

Reply by the European Commission to the own-initiative inquiry on how the European Commission intends to guarantee respect for human rights in the context of the EU-Tunisia Memorandum of Understanding –ref. OI/2/2024/MHZ

I. BACKGROUND/SUMMARY OF THE FACTS/HISTORY

This own-initiative inquiry is a follow-up to the Commission's reply in the context of the strategic initiative SI/5/2023/MHZ concerning the EU-Tunisia MoU. While, according to the EO, the reply addressed some of the questions, the EO believes it is necessary to seek further clarification on several elements of compliance with its human rights obligations.

II. THE COMPLAINT TO THE EUROPEAN OMBUDSMAN

n/a

III. EUROPEAN OMBUDSMAN'S INQUIRY

See link for the full text of the decision: [Decision on how the European Commission intends to guarantee respect for human rights in the context of the EU-Tunisia Memorandum of Understanding \(OI/2/2024/MHZ\) | Decision | European Ombudsman](#)

The Ombudsman has made the following suggestions for improvement:

1. The Commission should publish on its website a summary of the risk management exercise it conducted for Tunisia before it signed the MoU.
2. The Commission should compile, in a single document, information on the outcome of the human rights monitoring by the partners that implement projects on migration management under the NDICI-Global Europe in Tunisia that started after the MoU. This document should be regularly updated and made publicly available.
3. The Commission should set out the criteria on which the suspension of contracts due to violations of human rights in the implementation of EU-funded projects in Tunisia would be based. These criteria should be made public.
4. The Commission should encourage its implementing partners to set up complaint mechanisms for individuals to report alleged violations of their human rights in the implementation of EU-funded projects/programmes in Tunisia.

This inquiry also fed into several parliamentary questions for the hearings of Commissioners (designate) Šuica and Brunner.

IV. THE REPLY OF THE EUROPEAN COMMISSION

The Commission has taken note of the European Ombudsman’s Decision of 21 October 2024, ref. OI/2/2024/MHZ, including the suggestions for improvement, on how the European Commission intends to guarantee respect for human rights in the context of the EU-Tunisia Memorandum of Understanding (own-initiative inquiry).

Upholding international law, including human rights, remains at the heart of EU policy and any bilateral agreement with third countries, including Tunisia, and this commitment is reflected in our actions and exchanges with the Tunisian authorities in the framework of the Strategic and Global partnership.

In general terms, the Commission is already taking steps to further strengthen internal adherence to the human rights-based approach in all EU-funded interventions in the migration and forced displacement sector in third countries. In response to recommendations of the European Court of Auditors (ECA) special report 17/2024 on the EU Trust Fund for Africa, the Commission is developing specific guidance on how to better implement the Human Rights-Based Approach (HRBA) in migration and forced displaced programmes. In the same vein, the Commission will also introduce a formal internal procedure for handling human rights complaints related to EU-funded interventions. The Commission stands ready to update the European Ombudsman and other interested parties or stakeholders on the progress of this work in due time.

1. The Commission should publish on its website a summary of the risk management exercise it conducted for Tunisia before it signed the MoU.

The Commission and the European External Action Service (EEAS), including through EU Delegations, produce regular internal reports as well as annual risk assessments linked to the developments in EU’s partner countries. The risk management framework (RMF+) content and conclusions are confidential and reserved for the Commission’s internal use. [REDACTED]

2. The Commission should compile, in a single document, information on the outcome of the human rights monitoring by the partners that implement projects on migration management under the NDICI-Global Europe in Tunisia that started after the MoU. This document should be regularly updated and made publicly available.

The Commission continuously monitors EU-funded interventions through several mechanisms, including regular reports from implementing partners, on-the-spot verifications, results-oriented monitoring exercises and external evaluations. The progress reports that the Commission receives from implementing partners all cover, as far as relevant, the human rights situation relevant to the implementation of the intervention. These reports remain confidential.

3. The Commission should set out the criteria on which the suspension of contracts due to violations of human rights in the implementation of EU-funded projects in Tunisia would be based. These criteria should be made public.

Furthermore, as part of the contractual obligations, implementing partners of EU-funded programmes are bound to ensure the respect and protection of human rights. The Commission maintains its prerogative to suspend or terminate any contract if it has evidence of, or needs to verify whether, the beneficiary has breached any of its obligations.

After careful consideration, the Commission recognises that while the Ombudsman's suggestions relate specifically to the context of the Memorandum of Understanding with Tunisia, they bear direct and immediate implications on interventions in other countries and regions, as well as other EU financial instruments beyond the Neighbourhood, Development and International Cooperation Instrument– Global Europe (NDICI-GE). Therefore, it is also likely to impact EU's and/or Commission's existing and future contractual rights and obligations with all implementing partners.

The Commission respectfully considers that, for these reasons, setting out such criteria may supersede the implementing authority currently granted under the NDICI Regulation and similar financial instruments, which constitute the legal framework of the contracts.

4. The Commission should encourage its implementing partners to set up complaint mechanisms for individuals to report alleged violations of their human rights in the implementation of EU-funded projects/programmes in Tunisia.

Finally, based on contacts with our implementing partners, the Commission concludes that most, if not all, already include internal mechanisms for handling complaints of alleged human rights violations, not only in the context of EU-funded interventions in Tunisia. In this context, the Commission will continue to encourage the relevant EU Delegations, implementing partners and ultimately partner countries to take all possible steps to ensure that human rights are upheld, including but not limited to setting up mechanisms for receiving allegations of violations from individuals.

For the Commission
Dubravka ŠUICA
Member of the Commission

