

[**Refugees Platform In Egypt**](https://rpegy.org/) **(RPE)**

***27 February 2022***

**Re: Report on human rights violations at international borders: trends, prevention and accountability**

***The original text of relevant provisions of the legislations or policy(ies) mentioned in our input is accompanied by an English translation and attached listed at the end of this document.***

**1. Recently adopted domestic legislation amending border entry, asylum and other international protection procedures for non-nationals since May 2021.**

Egypt has adopted new legislation and policies since May 2021:

[Presidential Decree No. 420 of 2021](https://www.cc.gov.eg/i/l/414821.pdf) was issued on 09/23/2021, amending some provisions of Presidential Decree No. 444 of 2014 defining the areas adjacent to the borders of Egypt and the rules governing them. The amendments to the law increased the space of prohibited areas near the borders and defined them as military areas, as shown in the maps attached to the text of the law.

On June 27, 2021, the "National Coordinating Committee for Combating and Preventing Illegal Immigration and Trafficking in Persons of the Council of Ministers" [launched the Third National Action Plan](https://www.nccpimandtip.gov.eg/en/Article/107/the-national-coordinating-committee-for-combating-and-preventing-illegal-migration-and-trafficking-in-persons-nccpim-tip-launched-the-3rd-national-action-plan-for-combating-and-preventing-illegal-migration-2021-2023-) "to combat and prevent illegal immigration for the period (2021-2023)". The plan focused on preventing irregular migration by criminalising it.

In the week of February 21, 2022, The Constitutional and Legislative Affairs Committee at the Egyptian Parliament has [approved two draft laws](https://www.egypttoday.com/Article/1/113154/Parl%E2%80%99t-committee-approves-draft-law-to-toughen-punishment-of-unregistered) submitted by the government to amend some provisions of [Law No. 232 of 1989](https://www.cc.gov.eg/legislation_single?id=126162) in the matter of ship safety, and the second to amend some provisions of the Law on Combating Irregular Immigration and Smuggling of Migrants promulgated by [Law No. 82 of 2016](https://www.cc.gov.eg/legislation_single?id=373498). Amendments of the two laws stipulate [harsher penalties](https://www.youm7.com/story/2022/2/20/%D8%AA%D8%B4%D8%B1%D9%8A%D8%B9%D9%8A%D8%A9-%D8%A7%D9%84%D9%86%D9%88%D8%A7%D8%A8-%D8%AA%D9%88%D8%A7%D9%81%D9%82-%D9%86%D9%87%D8%A7%D8%A6%D9%8A%D8%A7-%D8%B9%D9%84%D9%89-%D8%AA%D8%B9%D8%AF%D9%8A%D9%84-%D9%82%D8%A7%D9%86%D9%88%D9%86-%D8%B3%D9%84%D8%A7%D9%85%D8%A9-%D8%A7%D9%84%D8%B3%D9%81%D9%86-%D8%B5%D9%88%D8%B1/5662800#:~:text=%D9%88%D8%AA%D8%B6%D9%85%D9%86%20%D9%85%D8%B4%D8%B1%D9%88%D8%B9%20%D8%A7%D9%84%D9%82%D8%A7%D9%86%D9%88%D9%86%20%D8%A7%D9%84%D8%A3%D9%88%D9%84%D8%8C%20%D8%A7%D8%B6%D8%A7%D9%81%D8%A9,%D8%A3%D9%88%D8%AC%D8%A8%D8%AA%20%D8%A3%D9%8A%D8%B6%D8%A7%20%D8%A7%D9%84%D8%A5%D8%AE%D8%B7%D8%A7%D8%B1%20%D8%A8%D8%B3%D9%86%D8%AF%20%D8%A7%D9%84%D8%AA%D8%B5%D8%B1%D9%81.) for anyone involved in attempting or mediating, facilitating or participating in irregular migration activities, or if he/she was the owner of a ship used in irregular migration operations.

In addition to the new policies and legislation, some measures and decisions related to irregular migration issues and asylum procedures have been adopted and approved. Worth noting, the measures and decisions taken to regulate the status of asylum seekers and refugees in Egypt often conflict with local policies, due to the absence of local law or legislation regulating the status and lives of refugees.

On July 29, 2021, the UNHCR Office of Egypt, [announced a change in the procedures for obtaining a residence permit](https://www.facebook.com/RefugeesEgypt/photos/a.1583232875255384/3025056484406342/), and a change in the stage of obtaining the reference number - the necessary procedure in the steps of obtaining a residence permit for foreigners, immigrants and refugees - where previously the reference number was extracted from the Ministry of Foreign Affairs to be transferred to “Caritas” after complaints against bureaucratic violations that occur to refugees with the relevant office of the Ministry of Foreign Affairs. This change led to an increase in the time required to complete the residency permit procedures - as it now takes months - during which the refugee is exposed to arbitrary arrest and detention by the Egyptian security services because the residence permit has expired or they are not able to obtain it yet.

Complaints are still on the rise about refugees not being able to access the asylum procedures, as they are required to register through the UNHCR website and then wait for the first interview several months after registration which puts them under the law for the crime of illegal presence. Last year, we monitored the arrest and detention of hundreds of people for this reason. At the same time, the refugee's lack of identification papers removes legal protection and prevents asylum seekers from being able to take legal action. The security services continue to deny asylum seekers access to asylum procedures from inside detention facilities, while the migrants are detained unofficially and without a judicial decision.

On September 30, 2021, the Egyptian Public Prosecutor [decided](https://www.facebook.com/profile/100044365962152/search/?q=%D9%86%D9%8A%D8%A7%D8%A8%D8%A7%D8%AA%20%D9%85%D9%83%D8%A7%D9%81%D8%AD%D8%A9%20%D8%AC%D8%B1%D8%A7%D8%A6%D9%85%20%D8%A7%D9%84%D8%A7%D8%AA%D8%AC%D8%A7%D8%B1%20%D8%A8%D8%A7%D9%84%D8%A8%D8%B4%D8%B1%20%D9%88%D8%A7%D9%84%D9%87%D8%AC%D8%B1%D8%A9%20%D8%BA%D9%8A%D8%B1%20%D8%A7%D9%84%D8%B4%D8%B1%D8%B9%D9%8A%D8%A9%D8%8C%20%D8%A8%D9%85%D9%82%D8%B1%20%D9%83%D9%84%20%D9%86%D9%8A%D8%A7%D8%A8%D8%A9%20%D8%A7%D8%B3%D8%AA%D8%A6%D9%86%D8%A7%D9%81%20%D8%B9%D9%84%D9%89%20%D9%85%D8%B3%D8%AA%D9%88%D9%89%20%D8%A7%D9%84%D8%AC%D9%85%D9%87%D9%88%D8%B1%D9%8A%D8%A9) to establish specialized prosecutions to investigate “crimes against human trafficking and illegal immigration” at the headquarters of the prosecution of each appeal, but the decision did not include any details about the scope of work of these prosecutions and the laws and procedures followed.

No other decisions were issued in this regard until February 16, 2022, when the Public Prosecutor [ordered](https://rpegy.org/%D8%A8%D8%B9%D8%AF-%D9%85%D8%A6%D8%A7%D8%AA-%D8%A7%D9%84%D8%B4%D9%83%D8%A7%D9%88%D9%89-%D9%85%D9%86-%D8%AA%D9%84%D9%81%D9%8A%D9%82-%D9%82%D8%B6%D8%A7%D9%8A%D8%A7-%D9%88%D8%A5%D8%B9%D8%A7%D8%AF%D8%A9/) these prosecutors to investigate irregular immigration cases after hundreds of families from different governorates complained and published testimonies explaining the arrest and accusation of their relatives in irregular immigration cases. The families' complaints included that their relatives were arrested without evidence. In the event they get a decision from the Public Prosecution to release them, the security services refuse to implement this decision and expose them to enforced disappearance and then accuse them in new cases of the same accusations in violation of the Egyptian Code of Criminal Procedure, which prevents a person from being punished for the same crime twice. The testimonies also indicate that detainees in these cases were subjected to torture.

**2. Recent or current border management legislation/policies/measures, (including those temporary measures as part of a state of emergency), with the view to control, reduce or prevent migrant arrivals in Egypt.**

Since 2016, [Law 82 of 2016](https://www.cc.gov.eg/legislation_single?id=373498) has entered into force, up to the amendments in September 2021, at the same time, no decision has been issued since the law’s inception until now regarding the establishment of the Victims and Survivors Protection Fund, which the law stipulated to be established in Article (32). The law also did not include real protection mechanisms and policies to exempt from punishment for smuggled migrants, for whom the law lifted criminal responsibility in Article (2). The law lacked real standards of protection, leaving many immigrant citizens and non-citizens subjected to criminal proceedings and detention without cause.

The Presidential Decree 444 of 2014 regarding the designation of military areas adjacent to the borders, which was amended by [Presidential Decree No. 420 of 2021](https://www.cc.gov.eg/i/l/414821.pdf) issued on September 23, 2021, is still in force. Decree 444 of 2014 has resulted in the arrest of thousands of civilians from different nationalities and tried before military courts (exceptional courts) in violation of constitutional principles. Data from the border guards of the Egyptian Armed Forces indicate that more than eight hundred thousand people were arrested while trying to cross the border irregularly from 2016 to 2021. Last year, more than eight thousand people were arrested. The army data does not clarify the procedures followed with those arrested, or more information about their nationalities and ages.

In April 2017, Egypt imposed a state of emergency, which allowed the president, the executive and security agencies to take exceptional measures, and on October 25, 2021, the Egyptian President [decided to stop renewing the state of emergency](https://timep.org/explainers/egypt-lifted-its-state-of-emergency-what-now/).

On November 21, 2021, [Disclose published leaked documents](https://egypt-papers.disclose.ngo/en/chapter/operation-sirli) proving the French government's involvement in carrying out a secret military operation in the Egyptian Western Desert in cooperation with the Egyptian government. The military operation caused the killing by air bombardment of approximately 40,000 civilians, and the documents show that the priorities of the military operation were targeting smuggling operations and irregular migration.

With the deterioration of the humanitarian situation in the Tigray region as a result of the Ethiopian conflict, the high frequency of human rights violations following the military coup in Sudan, and the worsening economic conditions following the Corona pandemic, the flows of refugees and migrants to Egypt increased.

Within the framework of Egyptian policies to prevent the flow of migrants to the country: During the last quarter of 2021 and January 2022, the Egyptian government [deported 40 asylum-seekers](https://rpegy.org/en/egypt-forcibly-deported-25-asylum-seekers-to-eritrea-including-children-others-are-in-arbitrary-detention-and-fear-the-same-danger/) to Eritrea despite warnings from [Human Rights Council experts](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27834), and the continued detention of dozens of Eritreans, including women and children, in very poor conditions and still threatened with deportation.

Despite the poor human rights situation in Egypt and the Egyptian policies that detract from the rights of migrants and refugees in Egypt, the EU Commissioner "Oliver Varhely" confirmed in an [official letter](https://www.europarl.europa.eu/doceo/document/E-9-2021-005031-ASW_EN.pdf) to the Egyptian government, on January 31, 2022, that the EU continues to support the efforts of Egypt in the migration file during the period “2021-2027.” Varhely described the cooperation between the EU and Egypt as “close” and that the Union’s support in the field of migration has been going on for a long time, especially within the framework of the European Union’s Emergency Trust Fund for Africa.

**3. Please provide information on how the "safe third country" concept is applied and if there is any "safe third country" list in your country with the view to expedite border immigration and asylum procedures, as well as on any bilateral and multilateral agreement on collective/automatic re-admission of migrants of specific nationalities.**

There are no implementations of the concept of a “safe third country” in Egypt, but UNHCR examines requests for “resettlement” of refugees registered in Egypt to a third country - in the EU, Canada, USA and the UK. Although the accepted refugees for resettlement in normal years are very few compared to those who face an increased risk in Egypt, they have become much lower with the repercussions of the Corona pandemic during the past two years.

The [statistics](https://www.unhcr.org/eg/unhcr-egypt-documents) of the UNHCR in Egypt indicate that the number of refugees who departed to resettlement countries in 2021 was 991, while the number of those registered with UNHCR was 271,102.

**4. Please provide information on any progress made in developing independent border monitoring mechanism(s) at the national level.**

Egyptian legislation does not adopt any independent border monitoring mechanisms. On the contrary, Presidential Decree 444 of 2014 defining the areas adjacent to the borders as “military zones” led to a complete blackout on what is happening on the Egyptian borders or the areas close to them. Decree 444 also prevented the access of local or international human rights organisations and associations to approach the border areas or areas close to them to monitor what is happening there to migrants and the practices carried out by the border guards.

The Egyptian government also refuses to allow local and international human rights organisations to conduct visits to military or civilian detention facilities where thousands of refugees are held annually in extremely poor humanitarian conditions. In addition, the security authorities are keen to prevent any means of communication between the detainees and the outside world and refuse to enable them to appoint a lawyer to provide the right of legal defence for them.

Since 2015, international organisations have not been able to document cases of arrest at the border, arbitrary detention of migrants, and forcible deportation due to irregular entry into Egypt because of the same Decree No. (444).

However, the RPE has been able since its establishment in April 2020, to [monitor and document violations of the rights of migrants](https://rpegy.org/en/editions/the-crime-seeking-asylum-in-egypt/) at the Egyptian borders through a local network of activists and actors in the refugee and migrant communities. Despite the great challenges we faced, RPE's team was able to document the arrest of hundreds of migrants, including pregnant women, infants and children, at the borders.

Meanwhile, the security services continue to pursue and harass activists, community leaders, and initiatives working to promote the human rights of migrants and refugees.

**Sources (the original text of relevant provisions of the legislation):**

**(1) Official Gazette, September 23, 2021. ( Presidential Decree No. 420 of 2021 amending some provisions of Presidential Decree No. 444 of 2014 defining the areas adjacent to the borders of the Arab Republic of Egypt and the rules governing them ).**

***\*The areas specified in a dark colour on the map within the Presidential Decree file are considered as prohibited areas, according to what was approved by this law.***

**Available at:** [**https://www.cc.gov.eg/i/l/414821.pdf**](https://www.cc.gov.eg/i/l/414821.pdf)

**(2) Official Gazette, November 7, 2016. (Law No. 82 of 2016 promulgating the Law to Combat Illegal Immigration and Smuggling of Migrants).**

**{Article (2):**

**The smuggled immigrant shall not be liable for any criminal or civil liability for the crimes of smuggling migrants stipulated in this law. The consent of the smuggled immigrant or the consent of the person responsible for him or his guardian shall not be considered in the offences of smuggling immigrants stipulated in this law.}**

**{Article (32):**

**A fund called “The Fund for Combating Illegal Immigration and Protection of Immigrants and Witnesses” shall be established, which shall have a public legal personality and a special budget, and shall be affiliated with the Prime Minister. The Fund shall provide financial assistance to victims who have suffered damages resulting from any of the crimes stipulated in this law. The Fund shall have a Board of Directors headed by the Chairman of the Committee, and the organisation of this Fund, the formation of its Board of Directors, and the determination of its other functions shall be issued by a decision of the Prime Minister.}**

**Full text available at:** [**https://www.cc.gov.eg/legislation\_single?id=373498**](https://www.cc.gov.eg/legislation_single?id=373498)