



Dear President of the European Council,
Dear Heads of States and Governments of European Union member states,

EU HEADS OF STATES AND GOVERNMENTS SHOULD CENTRE HUMAN RIGHTS IN DISCUSSIONS ON EU-TUNISIA COOPERATION AND THE EXTERNAL DIMENSION OF MIGRATION AT EUROPEAN COUNCIL

The 26 and 27 October 2023 European Council's strategic discussion on the external dimension of migration, with a particular focus on cooperation with third countries, will take place amid growing concerns regarding the conditions of the European Union (EU)'s cooperation with Tunisia. Since the signing of the EU-Tunisia Memorandum of Understanding (MoU) in July, our organisations have raised concerns regarding the deteriorating human rights situation in Tunisia, including the treatment of African migrants, asylum seekers and refugees in the country, and the implications of the EU's approach to this partnership.

Our organisations have raised serious concerns about various elements of the MoU and notably their components on migration, which render the EU complicit in abuses against refugees and other migrants in Tunisia.¹ Tunisia does not have a functioning national asylum system, and media and human rights groups exposed that its security forces have arbitrarily arrested and detained, beat up, and collectively expelled Black African nationals in violation of international law, among other abuses. This amounts to a severe escalation of the crackdown on Black migrants and possibly a dangerous shift in Tunisian policy following xenophobic and racist comments made by President Saied in February 2023.² In early July, Tunisian police forcibly expelled around 2000 Black asylum seekers, refugees, and other migrants, including children, to remote regions along Tunisia's borders, according to a [statement](#) by Volker Türk, UN High Commissioner for Human Rights. At least 28 died. Human Rights Watch and Amnesty International have further recently documented a new wave of collective expulsions to the Algerian border. In September, the Tunisian National Guard collectively expelled over 100 Black migrants, according to interviews with people affected, after intercepting them at sea, including children, possibly asylum seekers, often employing physical violence. Similarly, Amnesty International documented at least one collective expulsion to Libya on 29 September, whereby the Tunisian National Guard and military collectively expelled at least 100 people and transferred them to the Stability Support Authority, a prominent Libyan armed group with a well-documented history of serious human rights violations, who detained them in the border region of Nalut, before transferring them to detention centres in Tripoli.

At the same time, two years after President Saied's power-grab, the human rights and rule of law situation in the country continues to deteriorate. Amid the drastic weakening of judicial independence and dismantling of human rights safeguards, authorities repeatedly target those exercising their freedom of expression, including human rights defenders, lawyers, and political activists. Critics faced politicized criminal prosecutions, including under counter-terrorism laws, arbitrary and abusive pre-trial detention. The new highly restrictive law on associations which should be imminently discussed in the parliament is the latest indication of a rapidly deteriorating human rights situation. If adopted, this draft law will have a devastating impact on Tunisia's civic space and will inevitably impede the work of national and international organisations providing vital assistance to migrants and working on minority rights.³ The EU's failure to publicly and forcefully condemn these developments, and to review its cooperation with Tunisia as a result, constitutes a source of growing concern for our organisations.

¹ Amnesty International, EU/Tunisia: Agreement on migration 'makes EU complicit' in abuses against asylum seekers, migrant and refugees, 18 July 2023, <https://www.amnesty.eu/news/eu-tunisia-agreement-on-migration-makes-eu-complicit-in-abuses-against-asylum-seekers-migrant-and-refugees/>

² Amnesty International, Tunisia: President's racist speech incites a wave of violence against Black Africans, 10 March 2023, <https://www.amnesty.org/en/latest/news/2023/03/tunisia-presidents-racist-speech-incites-a-wave-of-violence-against-black-africans/>

³ Amnesty International, Tunisia: Repressive NGO draft law threatens independent civil society, 21 October 2023, <https://www.amnesty.org/en/latest/news/2023/10/tunisia-repressive-ngo-draft-law-threatens-independent-civil-society/>

We therefore urge you to use the upcoming European Council discussion on the external dimension of migration, and on Tunisia specifically, as an opportunity to express clear concerns about the deterioration of the human rights situation in the country and rethink the EU's engagement. Following the signing of the MoU, both a [delegation of Members of the European Parliament \(MEPs\)](#) and a [delegation of the European Commission](#) were denied entry into the country, later followed by President Saïed [returning EU budget support](#). To remain true to their human rights commitments, the EU and its Member States should reconsider their approach to cooperation with Tunisia, and take steps to address the systematic attacks on the rule of law and separation of powers in the country, the crackdown on rights and freedoms, and the violence targeting Black African asylum seekers, refugees, and other migrants in the country.

Ahead of the European Council of 26 and 27 October, we call on the EU and its Member States to:

- **Ensure that no EU funding is disbursed to governmental entities that commit human rights abuses against migrants or asylum seekers in the country.**
- Ensure that any **cooperation with Tunisia on migration places human rights at the centre, ensures that Tunisian authorities meet clear human rights benchmarks and includes effective independent monitoring**, including through the following measures:
 - **Exercise due diligence**, through the publication of a prior human rights impact assessment, based on robust benchmarks, before signing any new agreement with Tunisian authorities on migration cooperation support. Independent, third-party monitoring mechanisms must be in place to assess the human rights impact of activities under the agreement. Any agreement or disbursement of funds must include suspensive clauses, to halt cooperation and suspend activities found to be negatively impacting human rights.
 - All financing provided in the field of migration should be **transparent and equipped with the necessary safeguards** to ensure that no EU funds, including the provision of technical equipment and other assets, contribute to human rights violations. In particular, there must be guarantees to ensure that no EU funds or assets will be disbursed to Tunisian authorities and institutions involved in human rights abuses.
 - Measures to **ensure the safety of third country nationals within Tunisia and the protection of their rights** should urgently be put in place, ensuring they have humanitarian assistance, adequate opportunities to have protection needs recognised, and access to information, including on the legal pathways available to them. Any agreement on migration should also incorporate an **expansion of safe and regular avenues** for people to reach protection in Europe, including through resettlement, humanitarian corridors, or labour and student mobility schemes that are truly accessible and meaningful in scope. These should be available for vulnerable asylum seekers, refugees and other migrants in Tunisia, as well as Tunisian nationals.
 - Ensure the **presence of an independent judiciary, respect for freedom of expression, and civil society effective participation** in Tunisia. Without such guarantors for rule of law and public accountability, the EU risks cooperating with unchecked and unaccountable state authorities, including security forces, that are free to operate with impunity.
- **Ensure that cooperation with Tunisia** - including lending strategies by the European Bank for Reconstruction and Development, the European Investment Bank, and other international financial institutions in which the EU and Member States have a voice - **is linked to the respect for the EU-Tunisia strategic priorities under democracy, good governance and human rights to encourage Tunisia to adopt policies that protect and advance human rights, namely:**
 - **Reform of the judicial system, including adherence to international standards, including those of the Council of Europe:** By immediately ending all executive interference in the functioning of the judiciary, revoking the President's powers to dismiss judges unilaterally; reinstating all judges whom the president has dismissed summarily and without a legal process; ending all forms of harassment or

reprisal against Tunisian judges asserting their independence, and respecting their freedom of expression, association, and assembly. Immediately ending the use of military courts to investigate and prosecute civilians, including all ongoing investigations and trials, and undertaking the necessary reforms to explicitly restrict the jurisdiction of military courts to strictly and narrowly defined military offenses by military personnel.

- **Protection of freedom of expression and freedom of association:** By repealing Decree-Law 2022-54 on cybercrime and repealing or amending all other laws that criminalise the legitimate exercise of the right to freedom of expression, ending all investigations and prosecutions based solely on the legitimate exercise of the right to freedom of expression, and immediately and unconditionally releasing all those detained solely for exercising their rights to freedom of expression and/or association.
- **Finalisation of the legislative harmonisation process in line with international standards:** By amending the constitution and all relevant laws to bring them in line with Tunisia's obligations under international human rights law.
- **Establishment of an independent Constitutional Court:** The Tunisian authorities must amend the constitution to ensure the independence of the judiciary, including the Constitutional Court, at least to the degree guaranteed by the 2014 Constitution, as required by international standards.
- **Unequivocally condemn the crackdown on peaceful dissent and free expression, including by adopting a public statement following the European Council** calling out the most pressing human rights concerns in Tunisia, as detailed above.
- **Proactively press, both publicly and privately, for the release of detained lawyers, politicians, journalists and activists.** In addition, the EU Delegation and Member States' embassies in Tunisia should observe the ongoing trials of those arbitrarily detained or prosecuted.

We stand ready to meet you anytime to discuss our concerns detailed above. In addition, we remain at your disposal to provide any further information.

Yours sincerely,

Amnesty International
EuroMed Rights
Human Rights Watch