak of the crisis, the Choucha refugee camp that was set up by UNHCR in southern Tunisia was registering 18,000 daily arrivals.<sup>38</sup> A second factor was European pressure on Tunisia to tighten border controls and to engage on the readmission of irregular Tunisian migrants from Italy. Several meetings took place between the then Tunisian Minister of Foreign Affairs Ahmed Ounaies and his French and Italian counterparts to discuss migration across the Mediterranean. While Tunisia fervently rejected Italy's proposal to send Italian security forces to patrol Tunisia's coasts in 2011, it nonetheless increased cooperation on migration with the EU and its member states.<sup>39</sup>

35 Emanuela Roman and Ferruccio Pastore, “Analysing Migration Policy Frames of Tunisian Civil Society Organizations: How Do They Evaluate EU Migration Policies?” (see note 23), p. 16.

36 Ministry of Social Affairs, *National Migration Strategy* [in French] (July 2017), p. 2: [http://ote.nat.tn/wp-content/uploads/2018/05/SNM\\_FRA\\_FINALE.pdf](http://ote.nat.tn/wp-content/uploads/2018/05/SNM_FRA_FINALE.pdf) (accessed September 13, 2020).

37 Sabrine Souissi and Katharina McLaren, “Tunisia's Migration Policy: From a Reactive to a Proactive Approach,” in *Tunisia's International Relations since the 'Arab Spring': Transition Inside and Out*, ed. Tasnim Abderrahim et al (London, 2017), p. 284.

38 Dalia Al Aichi, “UNHCR Closes Camp in South Tunisia, Moves Services to Urban Areas,” UNCHR (July 2, 2013): <https://www.unhcr.org/news/latest/2013/7/51d2a40e9/unhcr-closes-camp-south-tunisia-moves-services-urban-areas.html> (accessed September 13, 2020).

39 Sabrine Souissi and Katharina McLaren, “Tunisia's Migration Policy: From a Reactive to a Proactive Approach,” p. 285.



The Strategy development was a five-year process, which started in 2012 and ended in July 2017 when the final draft was validated.<sup>40</sup> Consultations on the Strategy included civil society, the diaspora community, and relevant Tunisian authorities, and these led to several revisions. For instance, the draft was revised in 2015 to align with the 2016-2020 strategic development plan. Unsurprisingly, the process of formulating the Strategy was not smooth sailing. According to the former Secretary of State for Migration and Tunisians Abroad (SEMTE) Houcine Jaziri, the Ministry for Social Affairs struggled with multiple impediments, including complex bureaucracy, external pressure, and limited prior experience.<sup>41</sup>

The implementation of the Strategy is led by the Social Affairs Ministry and funded by its core budget, along with financial and technical support from the EU, member states, and international implementing organizations, including the International Organization for Migration (IOM). Interestingly, the Strategy has been implemented since 2017, but it is still pending formal approval by the government. Its non-adoption in a full ministerial council does not, however, represent a major challenge for implementation, since projects to operationalize the strategy are in place.<sup>42 43 44</sup>

The Social Affairs Ministry has shown two priorities in the implementation: One is to strengthen the contribution of Tunisians abroad to develop and bolster the ties of the Tunisian diaspora to the homeland. This is not in line with the EU's priority wish to see Tunisia more proactively tackle the prevention of irregular migration and the facilitation of return and reintegration, and thus shows that Tunisia is willing and able to push its own interests and policy objectives – potentially an attempt to take ownership of the reform process. The other priority is to produce more rigorous and reliable data on migration dynamics, including inward and outward migration, to guide policymaking. While data is available on the numbers of Tunisians abroad, estimates on irregular migrants in Tunisia are patchy. A project to conduct a nation-wide census on migration dates back to 2012, but only materialized in 2020 in the form of an EU-funded initiative (“Tunisia-HIMS”) to be implemented by the Tunisian National Institute of Statistics (INS) and the ONM with

the support of the International Center for Migration Policy Development (ICMPD). The delay this project has faced is another reminder of the time-consuming institutional reform process Tunisia is still undergoing, but the existence of the project itself is also a reminder that the EU's and Tunisia's migration interests overlap in some areas and that a focus on these uncontroversial areas can indeed lead to useful change.

The implementation of the Strategy has started to bear fruits. For instance, the 2018 annual report of the Social Affairs Ministry shows a slight increase in the percentage of projects financed by Tunisians abroad from 4.2 percent in 2016 to 5.1 percent in 2018 – a first step toward achieving the country's ambition to raise this share to 12 percent by 2022.<sup>45</sup> This is likely a result of facilitated procedures for Tunisians abroad to invest in Tunisia, increased communication on investment opportunities in Tunisia, and improvement in the investment climate in Tunisia.<sup>46</sup>

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*Tunisia was able to steer the National Strategy to satisfy its own priority of engaging the diaspora, in spite of the strong role of the EU in its development.*

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However, little progress was achieved on other objectives of the Strategy, such as the protection of (irregular) immigrants and asylum seekers. While this is a declared objective of the Strategy, the 2018 annual report of the Social Affairs Ministry does not mention any actions taken in this area,

40 Ministry of Social Affairs, *National Migration Strategy* (see note 36).

41 Sabine Souissi and Katharina McLaren, “Tunisia’s Migration Policy: From a Reactive to a Proactive Approach,” p. 288.

42 Interview with a representative of an international organization involved in the implementation of the NMS conducted by the author in September 2020.

43 Interview with a Tunisian civil society activist conducted by the author in June 2020.

44 Terre d’Asile Tunisie, “National Migration Strategy: what access to work for migrants in Tunisia?” [in French] (April 4, 2019): <https://maison-migrations.tn/index.php/38-actualites/actualites-mdm/564-compte-rendu-du-petit-dejeuner-debat-du-4-avril-2019-sur-la-strategie-nationale-migratoire-quel-acces-au-travail-pour-les-migrants-en-tunisie> (accessed September 13, 2020).

45 Tunisian Ministry of Social Affairs, *Annual Plan for Capacity for Performance for 2020* [in Arabic] (October 2020), p. 67: <http://www.social.gov.tn/fileadmin/gbo/budget/PAP2020.pdf> (accessed September 13, 2020).

46 Tunisian Ministry of Social Affairs, *Annual Report on Capacity for Performance for 2018* [in Arabic] (March 2019), p. 9: <http://www.social.gov.tn/fileadmin/gbo/budget/RAP2018.pdf> (accessed September 13, 2020).

even though the Ministry does provide ad hoc support to foreigners, migrants, and refugees through coordination with CSOs and international organizations.<sup>47</sup> For instance, since 2019 and with the support of UNHCR and the Arab Institute for Human Rights, a civil society organization, the Ministry opened the way for refugees with an employment contract or who are self-employed to enroll with the National Security Fund.<sup>48</sup> As a result of this policy, the first refugee in Tunisia was granted a subscription in the Fund in June 2020, a move that was praised by civil society. The lack of communication around the issue is reflective of both the low attention given to the protection of immigrants, despite growing numbers, and the tendency of the government to perceive irregular migration still largely as a security issue that tends to fall within the remit of the Ministry of Interior.<sup>49</sup> Civil society activists working on migration therefore call for the Strategy to ensure a more balanced focus between the rights of the Tunisian diaspora and of immigrants in Tunisia, as they perceive the government to be more concerned with the former.

## *The implementation of the Strategy is fraught with challenges, not least the successive changes in government.*

The implementation of the Strategy is further fraught with other challenges, which slow down the pace of reform. First, successive changes in government – with nine prime ministers since 2011 – meant that none was able to develop a clear vision on migration, let alone implement it. Second, high unemployment rates can make Tunisians less receptive to reforms that can see foreigners settle more permanently

in the country and open up the labor market for competition. Politicians could be particularly concerned with the consequences of such decisions on electoral outcomes.<sup>50</sup> Third, capacity constraints pose a practical challenge. The Social Affairs Ministry has limited human and financial capacities. For example, over 81 percent of the 2020 budget dedicated to the directorate of Migration and Tunisians abroad in the Ministry is earmarked for human resources – leaving little room for investments and actual support projects.<sup>51</sup> Besides, working methods in the Tunisian administration are often archaic and modernization efforts have been faced with resistance to change from within.<sup>52</sup> Tunisia is thus still far away from developing a government-wide approach to migration management that could ensure coherence across various policy fields.

### 3 SALIENT MIGRATION ISSUES FOR DECISION-MAKERS AND THE PUBLIC IN TUNISIA

Migration itself is not perceived as a salient issue in Tunisian public debate: It is considered as a priority neither by the government nor by society. More compelling challenges like the economy, corruption, and regional disparities take precedence. The topic is largely absent from public discourse and only occasionally tackled by the media, where it is often linked to the precarious socio-economic conditions that lead young people to risk their lives at sea. Most media coverage of the topic is triggered by migrant shipwrecks involving Tunisians, though there has been some reporting as well on Tunisians abroad, refugees in Tunisia, and difficulties that sub-Saharan migrants encounter in the country.<sup>53</sup>

Due to its under-the-radar status, migration is not a divisive topic in Tunisia.<sup>54</sup> In the 2019 presidential elections, for example, migration was virtually absent from the campaign. In parliament, the debate practically limits itself to the question of the diaspora, which is regularly discussed within the dedicated committee for Tunisians abroad.

47 Ibid.

48 Pauline Veron, "Tunisia: Possibilities for reform and implementation of migrant reception and protection," Country Report, ECDPM (November 2020): <https://ecdpm.org/wp-content/uploads/Tunisia-Possibilities-Reform-Implementation-Migrant-Reception-Protection-ECDPM-study-November-2020.pdf> (accessed January 14, 2020).

49 Ibid.

50 Emanuela Roman and Ferruccio Pastore, "Analysing Migration Policy Frames of Tunisian Civil Society Organizations," (see note 23), p. 16.

51 Tunisian Ministry of Social Affairs, *Annual Plan for Capacity for Performance for 2020* (see note 45), p. 69.

52 Ibid., p. 127.

53 Sana Farhat, "Tunisia: Single-minded Media Fail to Grasp Opportunities to Go Beyond Tales of Woe," in *How does the Media on both Sides of the Mediterranean Report on Migration?*, ed. ICMPD (2017), pp. 106-111: [https://www.icmpd.org/fileadmin/2017/Media\\_Migration\\_17\\_country\\_chapters.pdf](https://www.icmpd.org/fileadmin/2017/Media_Migration_17_country_chapters.pdf) (accessed September 13, 2020).

54 Emanuela Roman and Ferruccio Pastore, "Analysing Migration Policy Frames of Tunisian Civil Society Organizations" (see note 23).

## Due to its under-the-radar status, migration is not a divisive topic in Tunisia.

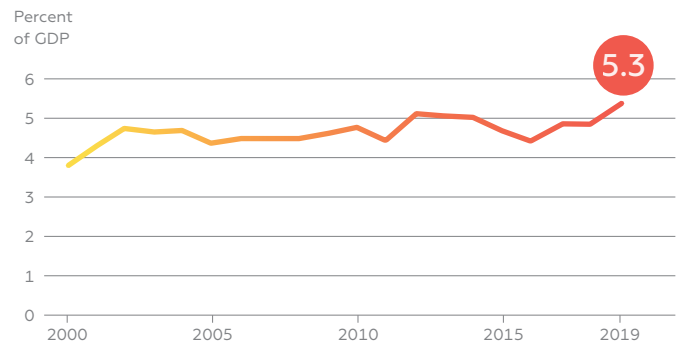
But while migration is a low-profile issue, a number of related matters are discussed and reflect Tunisia's current priorities, including the longstanding questions of the Tunisian diaspora and irregular migration, but also Tunisia's growing role as a host country for regular and irregular migrants and refugees.

### 3.1 Tunisians Abroad Leave Challenges at Home

Tunisian emigrants abroad are the top migration priority for policymakers. High remittances from the diaspora have served as an incentive for successive Tunisian governments to continue encouraging emigration. Since the late 1970s, remittances have contributed to between 4 and 5 percent of Tunisia's annual GDP (see Figure 2). To give a point of reference: Remittances thus bring in the same proportion of revenue to Tunisia as the automotive industry does to Germany.<sup>55</sup> Since 1988, the Office for Tunisians Abroad (OTE) has been tracking emigrants prior to and during their stay abroad. The Ministry of Labor has been instrumental in encouraging mobility – recruiting and preparing Tunisian candidates for work abroad. Bilateral agreements on labor migration have reinforced mobility with several countries in Europe and the Arab world, including France, Italy, and Libya.<sup>56</sup> Emigrants were also granted voting rights under Ben Ali in 1987, ensuring that the diaspora could participate politically even while abroad.<sup>57</sup>

Today, one in ten Tunisians live abroad – more than 1.4 million. Tunisia's diaspora lives mostly in Europe (see Figure 3). Emigrants mainly settle in France (58 percent), Italy (15 percent), and Germany (7 percent).<sup>58</sup> And while a relevant number of Tunisians used to live in Libya before 2010 (more than 87,000 in 2009 or close to 8 percent of the total emigrant

FIG. 2: PERSONAL REMITTANCES RECEIVED FOR TUNISIA



Source: World Bank data, 2020.

population),<sup>59</sup> most of them are presumed to have returned to Tunisia, although accurate data on those remaining in Libya is lacking.

Remittances contribute to up to 5 percent of Tunisia's annual GDP. This is equivalent to the revenues of the automotive industry in Germany.

Tunisian emigrants have been heading toward Western European countries for employment starting in the 1960s, but the legal framework around this movement has changed significantly.<sup>60</sup> For two decades, Tunisians enjoyed unrestricted

55 Destatis, "Automotive industry: Germany's most important industrial sector with production down 7.1% in H2 2018," Press Release (April 9, 2019): [https://www.destatis.de/DE/Presse/Pressemitteilungen/2019/04/PD19\\_139\\_811.html](https://www.destatis.de/DE/Presse/Pressemitteilungen/2019/04/PD19_139_811.html) (accessed January 14, 2020).

56 Migration Policy Centre, "Tunisia," MPC Migration Profile (June 2013): [http://www.migrationpolicycentre.eu/docs/migration\\_profiles/Tunisia.pdf](http://www.migrationpolicycentre.eu/docs/migration_profiles/Tunisia.pdf) (accessed September 13, 2020).

57 Sabrine Souissi and Katharina McLaren, "Tunisia's Migration Policy" (see note 37), pp. 287–288.

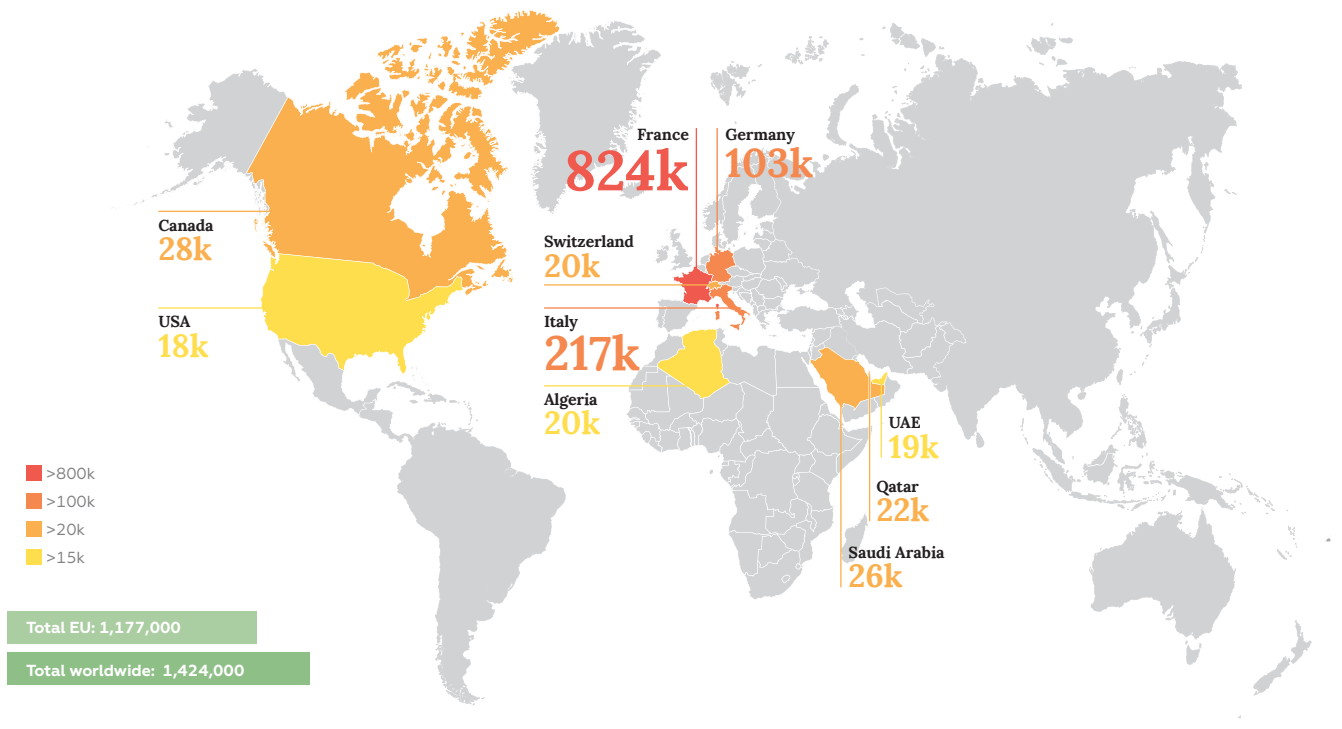
58 Tunisian National Observatory for Migration, "Data Portal": <http://data.migration.nat.tn/fr/data/portal> (accessed September 13, 2020).

59 Migration Policy Centre, "Tunisia" (see note 56).

60 IOM, Summary of the themes of the First Summer School on Migration in Tunisia [in French] (2016): <https://www.ecole-ete-migration.tn/wp-content/uploads/2017/03/Document-de-synth%C3%A8se-Ecole-dEt%C3%A9-sur-la-Migration-2015.pdf> (accessed September 13, 2020).



FIG. 3: TUNISIANS ABROAD: WHERE ARE THEY? TOP 10 DESTINATIONS OF TUNISIAN EMIGRANTS



Source: National Observatory for Migration, 2017. These figures are based on the numbers of Tunisians who are registered with Tunisian consulates abroad. The actual numbers can be higher.

legal access to European countries with no visa requirement.<sup>61</sup> The change in European visa policies in the late 1980s transformed migration patterns, previously characterized by circular and seasonal migration, and gradually replaced them with permanent settlement in countries of destination, but also irregular migration and visa overstaying.<sup>62</sup>

Europeans are sometimes unaware that Tunisian emigrants have become more skilled in recent decades, a result of both the country's investment in education and of the limited capacity of the domestic job market to absorb growing numbers of university graduates.<sup>63</sup> Reliable data on the migration of highly skilled workers is lacking, but there is evidence of growing departures from specific professional sectors. For instance, 22,200 engineers left the country between 2011

*Tunisian emigrants today are more skilled than 20 years ago, a result of the investments in higher education and the limited absorption capacity of the job market.*

61 Katharina Natter, "Fifty years of Maghreb emigration: How states shaped Algerian, Moroccan and Tunisian emigration," DEMIG Project Paper 21, International Migration Institute (July 18, 2014), p. 32: <https://www.migrationinstitute.org/publications/wp-95-14> (accessed September 13, 2020).

62 Inken Bartels, "Reconfiguration of Tunisian Migration Politics after the 'Arab Spring' – The Role of Young Civil Society Movements," in *Youth, Revolt, Recognition: The Young Generation during and after the 'Arab Spring'*, ed. Isabel Schafer (2015), pp. 62-79: <https://edoc.hu-berlin.de/bitstream/handle/18452/3770/58.pdf?sequence=1> (accessed September 13, 2020).

63 Migration Policy Centre, "Tunisia" (see note 56).

and 2017, up from 16,000 between 2000 and 2010.<sup>64</sup> The increasing departure of university professors – usually lured by attractive salaries and better work opportunities in the Gulf – has a direct impact on staffing in many universities.<sup>65</sup> Growing numbers of Tunisian doctors also move to France and Germany upon their graduation, due to frustrations with poor governance of the public health sector.<sup>66</sup>

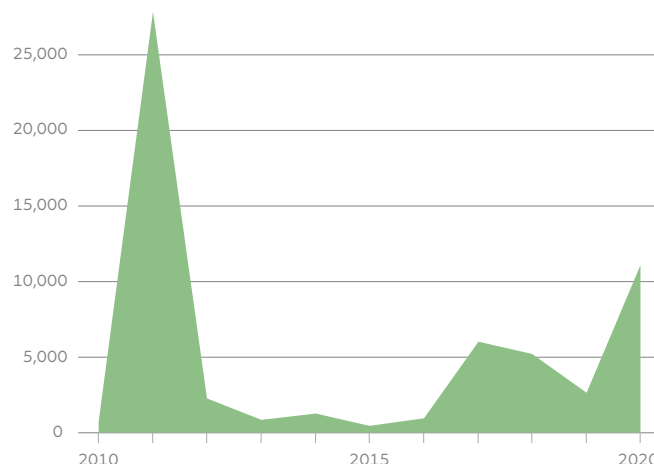
As a result, brain drain has emerged as a prominent issue in public debates – often in the context of deteriorating economic prospects that push people to leave in pursuit of a better future. While wanted in principle, skilled mobility further reduces the quality of public services like health and education that are already scarce in Tunisia. This is particularly problematic as public education is heavily subsidized by the state, which means that brain drain incurs palpable financial losses. Consequently, a developing Tunisia ends up subsidizing health care personnel in more developed countries of destination, while suffering shortages itself.

### 3.2 Irregular Migration Tests Good Neighborly Relations

One of the immediate consequences of the 2011 revolts was the increase in irregular departures from Tunisia toward Europe: In 2011, Italy detected 28,000 arrivals of Tunisian nationals at its shores, up from an annual average of 1,700 arrivals between 2000 and 2010.<sup>67</sup> While the issue abated quickly again in 2012, a resurgence of irregular crossings since 2017 has been putting the country in the spotlight again (see Figure 4).<sup>68</sup> In 2020, Tunisians accounted for around 40 percent of arrivals to Italy.<sup>69</sup>

The COVID-19 pandemic is further deteriorating an already fragile economic situation, with unemployment figures reaching more than 17 percent by the end of 2020, potentially pushing more people to seek better living conditions abroad.<sup>70</sup> But it is not only the lack of desirable employment prospects, compounded by the loss of the Libyan labor market, that pushes people to leave the country. Other

FIG. 4: NUMBER OF TUNISIAN IRREGULAR ARRIVALS TO ITALY



Source: Author's compilation of UNHCR and Frontex data from The EU-Tunisia Privileged Partnership – What Next?, ed. Emmanuel Cohen-Hadria (April 2018); Migration Policy Centre, "Tunisia" (June 2013); IOM, Four Decades of Cross-Mediterranean Undocumented Migration to Europe: A Review of the Evidence (2017); UNHCR, Operational portal (2020).

factors matter, too. The perceived political exclusion and limited representation of youth interests is an especially jarring driver given the positive change many had hoped for after the revolution.<sup>71</sup> Besides the gloomy socio-economic context, there is also the psychological factor of the "imitation effect" that can set in when Tunisians abroad portray their lives in Europe as successful and desirable on social media platforms, and others set out to replicate the (actual or perceived) experience.<sup>72</sup>

These developments ensure that Tunisia will continue to be center stage for EU migration diplomacy. Italy has urged Tunisia to do more to tighten border controls and expedite migrant returns.<sup>73</sup> Italian officials have increased their visits to Tunisia. The Italian Minister of Interior visited Tunis in late July 2020, and a joint high-level Italian-EU delegation took

64 Order of Tunisian Engineers, "Brain Drain in Tunisia" [in Arabic] (December 7, 2020): <https://bit.ly/33ojd69> (accessed November 23, 2020).

65 Ultrasawt, "The Migration of Tunisian Academics Continues: Is this a Crisis?" [in Arabic] (March 22, 2018): <https://bit.ly/33jSrf0> (accessed September 13, 2020).

66 Samy Ghorbal, "Tunisia: the great exodus of doctors" [in French], *Jeune Afrique* (January 26, 2017): <https://www.jeuneafrique.com/mag/392696/societe/tunisie-grand-exode-medecins> (accessed September 13, 2020).

67 Migration Policy Centre, "Tunisia" (see note 56).

68 Federica Zardo and Tasnim Abderrahim, "Migration and Mobility," (see note 20), p. 85.

69 UNHCR, "Mediterranean Situation: Italy" (November 23, 2020): <https://data2.unhcr.org/en/situations/mediterranean/location/5205> (accessed November 27, 2020).

70 Institut National de la Statistique (INS), "Employment and Unemployment Indicators, Fourth Quarter 2020," [in French] (February 15, 2021): <http://www.ins.tn/fr/publication/indicateurs-de-l%E2%80%99emploi-et-du-ch%C3%B4mage-quatri%C3%A8me-trimestre-2020> (accessed April 19, 2021).

71 Hajer Araissia, "The desire for Emigration among Young Tunisians," *London School of Economics Blogs* (August 30, 2019): <https://blogs.lse.ac.uk/africaatlse/2019/08/30/desire-for-emigration-young-tunisians-arab-spring> (accessed September 15, 2020).

72 Emanuela Roman and Ferruccio Pastore, "Analysing Migration Policy Frames of Tunisian Civil Society Organizations," (see note 23), p. 15.

73 "Tunisia, Italy a sea apart on illegal migration as they hold talks," *The Arab Weekly* (August 17, 2020): <https://the arabweekly.com/tunisia-italy-sea-apart-illegal-migration-they-hold-talks> (accessed September 15, 2020).

place only a month later, drawing on a recent ministerial conference between North African countries and the EU.<sup>74</sup> While the Tunisian president made clear that securitization could not be the solution to irregular movements, he also reacted swiftly by conducting visits to primary ports of departure to urge security forces to enhance border controls.<sup>75</sup>

Italy has also threatened to suspend development aid to Tunisia in case of a lack of cooperation.<sup>76</sup> This is in line with Europe's push toward greater use of conditionality in its relations with third countries, as evidenced most recently in the revision of its visa code regulation in February 2020.<sup>77</sup> It remains a question, however, whether Europe's declared sticks-and-carrots approach will have much of an effect and whether it will ultimately help or hinder the relationship with its neighbors.

### 3.3 Tunisia as a Host Country for Migrants and Refugees

Tunisia increasingly acknowledges its role as a country of destination for migrants and refugees, but is a quite different host country for different groups of migrants, with a stark gap between the treatment of and discourse about migrants from Libya and sub-Saharan Africa.

Libyans in Tunisia are tolerated but not integrated. The Tunisian official discourse often depicts Libyans as brothers. Senior officials iterate that Tunisians and Libyans are one people in two countries, referring to shared language and cultural affinities. At a time when Tunisia was witnessing an economic setback after the revolution, Libyans came to Tunisia with significant financial means.<sup>78</sup> A Tunisian-Libyan agreement allowed Libyans to invest in real estate, reinforcing the positive perception of this group.<sup>79</sup> But the persisting crisis in Libya means that its financial situation is slowly deteriorating and its purchase power shrinking.<sup>80</sup> The longer the conflict persists, the more vulnerable Libyans in Tunisia are likely to become.

What is more, the positive perception of Libyans as brothers and rich investors conceals a blurry legal status: They are neither recognized as migrants nor refugees in Tunisia. This "legal limbo may result in difficulties in accessing basic services, such as education and health care, especially for those who are less well-off."<sup>81</sup> Two reasons explain the lack of clear legal grounding for Libyans. First, the Tunisian government wants to uphold a policy of neutrality toward the political stalemate in Libya. Second, there are concerns that regularizing Libyans in Tunisia could trigger more arrivals to the country – an argument that should be familiar to Europeans.<sup>82</sup>

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*While Tunisia recognizes its role as a destination of migration, there are stark differences in the ways Libyan and sub-Saharan nationals are treated.*

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These worries also help explain Tunisia's resistance toward establishing refugee camps. When the conflict in Libya intensified in December 2019, the Tunisian government coordinated with UN agencies to set up a reception camp at the border. But many Tunisians are concerned that hosting a refugee camp will result in an additional burden for the already struggling economy, especially as such camps find themselves in the under-developed southern part of the country. The public also worries that the temporary refugee camp can evolve into a facility to host migrants and refugees

74 European Commission, "Opening statement at EU Member States and African Partners conference on countering smuggling" (July 13, 2020): [https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/opening-statement-eu-member-states-and-african-partners-conference-countering-smuggling\\_en](https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/opening-statement-eu-member-states-and-african-partners-conference-countering-smuggling_en) (accessed November 23, 2020).

75 "Tunisia, Italy a sea apart on illegal migration as they hold talks," *The Arab Weekly*, (see note 73).

76 "Italy Threatens Tunisia to Suspend Cooperation Fund over Illegal Immigration," *The North Africa Post* (September 9, 2020): <https://northafricapost.com/43671-italy-threatens-tunisia-to-suspend-cooperation-fund-over-illegal-immigration.html> (accessed September 15, 2020).

77 "REGULATION (EU) 2019/1155 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019," *Official Journal of the European Union*, p. 12: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R1155&from=EN> (accessed March 30, 2020).

78 Emanuela Roman and Ferruccio Pastore, "Analysing Migration Policy Frames of Tunisian Civil Society Organizations," (see note 23), p. 11.

79 Ibid.

80 IOM, "Qualitative Evaluation Study the Socioeconomic Impact and Needs of Libyans in Tunisia," [in French] (March 2016) p. 18: [https://tunisia.iom.int/sites/tunisia/files/resources/files/FR\\_Etude%20impact%20socio%C3%A9conomique%20et%20besoins%20des%20Libyens%20en%20Tunisie.pdf](https://tunisia.iom.int/sites/tunisia/files/resources/files/FR_Etude%20impact%20socio%C3%A9conomique%20et%20besoins%20des%20Libyens%20en%20Tunisie.pdf) (accessed September 15, 2020).

81 Emanuela Roman and Ferruccio Pastore, "Analysing Migration Policy Frames of Tunisian Civil Society Organizations," (see note 23), p. 11.

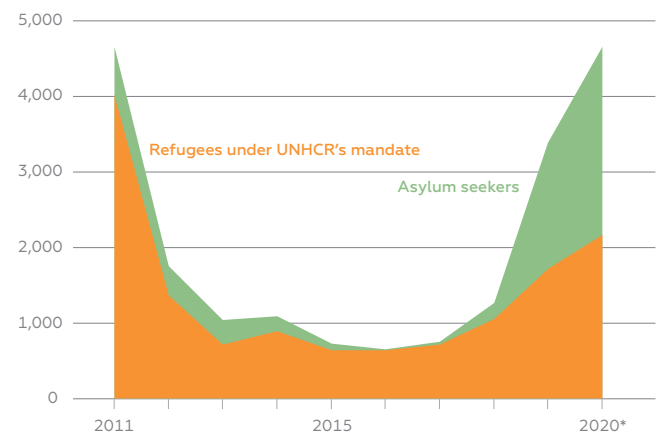
82 Ibid., p. 17.

in the long-term, something that Tunisia has repeatedly resisted (see Box, p. 10).<sup>83</sup> The negative attitude toward camps is also fed by the country's prior experience with the Choucha refugee camp, which was established in 2011 close to Libya's border.<sup>84</sup> The camp saw up to 18,000 arrivals a day at the peak of the crisis. The majority were repatriated and another 3,000 were resettled in third countries, but around 300 people remained in Tunisia upon the camp's closure in 2013 (these people had declined both repatriation and permanent settlement in Tunisia following the rejection of their resettlement application). While this number is comparatively low, the experience of stranded migrants in the desert did not leave a positive memory for Tunisians.<sup>85</sup>

In spite of political reluctance to address the refugee challenge, the Ministry of Social Affairs does provide limited ad hoc assistance – either directly or in coordination with CSOs and the UNHCR (cp. Chapter 2.4) – to the growing population of refugees and asylum seekers in Tunisia (Figure 5).<sup>86</sup> But another influx of protection-seekers from Libya or elsewhere would challenge Tunisia and UNHCR's already limited capacities.<sup>87</sup>

Compared to Libyans, migrants from sub-Saharan countries have a quite different experience in Tunisia. Many choose Tunisia as a destination for higher education and employment. Bilateral agreements with sub-Saharan countries such as Ivory Coast, Senegal, Niger, Gambia, and Ghana, exempt nationals from visa requirements. Comparatively low fees and good quality education available in French attracted around 4,500 sub-Saharan students in 2018.<sup>88</sup> But social and administrative challenges have pushed these numbers down since 2010.<sup>89</sup> Slow administrative procedures cause delays in obtaining residence permits, so students can find themselves in an illegal situation and subject to fines. Racial discrimination also tempers the country's attractiveness.

FIG. 5: REFUGEES AND ASYLUM SEEKERS IN TUNISIA



Source: UNHCR Refugee statistics, 2020.

\* The data for the year 2020 is available up until the mid-year.

For instance, in a survey conducted by a Tunisian NGO, 89 percent of nearly 1,000 sub-Saharan migrant respondents reported having faced insults; half said they were subject to racist acts, and a third reported having experienced physical violence. Despite this, a majority (65 percent) of the respondents said they felt safe in Tunisia.<sup>90</sup>

Undocumented migrants, also often hailing from sub-Saharan countries, are generally employed informally in the construction, agriculture, and services sectors.<sup>91</sup> As in many other countries in Europe and worldwide, the migrants' access to rights and basic services such as justice and health-care is limited, a precarious situation that exposes many to

83 Mouras Teyeb, "Fatnassia Refugee Camp will Anger both Tunisians and Europeans," *Euractiv* (February 18, 2020): <https://www.euractiv.com/section/justice-home-affairs/opinion/fatnassia-refugee-camp-will-anger-both-tunisians-and-europeans> (accessed September 13, 2020).

84 UNHCR, "UNHCR Closes Camp in South Tunisia, Moves Services to Urban Areas," (July 2, 2013): <https://www.unhcr.org/news/latest/2013/7/51d2a40e9/unhcr-closes-camp-south-tunisia-moves-services-urban-areas.html> (accessed April 19, 2021).

85 Neila Hammi, "Shousha Camp: The Stories of Forgotten People in an Open Prison" [in Arabic], *UltraSawt* (July 22, 2016): <https://ultratunisia.ultrasawt.com/node/20641> (accessed September 13, 2020).

86 Interview with a representative of an international organization involved in implementing the national migration strategy conducted by the author in September 2020.

87 UNHCR, "Operation: Tunisia, 2021 Planning summary" (January 5, 2021): <https://reporting.unhcr.org/sites/default/files/pdfsummaries/GA2021-Tunisia-eng.pdf> (accessed April 19, 2021).

88 Tunisie Terre d'Asile, "Expectations and satisfaction of sub-Saharan students in Tunisia" [in French] (2018): [https://www.terre-asile-tunisie.org/images/Etude\\_Attentes\\_et\\_Satisfactions\\_des\\_Etudiants\\_Subsahariens\\_TAT.pdf](https://www.terre-asile-tunisie.org/images/Etude_Attentes_et_Satisfactions_des_Etudiants_Subsahariens_TAT.pdf) (accessed November 23, 2020).

89 Tasnim Abderrahim and Faten Aggad, "Starting Afresh: The Maghreb's Relations with sub-Saharan Africa," ECDPM (April 2018), p. 19: <https://ecdpm.org/wp-content/uploads/DP-225-Starting-afresh-Maghreb-relations-sub-Saharan-Africa-ECDPM-Apr-2018.pdf> (accessed September 13, 2020).

90 Faten Msekni, "From sub-Saharan Countries to Tunisia: Quantitative Study of the Situation of Migrants in Tunisia" [in Arabic], Tunisian Forum for Economic and Social Rights (FTDES) (June 2020), p. 109: <http://ftdes.net/rapports/subsahrianstates.pdf> and Mohamed Rami Abdelmoula, "Tunisia and the migration of sub-Saharan Africans: Multiple Roles," *Assafir Al-Arabi* (December 28, 2019): <http://assafirarabi.com/en/28456/2019/12/28/tunisia-and-the-migration-of-sub-saharan-africans-multiple-roles/> (both accessed September 13, 2020).

91 Hager Araissia, "Violence Against sub-Saharan Migrant Women in Tunisia" [in French], Tunisian Forum for Economic and Social Rights (FTDES): <https://ftdes.net/rapports/femmessubsahariennes.en.pdf> (accessed September 13, 2020).

abuse, exploitation, and trafficking.<sup>92</sup> Sub-Saharan migrant communities have therefore formed civil society organizations in Tunisia, advocating for the rights of their communities and raising awareness on the issue of informality. But they face an uphill battle, as other vulnerable groups, including Tunisians, are subject to similar challenges. For instance, scant protection in the workplace is fairly common in Tunisia, where the informal economy constitutes close to 40 percent of the economic activity.<sup>93</sup> A group of civil society associations launched an initiative to advocate for a regularization campaign (as happened in Morocco in recent years<sup>94</sup>). The chances for it to occur during the pandemic-induced economic downturn are low,<sup>95</sup> but the Ministry of Labor has not closed the door completely on this initiative, indicating willingness to experiment on a case-by-case basis.<sup>96</sup>

## 4 RECOMMENDATIONS

**In spite of their many differences in both style and substance, Tunisia and the EU share the same migration interests over the medium- to long-term. Given the regional insecurity it faces, Tunisia, as much as Europe, is interested in securing its borders. But its migration interests traditionally are much broader, and increasingly its policy choices reflect the country's role as a destination for mixed movements from the subregion. If the EU carries on with its current course, its policies toward Tunisia might well turn out to be ineffective at best, and counterproductive at worst.**

**We find ourselves at a critical juncture – if the EU can adapt its thinking to harness the transformations the region is undergoing, it can help Tunisia become a well-regulated destination country; but the EU's current defensive and overly Eurocentric approach risks hindering Tunisia on this path. The following recommendations for German and European politicians, policy experts, and practitioners aim to enable informed discussions on migration with their Tunisian counterparts.**

### 4.1 Migration is a low-priority issue – and Europeans should want to keep it that way

Tunisia shares many of the challenges that European countries are confronted with, including migration pressure on land and maritime borders, public backlash against newcomers – especially those with an irregular status – and fear of creating pull-factors with migration policies that could be construed as overly generous.

But while these same challenges have catapulted migration to a top spot in European public debates, they have not done so in Tunisia. The prominence of migration in the country's public and political debate pales in the face of more compelling domestic priorities, such as high unemployment, corruption, and the consolidation of a young democracy struggling to prove its worth.

<sup>92</sup> Ibid.

<sup>93</sup> Mohamed Rami Abdelmoula, "Parallel Economy in Tunisia: Is it Really 'Parallel'?" *Assafir Al-Arabi* (May 22, 2019): <http://assafirarabi.com/en/25696/2019/05/22/parallel-economy-in-tunisia-is-it-really-parallel> (accessed September 13, 2020).

<sup>94</sup> Isabelle Werenfels, "Migration Strategist Morocco – Fortress Algeria," in *Profiteers of Migration? Authoritarian States in Africa and European Migration Management*, eds. Anne Koch, Annette Weber, and Isabelle Werenfels, German Institute for International and Security Affairs (July 2018), pp. 22-33: [https://www.swp-berlin.org/fileadmin/contents/products/research\\_papers/2018RP04\\_koh\\_et\\_al.pdf](https://www.swp-berlin.org/fileadmin/contents/products/research_papers/2018RP04_koh_et_al.pdf) (accessed January 14, 2020).

<sup>95</sup> Tunisian Forum for Economic and Social Rights (FTDES), "Summary of the meeting between the delegation calling for the regularization of migrants and the Minister of Human Rights and Institutional Relations with Constitutional Bodies and Civil Society," (April 20, 2020): <https://ftdes.net/compte-rendu-de-la-delegation-de-lappel-a-la-regularisation-des-migrants-qui-a-rencontre-le-ministre-des-droits-de-lhomme-et-des-relations-avec-les-instances-constitutionnelles-et-la> (accessed September 13, 2020).

<sup>96</sup> Tunisian Forum for Economic and Social Rights (FTDES), "Summary of the meeting between the delegation calling for the regularization of migrants and the Ministry of Labor and Vocational Training" [in French] (May 29, 2020): <https://ftdes.net/%d8%a7%d9%84%d8%b9%d8%b1%d8%a8%d9%8a%d8%a9-compte-rendu-de-la-delegation-du-collectif-de-lappel-a-la-regularisation-des-migrants-qui-a-rencontre-le-ministre-de-lemploi> (accessed September 13, 2020).



However pressing EU migration priorities in the Mediterranean may be, European policymakers should refrain from pushing the migration agenda in Tunisia too publicly, because it may have unwanted side effects, such as more criticism from civil society, an increased toxicity of the migration debate, and stiffened Tunisian positions on migration that would render negotiations more tedious. Policymakers in Europe should thus have an interest in keeping migration policy off-stage, too.

#### **4.2 Support a young democracy by helping modernize its administration**

Tunisian institutions are still adjusting to the regime change: making positive progress on migration governance remains dependent on improving cross-government coordination and modernizing working methods, which will be time-consuming. The Social Affairs Ministry in particular, a central actor of the country's migration policy, suffers from a lack of resources and capacity. This can partly explain the slow implementation pace of the National Migration Strategy. Political instability – as seen by successive changes in government – further slows down the reform dynamics. In this regard, the EU's existing support on administrative reform and the modernization of public administration is important and will help deliver positive outcomes in the long-term, including on migration. This may not be an ideal solution from a European perspective eager to see quicker results, but it is necessary to pave the way for long-lasting reforms.

#### **4.3 Focus on actual refugee protection over legal reform aimed at protection**

Europeans want to see Tunisia adopt and implement its asylum law, in the hope that it would improve protection for asylum seekers and refugees in the country. But the long delays in adopting an asylum law are not just explained by practical challenges, but by political resistance. A big contributing factor to why Tunisia has avoided adopting the law is the worry that an asylum law might turn into a tool for Europeans to put more pressure on the Tunisian government to accept proposals on outsourcing migration management.

Instead of putting pressure on the government, which is likely not going to yield results and might easily be counter-productive as it might harden Tunisia's position, policymakers in Germany and Europe should try a different approach: They should support existing efforts to protect and provide services to refugees by the government, CSOs, and international organizations. Civil society in particular has been

a strong advocate of the rights of immigrants and refugees and is an important service provider. While it opposes parts of the EU migration policy in Tunisia, it shares Europe's agenda of increasing protection for refugees and vulnerable migrants in Tunisia.

Policymakers in Europe should therefore increase their support for operational efforts, as they may have a greater impact on effective protection and service provision for refugees and migrants in need than mere adoption of a lackluster legal reform might have.

#### **4.4 Support Tunisia's ability to manage the impacts of highly skilled mobility through a more ambitious visa liberalization scheme**

Policymakers in Brussels and in European capitals should review the dispositions of the visa facilitation agreement as part of the Mobility Partnership. The current provisions provide little incentive for Tunisia: Not only is the proposal limited to easing visa procedures for a few categories of applicants, but it is also limited to the nine EU member states that are parties to the Mobility Partnership<sup>97</sup> – whereas the parallel readmission agreements are negotiated for the whole EU.

The European Commission should work with individual member states participating in the Mobility Partnership to enhance the provisions on visa facilitation – for instance, for certain categories of professionals and trainees. This exercise could be a first step in the direction of the awaited EU Talent Partnership for Tunisia and could positively contribute to ongoing negotiations on a free trade agreement (DCFTA). Several member states, including Germany, have experience developing small-scale circular migration projects for high- or medium-skilled laborers that can be replicated at a larger scale. In Tunisia, such a scheme based on circular mobility could help attenuate fears of brain drain – a mounting challenge in a country where education is widely state-subsidized.

#### **4.5 Avoid transactional deals that have been rejected in the past**

European policymakers should move away from transactional deals floated in the past to avoid triggering more distrust and tension in the relationship. On multiple occasions, Tunisia rejected controversial proposals that would outsource Europe's migration management, such as hosting migrants in return for financial support via disembarkation platforms.

97 Belgium, Denmark, Germany, Spain, France, Italy, Poland, Portugal, and Sweden.

Such transactional agreements are not appealing to Tunisian authorities, nor to the country's civil society, and Tunisia's emphatic rejection demonstrates that financial incentives are not enough to make such EU proposals palatable.

#### **4.6 Take third country nationals out of the negotiations on readmission**

The EU should introduce a change in the negotiations on the parallel readmission and visa facilitation agreements. Tunisia has not opposed the signing of a readmission agreement with the EU but is highly unlikely to concede to the readmission of third country nationals, given its strong

rejections of the proposal in the past. This is a position that the majority of the civil society shares, which can help prevent a public backlash against the decision. To avoid a "Moroccan scenario" – EU-Morocco talks on a readmission agreement have not progressed since they started in 2003<sup>98</sup> – the EU should consider amending the draft agreements by removing the provisions on third country nationals. Otherwise, negotiations will remain stalled. Especially as the EU aspires to move toward a more effective approach to returns with the New Pact on Migration and Asylum, EU policymakers should question some of the long-standing items on their migration policy wish list.

98 Tasnim Abderrahim, "A Tale of Two Agreements: EU Migration Cooperation with Morocco and Tunisia," Papers IEMed/EuroMeSCo Series 41, European Institute of the Mediterranean (May 2019): <https://www.iemed.org/publicacions-en/historic-de-publicacions/papersiemed-euromesco/41.-a-tale-of-two-agreements-eu-migration-cooperation-with-morocco-and-tunisia> (accessed September 13, 2020).



## ANNEX: LIST OF INTERVIEWS CONDUCTED

Date	Position	Organization
9 November 2020	Head of Office	International organization
18 June 2020	President	Civil society organization
13 January 2019	Project Officer	Civil society organization



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