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Tunisia

Country Brief on Irregular Migration Policy Context

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THE MIRREM PROJECT

MIRREM examines estimates and statistical indicators on the irregular migrant population in Europe as well as related policies, including the regularisation of migrants in irregular situations.

MIRREM analyses policies defining migrant irregularity, stakeholders' data needs and usage, and assesses existing estimates and statistical indicators on irregular migration in the countries under study and at the EU level. Using several coordinated pilots, the project develops new and innovative methods for measuring irregular migration and explores if and how these instruments can be applied in other socio-economic or institutional contexts. Based on a broad mapping of regularisation practices in the EU as well as detailed case studies, MIRREM will develop 'regularisation scenarios' to better understand conditions under which regularisation should be considered as a policy option. Together with expert groups that will be set up on irregular migration data and regularisation, respectively, the project will synthesise findings into a Handbook on data on irregular migration and a Handbook on pathways out of irregularity. The project's research covers 20 countries, including 12 EU countries and the United Kingdom. This Deliverable of 15 country briefs is developed as part of Work Package 3 Politics: Understanding Legal and Policy Contexts.

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KEYWORDS

Irregular migration; policy measures; pathways into and out of irregularity

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Tunisia

This Brief provides an abridged overview of the national policy landscape on irregular migration in the country, based on a more extensive policy analysis. It also provides an overview of the main types of migrant irregularity that emerge and the pathways into and out of irregularity, including regularisations as relevant. Annexed to this Deliverable is also an overview of the mapped legal and policy frameworks.

1.1 POLICY PRIORITIES

- **Border security and control**

The government has increasingly focused on enhancing its border security apparatus, including monitoring, and securing its land and sea borders to deter irregular migration and the activities of human trafficking networks. In December 2019, the Tunisian Government of National Accord (GNA) signed agreement with Türkiye in which the latter would offer military assistance to the GNA to heighten security measures along the Tunisian-Libyan border. This involves deploying security units and the army along the coastline and the eastern border of the country. Simultaneously, UNHCR and IOM are partnering with the Tunisian Ministry of Foreign Affairs to coordinate emergency readiness activities in the event of a significant influx of people from Libya. Tunisia also receives support from European Commission through financial and technical support to tighten security over its borders.

- **Assisted Voluntary Return (AVR) and “Assisted Reintegration”**

The AVR programs and the repatriation of irregular migrants to their countries of origin constitute a critical component of the governmental strategy. It is facilitated both by the IOM, and UNHCR offices in Tunisia in collaboration with their local partners. AVR provide irregular migrants with the option to return to their home countries without facing deportation, which is less resource-intensive and more efficient. Assisted Reintegration is designed for those who cannot return voluntarily or qualify for asylum, and they are offered essential support (technical and financial) for a smoother reintegration process.

1.2 OVERVIEW OF THE TUNISIAN POLICY FRAMEWORK

See Annex 1 for an overview of the legal and policy frameworks mapped for this country.

1.2.1 Policy implementation measures

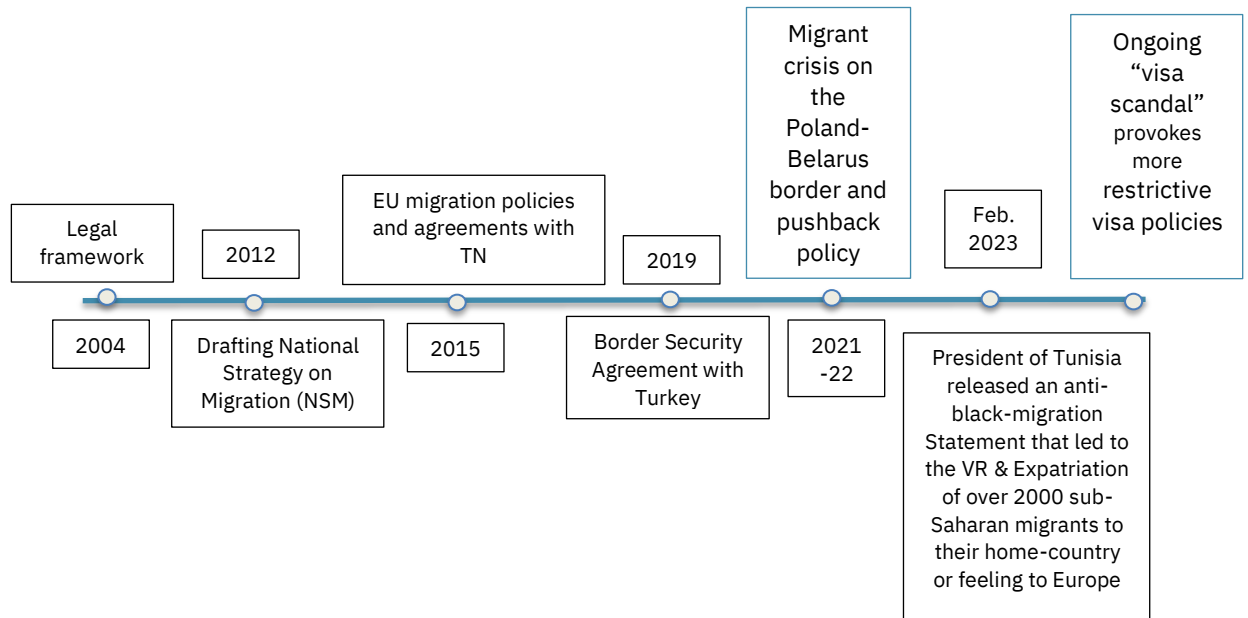
- **Border security**

In December 2019, the Tunisian Government of National Accord (GNA) signed agreement with Turkey in which the latter would offer military assistance to the GNA to heighten security measures along the Tunisian-Libyan border (OCHA, December 2019). This involves deploying security units and the army along the coastline and the eastern border of the country. The support from European Commission encompasses a range of activities, including the procurement of necessary resources, training programs for border guards, and the provision of technical support, all falling under the ambit of priority 1 in the EUTF's regional program: "Towards a holistic approach to labour migration and mobility".

- **Regularisation of entry to the country**

Tunisia has established a legal framework to regulate the entry and residency of foreigners, with stringent penalties for those involved in human smuggling and irregular migration. However, lack of transparency on the ground discriminate against the issuance of residency permits to sub-Saharan immigrants compared to other nationalities due to a rise in xenophobic policy statements against them. Despite the existence of crucial policies related to the protection of migrants and refugees, including the National Strategy on Migration and the National Legislation on Protection System for Refugees & Asylum-Seekers, their implementation has been delayed.

1.2.2 Policy evolution: Main turning points



1.2.3 Policy impact

- **Rise of anti-migrants' sentiments**

The security-oriented policies along with the government's anti-migration rhetoric have given rise to an anti-migrant sentiment in Tunisia, especially against Sub-Saharan migrants, leading to the harassment, discrimination, and violence against this vulnerable group (Parikh, 2023). Furthermore, the neglect of integration and addressing the root causes of irregular migration represents a significant policy gap in Tunisia (Abderrahim, 2023). This also explains the unprecedented surge in irregular migrants' crossing to Europe during the 2023 the same year the president of Tunisia unleashed his famous anti-migrant statement.

1.2.4 Policy Challenges in Addressing Migrant Irregularity

- **Stringent Laws**

Organic Laws No. 1968-7 and Law No. 2004-6 criminalises any form of assistance or attempt to facilitate irregular entry. Migrants often face precarious legal, social, and economic conditions due to the lack of clarity in application of these legislations. Despite the presence of key policies and legislation, the delayed implementation of

crucial measures, such as the National Strategy on Migration (NSM), raises questions about the government's will and commitment to safeguarding the rights of irregular migrants (Herbert, 2022). Additionally, initial reform efforts, such as drafting an asylum law and a rights-based national migration strategy, were cut short due to political assassinations, tensions in neighboring Libya, and economic struggles. Policymakers have depoliticized immigration, sidelining it from the political agenda.

- **Poor implementation of legal systems**

Second, while cooperation with international organisations like the United Nations High Commissioner for Refugees (UNHCR) to enhance protection for refugees and asylum-seekers is ensured, the poor implementation of legal systems that regulate asylum and labour market developments renders the work of these organisations difficult. The delay in enacting the National Legislation on the Protection System for Refugees & Asylum-Seekers raises concerns about the government's commitment to protecting the rights of asylum-seekers.

- **Shifting priorities of decision-makers**

The continuously changing political agendas marked by shifting decision-makers and the creation and dissolution of government bodies (like the State Secretariat for Migration and Tunisians Abroad (SEMTE) contributes to an environment of uncertainty and discontinuity. Adding to this, migration management involves a multitude of stakeholders, including government ministries, international organisations, unions, NGOs, and national organisations. While a holistic approach is crucial, the complex stakeholder landscape presents challenges, and delays in ratification of laws and implementing policies (Natter, 2022). Furthermore, disparity in transparency hinders the development and implementation of effective migration policies due to the government's reluctance in prioritising immigration irregularity in the political agenda.

- **External Pressure**

The European Union (EU) pressures on Tunisian government to adopt security-centric approaches have inadvertently exacerbated challenges faced by irregular migrants within Tunisia through stricter security and border control measures. In other words, the EU's firm stance on border control has prompted Tunisia to prioritize security measures. Although aimed at bolstering security and deterring irregular migration, these actions inadvertently worsen the plight of irregular migrants within Tunisia. Enhanced surveillance, more stringent visa regulations, and intensified border patrols make it progressively harder for migrants to reach Europe. Consequently, desperate individuals are compelled to opt for perilous routes and collaborate with human traffickers (Natter, 2022); when indeed the security-centric policies have unintended humanitarian consequences. Irregular migrants face greater risks, including

dangerous sea crossings, exploitation, and abuse. The closure of traditional migration routes forces desperate individuals to take desperate measures, and endanger their lives.

- **Racial discrimination and anti-migration rhetoric**

Racial discrimination and anti-migration rhetoric of some decision makers and the propaganda by state-owned media outlet have fuelled hate-speech and xenophobia among sub-Saharan migrants thousands of whom fled the country between March and May 2023, after the country's president famous anti-immigration's declarations. Often, anti-migration advocates resort to the migration-terrorism nexus to back up their stance in order to legitimize and further reinforce security approaches on both sides of the Mediterranean. As a result, Tunisia's policy remains caught between safeguarding human rights and complying with EU pressures.

Table 1: Relevant Tunisian institutions

Sr. No.	Institution/department	Responsibilities	Web link
Official Bodies			
1	Ministry of Social Affairs	Leading and coordinating with other ministries.	LINK (EN)
2	Ministry of Foreign Affairs	Acting as a focal point for international cooperation on migration issues.	LINK (TUNISIAN ARABIC)
3	Ministry of Interior	Playing a key role in border management, reception, detention centres, and expulsion orders.	LINK (FR)
4	Ministry of Justice	Involved in legal aspects related to migration.	LINK (TUNISIAN ARABIC)
5	Ministry of Employment and Training	Participating in various aspects of migration management.	LINK (EN)
6	Ministry of Investment and International Cooperation	Engaging in issues related to migration management.	LINK (FR)
7	Ministry of Health	Addressing healthcare-related aspects of migration.	LINK (EN)
8	Ministry of Education	Dealing with educational matters related to migration.	LINK (EN)
9	Department of National Defence	Involved in border control, reconnaissance operations, and irregular migration.	LINK (EN)

10	National Guard	Part of the Ministry of Interior and engaged in migration-related activities, particularly border management.	LINK (EN)
11	National Assembly	Enacting laws strengthening the protection of migrants.	LINK (EN)
Unions			
12	Union Générale des Travailleurs Tunisiens (UGTT)	Initiating the Trade Union Network for Sub-Saharan Mediterranean Migration and protecting migrant workers.	LINK (FR)
National Organisations			
13	Tunisian Red Cross (TRC)	Involved in the protection of refugees.	LINK (FR)
14	Arab Institute for Human Rights (IADH)	Participating in human rights aspects related to migration.	LINK (FR)
15	Tunisian Association for Management and Social Stability (TAMSS)	Engaged in social stability and management of migrants.	LINK (EN)
16	Tunisian Council for Refugees (CTR)	Addressing refugee-related issues.	LINK (FR)
17	Office of Tunisians Abroad (OTE)	Handling diaspora relations.	LINK (FR)
18	National Observatory for Migration (NOM)	Collecting information, data, research, and ensuring coordination related to migration.	LINK (EN)
International NGOs			
19	Caritas	Engaged in humanitarian efforts related to migration.	LINK (FR)
20	Mercy Corps	Participating in various aspects of migration-related support.	LINK (EN)
21	Danish Refugee Council	Addressing refugee issues and providing support.	LINK (EN)
22	Norwegian Refugee Council	Engaged in activities related to refugees and asylum-seekers.	LINK (EN)
International Organisations			
23	Direction Générale de la Coopération Internationale en	Preparing the National Strategy and acting as a key partner for international development partners.	LINK (FR)

	matière de Migration (DGCIM)		
24	UNHCR	<p>primarily concerned with the & providing legal and humanitarian assistance to refugees and asylum seekers, ensuring they have access to the necessary support and rights &</p> <p>conducting registration and status determination of asylum seekers and refugees, operating reception centres.</p>	LINK (EN)
25	IOM	<p>works on enhancing the capacity of Tunisian authorities to manage migration effectively. This involves training border control officials, law enforcement, and other relevant agencies to address irregular migration in a humane and lawful manner.</p> <p>It plays a role in collecting and analysing data related to migration trends. This information is crucial for understanding the dynamics of irregular migration, identifying vulnerable groups, and formulating effective policies.</p>	n/a

1.3 THE SPECTRUM OF MIGRANT IRREGULARITY IN TUNISIA: CATEGORIES AND PATHWAYS INTO/OUT OF IRREGULARITY

Table 2: Categories of migrant irregularity in Tunisia

Most relevant categories of migrants in an irregular situation	Description (who does this category apply to, what conditions may lead to this category, and what are the implications of being in such a situation)
Over-stayers	These are individuals who have entered the country legally, such as with a visa or residence permit, but have remained in Tunisia beyond the authorised period. Over-stayers in Tunisia include tourists who have exceeded their visa's duration, students who have not renewed their student permits, or individuals on other types of visas who have not left the country within the stipulated time. Depending on their country of origins, they may face legal

	consequences, such as fines, deportation, or bans on re-entry, in accordance with Tunisian immigration laws and regulations.
Undocumented Migrants (irregular entry)	Individuals who enter or reside in Tunisia without proper legal documentation (e.g., visa or residence permit). They include economic migrants, asylum seekers, or refugees who lack required documentation. They are subject to vulnerability, such as: arrest, deportation, and exploitation. Limited access to basic services and protection.
Human Trafficking Victims	These are migrants coerced, deceived, or forced into irregular migration, often falling victim to human trafficking. Lured into irregular migration with false promises, leading to exploitation and abuse. They suffer various forms of exploitation, including forced labour, sexual exploitation, and inhumane treatment.
Irregular Labour Migrants	These are economic migrants (who may or may not have a migration provisional status) who engage in irregular work (in cases of provisional status at times in violation of the terms of their visa/status). They seek employment in sectors like agriculture, construction, or domestic work without legal documentation. They are often vulnerable to labour exploitation, poor working conditions, and limited legal recourse.
Asylum Seekers	Individuals who have fled their home countries due to fear of persecution, violence, or other threats to their safety and are seeking protection in Tunisia. They often arrive without formal recognition as refugees, awaiting asylum determination. Uncertainty about their legal status, difficulties accessing basic services, and risk of detention or deportation are the main challenges they are faced with
Stateless Persons	Individuals without the nationality of any country, often excluded from basic rights and services. Born stateless or lost their nationality (Harraga) due to various reasons. They suffer lack to access to essential services and legal protections, facing a heightened risk of exploitation and abuse. In the Tunisian case, stateless persons are commonly from Eritrea, Somalia, Niger and South Sudan.
Rejected Asylum-Seekers	Individuals who have applied for asylum in the country but have had their asylum applications denied. They may have their claims rejected in for various reasons, including not meeting the legal definition of a refugee, having their claims deemed unfounded, or other reasons. Once their asylum claims are rejected, they are expected to leave Tunisia voluntarily; otherwise, they face potential deportation, and are treated as unlawful migrants.
Most relevant categories of migrants	Conditions (e.g. who does this category apply to, under what conditions, who is exempted, implications)

with a reasonable claim to a provisional status	
Asylum Seekers	Individuals who have fled their home countries due to fear of persecution, violence, or other threats to their safety and are seeking protection in Tunisia. They often arrive without formal recognition as refugees, awaiting asylum determination. Uncertainty about their legal status, difficulties accessing basic services, and risk of detention or deportation are the main challenges they are faced with
Stateless Persons	Individuals without the nationality of any country, often excluded from basic rights and services. Born stateless or lost their nationality (Harraga) due to various reasons. They suffer lack to access to essential services and legal protections, facing a heightened risk of exploitation and abuse. In Tunisia, this population often applies for asylum with and awaits resettlement to a third country.

1.3.1 Pathways into and out of irregularity

Apart from the Assisted Voluntary Return (AVR) and “Assisted Reintegration” as the sole mechanism for exiting irregularity, pathways into irregular migration prevail the scene. The denial of legal status not only deprives individuals of fundamental rights and protections but also perpetuates cycles of irregularity which unleashes socio-economic exclusion and marginalization.

- **Assisted Voluntary Return (AVR) and “Assisted Reintegration”**

The AVR programs and the repatriation of irregular migrants to their countries of origin constitute a critical component of the governmental strategy. It is facilitated both by the IOM and UNHCR offices in Tunisia in collaboration with their local partners. AVR provides irregular migrants with the option to return to their home countries without facing deportation, which is less resource-intensive and more efficient. Assisted Reintegration is designed for those who cannot return voluntarily or qualify for asylum, and they are offered essential support (technical and financial) for a smoother reintegration process.

- **Inconsistencies & Gaps in Policy & Practices**

Irregular migration conundrum houses a nexus of systemic factors and gaps in policy lacunae. Upon arrival in Tunisia, obtaining a residence permit before a student or tourist visa expires is necessary. SICAD, the official administrative portal, outlines the application process for various categories, including workers, students, spouses of Tunisian nationals, retirees, and investors. However, in practice, adherence to

SICAD's guidelines is inconsistent. Document requirements vary between local administrative bodies, typically the Directorate General of Borders and Foreigners, even within the same bureau (Parikh, 2023). Besides this, if we look just at the hurdles encountered once the temporary residence permits is expired, compounded by systemic delays in renewal processes, we see that these snags emerge as a primary catalyst propelling migrants into irregularity. The failure of the Tunisian state to provide timely renewals not only exacerbates migrants' vulnerability but also reiterates systemic inefficiencies within the migration management framework. Moreover, the imposition of steep overstay penalties further perpetuate a cycle of financial burdens and legal precarity for migrants. These systemic flaws remain acute pathways into irregularity.

- **Costs of Rectifying Legal Status**

The bureaucratic delays in renewing temporary residence permits in Tunisia transition migrants into a challenging undocumented status and triggers a domino effect of financial and legal hardships. When temporary residence permits expire, migrants of any nationality become undocumented, often due to the Tunisian state's delays in issuing new permits. This situation forces sub-Saharan migrants into irregular status. There is ample data documenting this scenario (Parikh, 2023). Once undocumented, they incur a visa-overstay fine of approximately 20 Tunisian dinars weekly, equating to about \$26 monthly. Some Sub-Saharan migrants who have been undocumented for over four years, accruing at least \$1,250 in fines, see paying smugglers for passage to Italy to be more cost-effective than settling the fines and affording costly flights back home, knowing that smuggler fees ranged from \$1,300 to \$1,600 per person as of 2022. Thus, the unintended consequence of administrative inefficiencies not only propels sub-Saharan migrants into a precarious legal limbo but also inadvertently encourages the perilous decision to opt for smuggling routes over legal rectifications or returns.

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ANNEX 1: Policy and Legal Frameworks

Laws and policies on migrant irregularity

Sr. No	Title of policy/law	Year	Description	Web link to source
1.	Law No. 1968-7	1968	Organic Law that regulates the entry and residency of foreigners in the country.	LINK (FR)
2.	Art. 23		Foreigner who enters or leaves Tunisia without a valid travel document and entry visa is punishable by imprisonment for one month to one year and a fine. (.)	
3.	Art. 24.		Stipulates 3 years of imprisonment to any foreigner who has evaded the execution of a deportation or has been expelled from Tunisia and entered it again without permission from the Tunisian authorities.	
4.	Art. 25		Imposes imprisonment for one month to one year and a fine on any person who, directly or indirectly, helps or attempts to facilitate the entry, exit, or stay of irregular migrants in the country	
5.	Law No. 2004-6	2004	Organic Law (amending law No. 40 of 1975) that regulates the issuance of the travel documents and entry of foreigners	LINK (EN)
6.	Art. 38		It enhances the penalty for people smuggling by imposing a term of imprisonment of three years and a fine of about US\$2,700 on any person who guides, arranges, facilitates, aids, mediates, or organises by any means the illegal entry or exit of a person into or from Tunisia. The illegal entry or exit may be by land, sea, or air.	
7.	Art. 39		Punishes anyone who shelters persons entering or leaving Tunisian soil unlawfully and without permission from the Tunisian authorities with imprisonment for four years and a fine.	
8.	Art. 40		Stipulate that anyone who deliberately transports a person or persons into or out of Tunisia secretly without the permission of the Tunisian authorities with imprisonment for five years and a fine.	
9.	Tunisia-Turkey Agreement on security	Dec. 2019	Through this bilateral accord, Turkey would offer military assistance to Tunisia to heighten security measures along the Tunisian-Libyan border. This involved deploying security units and the army along the coastline and the eastern border of the country.	LINK (EN)

	measures along the Tunisian-Libyan border			
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Laws and policies indirectly impacting migrant irregularity

Sr. No	Title of policy/law	Year	Description: How it relates to migrant irregularity	Weblink to source
1.	National Strategy on Migration	pending ratification since 2012	Drafted in 2012, and officially presented in July 2017 ⁶ by the Ministry of Social Affairs in collaboration with ILO, IOM and other international partners and yet to be adopted for unclear reasons, the NSM pertains to safeguarding the rights of foreign migrants, refugees, and asylum seekers within Tunisia and involves the ongoing development and revision of laws related to immigration and the protection of migrants' rights, an in-depth examination of the demographics of immigrants and asylum seekers, and active measures against human smuggling and trafficking. The strategy underscores the commitment to ensure the protection of their rights, regardless of their legal status or circumstances, with a specific emphasis on addressing informal labour. Additionally, it outlines intentions to establish a legal framework for the rights of refugees and asylum-seekers.	LINK (EN)
2	Tunisian Constitution	2014	It stipulates that "the right to political asylum shall be guaranteed as prescribed by the law. It is prohibited to surrender persons who have been granted political asylum"	LINK (EN)
3	National Legislation on Protection System for Refugees &	2014 (Pending ratification)	The bill calls for the creation of the National Refugee Protection Institute (INPR), which would be responsible for determining refugee status & facilitate the access of recognised refugees to education, health and work. A new version was presented by the Ministry of Justice in 2018 and submitted to Parliament recently. The law has yet to be formally adopted and implemented.	LINK (EN)

	Asylum-Seekers			
4	Law on the prevention & fight against human trafficking	Aug. 2016	It strengthens prevention measures for non-Tunisian trafficking victims, who are vulnerable due to their irregular status in Tunisia.	LINK (EN)
5	Organic Law 2018-50	Oct. 2018	The organic Law on the elimination of all forms of racial discrimination aims at combating racial discrimination within the country and prohibit discrimination based on race, ethnicity, or related factors in various aspects of public life, including employment, education, housing, and access to public services; and establishes mechanisms for reporting and addressing racial discrimination, as well as penalties for individuals or entities found guilty of discriminatory practices.	LINK (EN)

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