

TUNISIA AND EU MOU FOR A COMPREHENSIVE AND STRATEGIC PARTNERSHIP

POLICY BRIEF



INTRODUCTION

On July 16, 2023, the Tunisian Government finalized a MoU with the European Union after many hesitations, postponements, discussions, and requests for amendments. Its motto was the “understanding”. Theoretically, this memorandum opens the course of new relations between the two parties, moving them from the silent state of crisis and the disciplined diplomatic entanglement that clearly marked post-25 July 2021, to what resembles a declared alliance of strategic understandings. This state of affairs assumes that a complete shift in the European approach to Tunisia’s “case” has taken place and that the so-called extensive crisis has become an extensive partnership. Thus Tunisia’s official sovereigntist position, the rejection of European intervention in Tunisia’s affairs, and the need not to consider irregular migrants as mere numbers have presumably turned into a complete embrace of the European approach to this phenomenon and an active involvement in the European general strategy towards several regional and common issues.

Indeed, at various levels, the analysis of Tunisian public opinion was expected to reflect the country’s acute political polarization between supporters and opponents of President Kais Saied’s regime. This has turned, however, into another kind of polarization between the deal’s supporters who see it as a Tunisian success, and its rejectors who believe that the government has responded to European priorities and subordinated itself to the Europeans’ method of arranging regional issues. Supporters, often official or political backers of President Kais Saied, considered the agreement to be sufficient, and that it had achieved a shift in the nature of relations with the European partner. According to them, Tunisia moved to the strategic partner’s position for a reasonable price in the case of irregular migration, gaining European respect for the government’s policies abiding with the red lines it succeeded to impose. For their part, opponents of the deal, consider that its final text reflected a very weak Tunisian negotiating position, whereby all national sovereigntist approaches fell with full approval of the European securitarian approach to the issue of irregular migration.

On the basis of the foregoing, the task of the following document is to assess an objective briefing of the “Strategic Partnership” memorandum of understanding, through three viewpoints: the contexts that shaped and produced the agreement (I), and the objectivity of each Party’s expectations (II), as well as the possibilities for its application(III).

I

CONTEXTS OF THE MOU SHAPING: UNDERSTANDINGS OF NECESSITY

The MoU is strictly subject to the requirements of the context that accompanied its development. They are necessarily the first determinant in shaping the negotiating position of the parties to the agreement. Such context is influential whether the party-specific internal, regional, or even international because the deal is intrinsically linked to the policy of the Mediterranean and sub-Saharan African region as a growing zone of influence and conflict between the main international powers.

In summary, the context of the memorandum of understanding appears to be governed by four fundamental variables, some of which relate to exclusive European calculations, and others to Tunisia's situation.

-1- European Level

The arrival in power of a far-right populist coalition led by Georgia Meloni in Italy, the third economy of the European region and the most affected parts of European geography by the irregular migration issue, represented the most prominent sign of the apparent wave of ascent across the continent, with a different extent from one state to another, of right-wing and center-right forces. Indeed, the irregular migration problem and its security, social, and economic implications were the basic determinants of these forces' political discourse and electoral offers. This contributed to the intensification of the European need for urgent practical understandings on irregular migration issues, which can be electorally marketed and valued for an internal public opinion with growing right-wing nationalistic tendencies. Secondly, Brussels' success in containing the isolationist sovereignist ambition of Italy's fascist right-wing rule, whose most attractive slogan was the negative attitude toward the European Community, was accompanied by a growing crisis of confidence between the continent's "irregular immigration capitals" Paris and Rome. This has led to some kind of European implicit recognition of Italian primacy or guardianship of irregular migration issues. This is reflected in the outcome of the abandonment of the traditional humanist, human rights-based, and political determinants of Europe's handling of irregular migration from Africa, in favor of an excessively pragmatic approach. At its core is an attempt to create an insulating security geography for this phenomenon on the Mediterranean's southern bank.

The rapid changes carried out by successive military coups d'état in sub-Saharan countries have been one of the worsening European/Russian conflict side-related factors since the Ukrainian war. Europeans' urgent need to stabilize a foothold or what looks like a safe withdrawal zone on the southern bank of the Mediterranean has increased vigorously in two directions to meet the expected direct repercussions of these changes on the European interior. Both directions are involved in irregular migration problems.

First, these coups d'état threaten a complete breakdown of the security and humanitarian situation in these countries (the Sudan, for example) exacerbating waves of migration and displacement from and across these countries. They were added to other climate and economic factors of displacement in particular. Secondly, these coups d'état occurred within a systematic geopolitical line of rejection of French interference to replace it structurally with declared and undeclared Russian support at the political and diplomatic levels. Moreover, the replacement was clearer at the military and security levels. As a result, Europe's ability to proactively interfere within the geography of those countries has been weakened. This has led to growing European fears that Russians will increasingly be able to manipulate the irregular migration card, either by controlling their geographical paths or through travel networks, as a strategic pressure card on Europeans.

-2- Tunisian Level

On the other hand, the Tunisian case, which was a comprehensive economic and political crisis for nearly two years after President Kais Saied's reign, aligned with the urgent European need to focus on irregular migration buffer geography in the southern bank of the Mediterranean, especially if we consider two objective facts.

Weak possibilities to quick understandings with other transit countries - Libya and Algeria- (and, to a lesser extent, Morocco), for reasons relating to the disjointed internal situation and the absence of a central negotiator in Libya, or given the structure of traditionally complex strategic relations with Algeria and the difficulty or impossibility of negotiating only fragmentary agreements on irregular migration and not expanding on more fruitful topics for Algerian negotiators such as the Western Sahara file, the energy file, etc.

Since Tunisia's 2011 as the first transit State for irregular migration (local and African) from the southwestern Mediterranean towards Europe, surpassing Libya (33000 illegal migrants from Tunisia compared with some 27000 from Libya since the beginning of 2023), Tunisia has seemed theoretically in a negotiating position that makes it the most needed to achieve quick understandings with the traditional European partner. Tunisia has already seemed the partner and thus willing to engage in a partial mutual negotiating approach to irregular migration, which refers us to the objective expectations of each of the parties, or to the goals actually sought.

II EXPECTATIONS OF MEMO PARTIES: UNDERSTANDINGS OF THE MINIMUM

There is a fundamental question about the legal form of the memorandum, as it is the primary determinant of the real obligations that the parties will assume, and thus the nature of their actual and objective expectations. Questioning the MoU in terms of its form is paramount in view of the ambiguity raised by the legal form of these agreements, as a “memorandum of understanding”. This ranks it from the perspective of international law to a lesser degree than international treaties whose entry into force is conditioned by several formal conditions, in terms of negotiations (Existence of credentials determining each party’s official negotiating body and the extent of its negotiating powers) or in terms of the ratification procedure, which is not completed as soon as the parties sign the treaty but by submission to the competent legislature, then sealed by the President of the Republic and then published.

In the absence of any evidence of mutual adoption of this legal option by the parties, the hypothesis that the memorandum falls under the category of joint political declarations that don’t necessarily create clear and executable legal obligations is the closest to reality. This idea is enhanced by linguistic elements in most parts of the memorandum, which are ambiguous and do not easily infer the applicable executional obligation, such as “the parties shall endeavor”, “the parties shall act”, the parties affirm “, etc. The European commitment to support directly Tunisia’s public financial balances, contained in the first heading of the memorandum under the title “Economic stability”, was also broad, indefinite in financial value, and conditional on what called “Assistance of Tunisian economic and social reforms”, which strongly leads to the legitimate question about what has been obtained or what each party is expecting from signing the memorandum.

Three main factors of the Understandings overbroad legal form:

First, the parties’ lack of genuine willingness to comply with mutual, rigorous, and long-lasting obligations, reflecting what seems, on the one hand, to be a weak European confidence in the regime’s political status in Tunisia. Consequently, there are real doubts about its ability to implement the tasks required to respond to the irregular migration, by way of effectively involving the State’s institutions in such an effort. The system’s ability to withstand the social, popular, and security implications of such tasks is therefore uncertain as well. On the Tunisian side, that loose and overbroad character is a reflection of the Tunisian party’s unwillingness to actually be “complicit” in the European approach to migration: A costly complicity contrasting the sovereign and nationalist discourse of the regime. In addition, a broad wordy “involvement” seemed to be a needed compensation for the Tunisian party’s failure to obtain clear and rewarding European financial commitments in relation to Tunisia’s negotiations with IMF and direct support to the state budget.

Hence, the agreement that declares itself strategic actually appears closer to the interim political commitment, which is ultimately governed by the reality of the Tunisian and Italian political scene. The agreement could change once the governing authority in the two countries changes.

Secondly, the MoU reflects the European Party's lack of an integrated vision of the issue of irregular migration within a comprehensive strategic approach to relations with Africa. Thus the European expectation of understanding with the Tunisian State is merely a search for the completion of limited transactional agreements that will enable the revival of the so-called buffer security geography or the safe State from outside the European sphere. The only European commitment would be direct financial support for the State's financial balances. In practice, Europe agrees to complete some kind of service agreement with the Tunisian regime in the form of money for border policing.

Thirdly, the form of understanding on the one hand and the lack of clear European commitments with regard to clearly defined and meaningful financial and economic support for the Tunisian party on the other reflects what really the latter awaits from the memorandum, which can be summarized in three political aims.

First, the overthrow of European democratic conditionality which was the deterioration root cause of relations with European decision capitals like Berlin and, to a lesser but clearer extent, Paris.

Secondly, there is the issue of intertwining Tunisia's European relations through the launching of a long-term negotiating path, and the memorandum is an announcement of its launch. This allows the regime to achieve a reasonable degree of political acceptability and strengthen its regional and international status after a rising tension with some of the West's most important traditional partners (United States, Paris, and Berlin mainly) and Maghreb (Tripoli and Rabat) as the authorities were unable to obtain clear and sustainable systematic support from the Arab Gulf States as an essential donor to face a comprehensive financial and economic crisis.

Third, suggesting the success of the Tunisian negotiator in getting out of the box of European pressures towards the country's full involvement in the European security effort against irregular immigration, and his success in ensuring comprehensive European support for Tunisia in the files of economy, money, energy and regular immigration without clear Tunisian prices. As for the Europeans, it seems expected to achieve acceptance or the beginning of a comprehensive Tunisian involvement in combating the irregular migration crisis While the reality of the situation appears as an export of a crisis that is originally purely European, transforming it into a Tunisian crisis.

It seems that what the Tunisians have achieved is limited, at least so far, to achieving European political acceptability that enables it to face a comprehensive internal crisis and a deteriorating regional situation. What are the possibilities of the application?

III

APPLICATION OPPORTUNITIES OR IMPEDIMENTS

In light of the aforementioned indicators, the memorandum appears to be more of an interim, sub-strategic political declaration, and much less comprehensive than what it declares. At least, it leads to the Tunisian state declaring its official involvement in the European effort to combat irregular migration. This means that the Tunisian position on the issue of immigration has shifted from a mere transit country to a key party in resolving a crisis that arises thousands of kilometers south of its borders and ends in Europe, with all the obstacles it necessarily entails that can be summed up in five basic points.

First, the agreement's requirement for irregular African migrants to return to their home countries necessitates a significant amount of security, and possibly military, effort. It is assumed that there are logistical capabilities (control, migrants holdings centers, airports with security protection, additional planes, airlines, security escorts for flights, etc.) and huge financial capabilities that the Tunisian state lacks. In addition, there must be clear agreements between Tunisia and the African countries concerned. And in the absence of all or most of these conditions, the fears of the hypothesis of settling irregular migrants on Tunisian territory or shifting to the concentration of what looks like permanent holding camps become legitimate. This results in serious consequences for the security and social situation in the country, as was the case in Sfax city.

Secondly, Tunisia's bilateral understandings, of a security nature in essence, with the European Union unilaterally, in isolation from the rest of the main regional actors in the matter, especially the African Union, Libya, and Algeria, which constitute the port countries for this migration to Tunisia threatens, in the first stage, to deepen the state of frosty relations that prevail with most of these parties and deteriorate into something like regional isolation in a central issue for all these countries, which may provoke, in an advanced stage, a counter-reaction that will possibly lead as a result to the exacerbation of "the leakage" of irregular migration to the country.

Third, Tunisia's involvement in such understandings, in an ailing economic and financial context and with a growing need to obtain direct funds for the budget, with a clear inability to implement real economic reform plans, seriously threatens to develop the implementation of the agreement into a form of regional or international rent. . That is, this makes the security policing of the European borders the main source of foreign currency funding for the Tunisian state. This has radical institutional consequences, especially with regard to the internal balance of power between the security and military institutions on the one hand, and the rest of the ruling departments and institutions in the country. The effects on the nature of the political system itself would be very significant.

Fourth, the absence of a clear European consensus on the memorandum of understanding may lead to delaying its passage in the European Parliament and leaving it as mere ink on paper. This remains one of the most prominent hypotheses. The ambiguous position of Paris and Berlin, the main decision-making capitals within the European Union, are to be noted. While the remarkable absence of the French from the course of the negotiations and the signing, and their apparently intentional abstention from taking a clear official position on the memorandum, Berlin's official position evolved towards expressing clear opposition to the principle of the memorandum and reintroducing the democratic conditionality as a principle determinant of a broad European commitment with Tunisia. This seems to confirm Berlin's adherence to its traditional position rejecting the political path in Tunisia since the announcement of the exceptional measures nearly two years ago.

Fifth, the data from the field indicates that Europe's expectation that Tunisia's state apparatus can control the number of illegal immigrants is not objective. Data from the Italian Ministry of the Interior, for example, indicate a significant increase in the number of irregular migrants entering its territory via the Tunisian route. This increase was estimated for the month of July, according to the same data, by about 350% compared to the same period last year. On the other hand, stability is the salient feature of the East Libya route. The Algerian route remains marginal. Therefore, the hypothesis of a rapid collapse of the agreement, due to the Tunisian party's inability to actually control irregular migration towards Europe and its lack of the minimum capabilities necessary to achieve this goal, seems closest to reality.

CONCLUSION

In summary, the Tunisian-European MOU is the result of mutual political needs, which makes each side finally reach the traditional security approach to the phenomenon of irregular migration. Regardless of the very likely hypothesis that it will not be adopted by the European institutions due to the absence of consensus on it, and thus the European Commission's inability to fulfill its originally limited financial obligations under the agreement, the objective data makes the Tunisian party actually unable to stand by its obligations.

Kais Saeid is looking to strengthen the regional acceptability of the individualist system he established two years ago. However, his policy on this issue revealed the sharp contradictions between the sovereigntist discourse and the human rights-based approach that he constantly evoked, and what the Tunisian authorities actually accepted. Simultaneously, Tunisia is experiencing frosty tension with neighboring countries and within the African system as a result of its isolationist behavior towards its immediate environment. This does not allow, in fact, to stop the flows of irregular migration to it on the one hand, and at the same time prevents the return of irregular migrants to their countries with the expected effectiveness. It is likely that Tunisia will turn into a holding land and possibly a de facto settlement land for asylum seekers. This indicates that the Tunisian state is unable to avoid the economic, social, and security consequences of politicized necessity understandings.