



Tunis-Paris-Copenhagen-Brussels, 17 March 2014

## **Tunisia-EU Mobility Partnership: a Forced March towards the Externalization of Borders**

On 3 March, Tunisia and the European Union signed a 'mobility partnership'.

Over the last two years, the signatory organizations have repeatedly expressed their concerns about this partnership. We hereby reiterate them and condemn the lack of transparency in the negotiation process which did not involve civil society actors, many of whom have been active on issues directly relevant to the agreement. The implementation of such agreement is particularly worrying in the current Tunisian transitional context where key institutions and legislative instruments needed to guarantee the respect of the rights of migrants, refugees and asylum seekers are still lacking.

The wording of the joint declaration signed by Cecilia Malmström and Tahar Cherif, makes it clear that these rights are not a priority in the 'partnership'. Rather, the agreement clearly aims 'to promote a common and responsible management of existing migratory flows', to develop 'their bilateral relations in the fields of migration, mobility and security' and to cooperate 'together to better meet the challenges faced in the Mediterranean.'

While the EU certainly intends to '*support the Tunisian authorities in their efforts in the field of asylum, with a view to establishing a system for protecting refugees and asylum seekers*', it also commits to '*opening negotiations on a readmission agreement of irregular migrants*', inverting priorities to the detriment of the right of freedom of movement guaranteed by international norms.

Our organizations recall that while Tunisia acknowledges, under article 26 of its new constitution, that '*the right to political asylum shall be guaranteed as prescribed by law*' and that '*extraditing political refugees shall be prohibited*', the country has yet to adopt legislation to abide by its commitments under the 1951 Geneva Convention relating to the status of refugees and the 1969 OAU Convention.

Lastly, although article 23 of the Constitution clearly states that *'Every citizen has the right to choose a place of residence and to free movement within the country and the right to leave the country,'* the legislative provisions criminalizing irregular migration have not yet been abolished, in spite of the recommendations of the Council of Europe on the **'right of everyone to leave their own country'** (see joint release of 3 December 2013).

In this context, the conclusion of any readmission agreement would mean returning Tunisian migrants or migrants who transited through Tunisia to countries where their rights are not guaranteed.

Thus, our organizations urge both partners to defer negotiations on a readmission agreement, and call upon the ten EU members involved in the partnership (Belgium, Denmark, Germany, Spain, France, Italy, Poland, Portugal, Sweden and the United Kingdom) to refrain from returning irregular migrants to Tunisia, especially asylum seekers, which risks violating international law.

Our organizations denounce Mobility Partnerships based on a security policy aiming at preventing migrants and refugees from reaching European borders: externalization of responsibilities, secured and integrated border management, conclusion of a readmission agreement, and cooperation with the many EU agencies (which will probably include Frontex<sup>1</sup>). Far from responding to the protection needs of the most vulnerable populations, these measures put states at risk of violating international commitments and breaching fundamental rights, in particular the principle of non-refoulement, the right to seek asylum and the right to leave a country, including one's own.

Although the Partnership ostensibly aims at 'promoting mobility', it has few concrete opportunities for mobility and access to the territory of EU. It offers only half-hearted commitments to promote legal avenues to access the European territory, mainly facilitation of short-term visas for the most privileged and/or qualified persons. There is no reference to the issue of family reunification, despite its relevance to families on both sides of the Mediterranean.

It should come as no surprise to neither the Tunisian authorities nor the EU that it is precisely the lack of legal access to European territory is what pushes thousands of people each year – Tunisians and others – to risk their lives crossing the Mediterranean. The EU's reluctance to open channels for legal migration is not only ineffective, it is also criminal.

Our organizations will continue to work to promote the full enjoyment of the human rights of migrants, refugees and asylum seekers, both in Tunisia and the EU, and ensure that any partnership agreement between the two sides of the Mediterranean is based on the respect of human rights. If the EU is committed to helping Tunisia succeed in its democratic transition, it should prioritize aid and development programs that are not conditional on the conclusion of Mobility Partnership;

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<sup>1</sup> The agency is 'active in developing contacts with the (Tunisian) authorities and looking to initiate formal negotiations to conclude working arrangements' (Frontex, 2013, *General Report 2012*, p.12, available on the internet)

We call upon the European Union to implement its “more for more” policy by providing concrete support to Tunisia in its effort to establish democratic institutions and adopt legislations to implement the new Constitution with regards to provisions relating to economic and social rights and fundamental human rights, and in particular the rights of migrants and refugees.

**In order to implement a genuine ‘Mobility’ Partnership, our organizations urge the EU and Tunisia to:**

- Make the full respect of the human rights of migrants and refugees and the adoption and implementation of legislation safeguarding these rights a prerequisite to cooperation in the field of migration;
- Refrain from implementing measures that do not fully respect these rights, **including readmission agreements**;
- Guarantee the participation of Tunisian and European civil society organizations – especially those working to protect and assist migrants – in the negotiations, implementation and follow-up of the Mobility Partnership in the framework of the joint committee;
- Cooperate effectively to shed light on the tragedy of Mediterranean migrants missing since 2010 and adopt a compensation and support scheme for affected families;
- EU Member States should commit firmly to close the detention centers for undocumented workers and comply fully with the universal principles of human rights;
- The EU should commit to base its migration policy on the promotion of decent work.
- Make the implementation of provisions **that would strengthen respect for human rights** a priority in the joint declaration on the Mobility Partnership, particularly those dealing with:
  - The improvement of Tunisia’s migration policies and its legal and institutional frameworks, and the asylum system in particular;
  - The rigorous implementation of the principle of non-refoulement on both sides of the Mediterranean;
  - The commitment of EU Member States to integrate Tunisian citizens and offer better portability of social rights, including social security entitlements;
  - Combating human trafficking and all of forms of discrimination, xenophobia, precariousness and social exclusion.

In addition, our organizations call, once again,

- On Tunisia to ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, as well as Conventions 97 and 143 of the International Labour Organization on Migrant Workers;
- On the Tunisian government to refer the protocol on the Mobility Partnership to the National Constituent Assembly with the view to initiating a dialogue on the appropriateness of its various components, as well as the shortcomings of the Tunisia's migration policy;
- On the European Union to ratify the International Convention on the Protection of the Rights of all Migrant Workers and Members of their families and to encourage its Member States to do so.

### **Signatories:**

#### **Tunisian organisations**

Tunisian General Labour Union (UGTT)

Tunisian League for Human Rights (LTDH)

Tunisian Forum for Economic and Social Rights (FTDES)

Coordination of the Forum for Tunisian Immigration (FTCR – ADTF- UTIT – AIDDA – COLLECTIF 3C – UTAC – ZEMBRA – ATNF – ATML – FILIGRANES – ACDR – UTS – CAPMED – CFT – YOUNGA)

#### **International organisations**

Euro-Mediterranean Human Rights Network (EMHRN)

European Association for the Defense of Human Rights (AEDH)

International Federation for Human Rights (FIDH)

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