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NOTE

From: Presidency
To: Delegations

Subject: Libya and the surrounding area: current situation and need for immediate action

Delegations will find in the Annex the above-mentioned note, which will be discussed during the meeting of the High-Level Working Group on Asylum and Migration on 17 September 2019.

Libya: state of play and next steps for EU assistance

Libya is a major transit point for migrants and refugees travelling from different parts of Africa and the Middle East towards Europe, and an important destination country for African migrants looking for work. Conditions for migrants in Libya have deteriorated severely recently due to security concerns related to the conflict and developments in the smuggling and trafficking dynamics and economy, in addition to the worsening situation in the overcrowded detention facilities.

The EU has taken action to support the Libyan authorities in their efforts to improve conditions for migrants through advancing evacuations, returns and resettlements from Libya, but efforts should be stepped up to respond to the severity of the situation and offer safe and long-term solutions for vulnerable migrants and refugees currently stranded in Libya.

The presidency aims to draw attention to the deteriorating conditions for migrants in Libya and to open a discussion as to how the EU can strengthen its action and its cooperation with relevant stakeholders in Libya, while enhancing its advocacy for sustainable and safe solutions.

(a) Migrants in Libya, routes and migrant smuggling networks

Libya is one of the main countries of departure to the EU for migrants travelling along the Central Mediterranean route. The number of arrivals via the Central Mediterranean route dropped significantly after the summer of 2017 and has stayed relatively low since then. The total number of arrivals via the Central Mediterranean route so far in 2019 (up to 18 August) is 6 126, which is a 69 % decrease compared to last year. Departures from Libya have fallen by a similar rate. So far in 2019, Libya has been the only country of departure for arrivals in Malta, but for Italy the main country of departure has been Tunisia. According to statistics compiled by the Italian Ministry of the Interior, in 2019 (up to 18 August) around 25 % of the migrants arriving in Italy departed from Libya, down from 56 % in 2018 and a significant change compared to 2017, when almost 90 % of the migrants arriving in Italy had departed from Libya. The decrease in the number of arrivals from Libya in Italy is substantial: from over 107 000 arrivals in 2017 to around 13 000 in 2018 and so far (up to 18 August) around 1 100 in 2019.

Despite the decrease in arrivals, the Central Mediterranean route remains dangerous for migrants trying to cross to Europe. On 25 July 2019, about 150 migrants died in a shipwreck off the coast of Libya while trying to reach Europe. It was the largest loss of life in the Mediterranean so far this year. According to IOM, 578 people had reportedly died or gone missing in the Central Mediterranean by 15 August 2019.

The activities of the Libyan Coast Guard (LCG) in rescuing or intercepting migrants off the Libyan coast have continued despite the conflict that has been ongoing since the beginning of April. According to UNHCR, the LCG has so far rescued or intercepted 5 280 people at sea in 2019 (up to 16 August) and brought them back to Libya. This is nearly equal to the number of migrants who have reached the EU from Libya so far in 2019 (6 126). The LCG is thus now intercepting or rescuing a higher proportion of migrants departing from Libya than in the past. However, the situation remains highly volatile and it could change rapidly depending on the internal dynamics within Libya or external/international dynamics and the positioning of the international community.

Libya has been an attractive destination country for migrants from North and sub-Saharan Africa for decades. Already in the 1970s migrants travelled to Libya to work, mainly in construction or agriculture, and before the outbreak of the civil war in 2011 Libya was a relatively stable country in the region. The fall of Gaddafi and the armed conflict that followed have made the situation of migrants and refugees extremely difficult. The majority of refugees and migrants do not have access to residence permits, which puts them at risk of detention in the overflowing detention facilities. The IOM estimates that currently there are between 700 000 and 1 million migrants in Libya.

94 % of identified migrants come from 27 different African countries and 6 % from Asian and Middle Eastern countries. At the beginning of 2019, the main countries of origin of migrants in Libya were Niger (20 %), Egypt (15 %), Chad (14 %), Sudan (12 %) and Nigeria (10 %). As of 14 August, there are 50 821 refugees and asylum seekers registered with the UNHCR in Libya.

A study by REACH and the UNHCR identified three main entry points to Libya in 2018. The first route, used mostly by West African migrants, is via Algeria and its north-eastern or south-eastern border with Libya. The second is via Niger or Chad and through the city of Sebha in the south of Libya. The third is the eastern route, used mainly by Central and East Africans, arriving in the region of Alkufra through both Chad and Sudan.

According to the same study, all interviewed refugees and migrants who intended to travel to Italy reported using smugglers, which shows the importance of tackling the migrant-smuggling networks to manage the migratory situation in Libya. Previously there were well-established migrant-smuggling networks run by various different groups along the Libyan coast. However, recently the dynamics of the people-smuggling industry in Libya have changed. According to a study by Global Initiative, armed groups are no longer protecting people-smuggling activities, which has driven smuggling operations underground. This has limited the number of departures but also put migrants and refugees at an even higher risk of abuse.

EU involvement and assistance to help support migration management and fight migrant smuggling

Action taken by the EU and other international actors has affected the capabilities of militias in relation to smuggling activities to a limited extent. The dynamics and routes of migrant movements and smuggling services change constantly and require monitoring and further action.

The EU Action Plan against migrant smuggling (2015-2020) and **the Malta Declaration** (2017) are at the heart of several measures that have been undertaken to break the business model of smugglers and help better equip the Libyan authorities to fight smuggling.

EUBAM Libya is currently supporting the drafting of the "White Paper" on a Border Security and Reform in Libya. The proposed reform process is important for Libya to gain full control of its borders to disrupt organised criminal networks involved in illicit activities, including smuggling of migrants and human trafficking. The creation by EUBAM of the Organised Crime Coordination Panel, where activities by the Criminal Investigation Department, the Anti-Narcotics General Administration and the Interpol Office are better coordinated, including in capacity building efforts, have shown good results in improving Libyan coordination in fighting organised crime. EUBAM also focuses on supporting the Libyan judicial system and in particular the Prosecution Office in improving its investigation and prosecution capacity to fight organised crimes.

Since then, the Operation has placed an emphasis on surveillance activities by air assets, support to the Libyan Coastguard and Navy in law enforcement tasks at sea through training and increased monitoring. The decision was taken in parallel to relocate the FHQ and the Crime Information Cell to the Italian Navy Fleet Command (CINCPNAV) in Rome. Security challenges in Tripoli have not allowed Operation Sophia's personnel to conduct enhanced monitoring activities ashore to date. However, despite the deterioration of the security situation in Libya over the past two months, the number of departures along the coast has remained low and the Libyan Navy Coast Guards have continued operating effectively, thus confirming the progress achieved over the past three years.

Europol has set up **an information-clearing house** to pool data on smuggling networks, with a focus on third countries, including Libya, in order to support Member-State-led investigations.

Several other EU-funded projects to support border and migration management in Libya are ongoing and also address the smuggling of migrants. Most recently a regional programme covering Algeria, Egypt, Libya, Morocco and Tunisia has been implemented by the United Nations Office on Drugs and Crime (UNODC) to reduce enablers of and mitigate vulnerabilities arising from irregular migration by focusing on the dismantling of organised criminal groups involved in migrant smuggling and human trafficking.

EUCAP Sahel Niger: since 2015, the Mission assists Nigerien internal security forces in developing procedures and techniques to better control and manage irregular migration, and reduce the level of associated crimes. Training projects are focusing on detection of travel document fraud (with specific profiling techniques for airports identity checks). The Mission also supplies equipment to achieve an adequate capacity to control migration flows, taking into account the some 6000 km of porous borders Niger has. Recently (28 June 2019), the HoM signed with the Presidency a partnership to develop further actions in order to improve trust between security forces, judicial system and civilian society in the fight against terrorism, organised crime and migrant smuggling. The Mission is also currently supporting the creation and deployment of the Nigerien Mobile Border Control Companies (Compagnies mobiles de Contrôle aux Frontières)

G5 Sahel Joint Force / Police Component: Although smuggling of migrants is not its central objective, the Police component of the G5 Sahel Joint Force does respond to the border management requirements expressed by the G5 countries' law enforcement authorities. The ongoing Regionalisation of CSDP activities in the Sahel aims at improving the governance of the G5 structures such as the Permanent Secretariat, as well as the further operationalization of the Joint Force and the related Police component. The three CSDP missions in the region are already providing support in this regard. The EU also supports the G5 Sahel structures with financial support.

Several projects under the EU Emergency Trust Fund for Africa (EUTF for Africa) are helping to improve preparedness in relation to security threats and countering organised crime in the region. With regard to migrant smuggling, the EU – through French and Spanish law enforcement officials – supports the Nigerien authorities in apprehending and prosecuting smugglers and traffickers (joint investigation teams financed by the EUTF for Africa).

In addition, a **common operational partnership** is soon to be set up **in Senegal** to fight migrant smuggling. Furthermore, through information campaigns the Commission and Member States are also attempting to raise awareness among prospective migrants of the dangers of irregular journeys and the risks to which smugglers may subject them.

Similar action is being taken in the **Horn of Africa through large-scale projects** such as Better Migration Management, but also through targeted measures to fight migrant smuggling, such as the Regional Operational Centre in Khartoum (ROCK), which supports joint efforts by countries in the Horn of Africa to fight trafficking in human beings and smuggling of migrants.

(b) Situation in Libya

Following an attack on Tripoli by the Libyan National Army on 4 April 2019, the security situation in and around the capital has deteriorated. The political process is currently at a standstill and UN-led efforts to secure a ceasefire have proved unsuccessful. ISIS no longer controls territory in Libya but has several fighters inside the country and carried out attacks in 2018, including in Tripoli.

Fighting often takes place close to civilian areas and causes casualties. In addition, civilians are sometimes abducted. Explosive remnants of war also cause casualties. Various actors commit infringements vis-à-vis civilians and are not necessarily always apprehended.

According to the UN, the battle between rival groups for the Libyan capital has killed more than 1 000 people since it began in April. Similarly, the WHO has estimated that 1 093 people (including 106 civilians) have been killed in the conflict. In addition, it is estimated that 5 752 people have been wounded (including 294 civilians).

The Tajoura detention facility in the eastern part of Tripoli, in which migrants and refugees were detained, was bombed on 2 July. At least 53 people were killed and 130 injured in the two airstrikes. At the time of the airstrikes the facility held 644 individuals, including women and children.

The violent conflict in Libya has an impact on the political and security situation, with humanitarian consequences for the local population. Following the onset of armed conflict in south Tripoli on 4 April, at least 119 925 individuals have been displaced from their homes.

The conflict has a financial dimension as well. An important conflict driver is competition over oil revenues, specifically management of and access to state funds held by the Central Bank of Libya. According to the World Bank, as the oil sector is the major source of growth, economic activities remain constrained by recurrent clashes around oil infrastructure over control of oil wealth. The associated lack of security and reforms hinders investment and development in the private sector. De-escalation of the Libyan conflict also requires the resolution of the existing financial dispute and the immediate banking problems it poses.

The current political standoff and its associated economic and social outcomes impose severe hardship on Libyan citizens and migrants, reinforced by the grim outlook. Although there is no systematic study of poverty and very little evidence on the current well-being of Libyan households, it is clear that conditions are an obstacle to poverty reduction. Worsening economic conditions contribute to poor public services, erratic power supply and recurrent food shortages, which affect Libyan citizens as well as migrants.

EU involvement and assistance

Through **diplomatic action and concrete support**, the EU is assisting Libya's political transition towards a stable, functioning country and is supporting the UN led mediation efforts in this regard. The EU underlines the importance of inclusiveness of the political process and Libyan ownership, notably through the participation of all legitimate Libyan stakeholders. The EU provides assistance to Libya through a specific set of measures tailored to the needs of the Libya to support the implementation of economic reforms including improved revenue transparency, improved governance and socio-economic conditions, improved responses to the humanitarian needs and support youth and civil society.

The EU supports **the UN-led mediation process** and the efforts of Special Representative of the Secretary General Ghassan Salamé to implement the UN Action Plan on Libya and bring about a lasting solution to the political crisis. The EU works closely with the UN Support Mission in Libya (UNSMIL) under the leadership of the Special Representative to support the implementation of the Libyan Political Agreement (LPA), consolidation of governance, security and economic arrangements and assist in helping Libyans to prepare for elections through support for the High National Electoral Commission (HNEC).

Through **the Community Stabilisation Programme** of the EU Trust Fund for Africa, as well as through the Stabilisation Facility the EU helps the Government of National Accord (GNA) to gradually strengthen the institutional capacity in particular at municipal level to deliver basic services and rehabilitate local infrastructure.

The **EU has provided significant support** to Libya since the beginning of the crisis. As for migration and community stabilisation related projects, the EU currently has a package in place worth close to €355 million through the EU Trust Fund for Africa to Libya covering 21 projects, implemented by UN agencies, EU Member States and NGOs. This makes the North of Africa Window of the EU Trust Fund for Africa the biggest EU contributor to Libya and the most important instrument for funding external and migration action in Libya since the inception of the Trust Fund.

In addition, a package is in place of close to €70 million in **bilateral support to Libya** in 23 projects across several sectors, such as: civil society; governance; health; economy, youth and education; and support to the political process, security and mediation activities, mainly through the European Neighbourhood Instrument (ENI) and the Instrument Contributing to Stability and Peace (IcSP).

The EU supports the Libyans in **addressing security challenges** through the EU Trust Fund for Africa, Common Security and Defence Policy (CSDP) missions and operations, EUNAVFOR MED Operation Sophia, the EU Border Assistance Mission (EUBAM) to Libya and the EU Liaison and Planning Cell (EULPC).

The Commission has provided **humanitarian funding** worth €10 million in 2017 and €10.8 million in 2016.

Additional protection-related projects are implemented under **the Regional Development and Protection Programme**, co-funded by the Commission. The Commission Operational Committee of the EUTF for Africa North of Africa Window (EUTF-NOA) has approved five new migration-related programmes in the North of Africa totaling €61.5 million and on 2 July two new Libya Actions of a volume of €41 million. These new programmes adopted under the EU Emergency Trust Fund for Africa will reinforce ongoing actions to protect and assist refugees and vulnerable migrants in North of Africa especially in Libya, and improve the living conditions and resilience of Libyans as well as foster economic opportunities, labour migration and mobility in the North of Africa countries.

(c) Situation in the detention centres

After the airstrikes, the Tajoura detention centre was closed on 10 July and 482 survivors of the attack were moved to the UNHCR Gathering and Departure Facility (GDF) in Tripoli. Shortly after being emptied the Tajoura detention centre was again filled with migrants and refugees rescued by the LCG. According to the UNHCR, the GDF is now hosting 1 005 individuals and is badly overcrowded.

There are official and unofficial detention facilities. The official detention facilities are under the control of the Libyan Directorate for Combatting Illegal Migration (DCIM). Libya does not appear to have an official catalogue of immigration detention facilities. Estimates of the number of detention facilities vary from 17 to 35, the majority of them being official facilities. According to the IOM, the estimated overall population in DCIM detention centres is around 5 000, and around 3 700 of those detained are held in detention centres in conflict areas. Some of the unofficial centres are run by militias.

The government has continued to arbitrarily detain migrants, many of whom are in a vulnerable position. The centres suffer from overcrowding and the conditions are poor. In particular, there are difficulties in relation to sanitary facilities and food and water supply. Severe human rights violations have been widely reported. Some of the detention centres are alleged of having links to human trafficking. There is no proper registration system for migrants. Serious cases of corruption and bribery in the centres have been detected. Another major issue is that of migrants and refugees rescued or intercepted at sea being transferred to detention centres and the lack of traceability, transparency and accountability. Limited registration is carried out by the LCG at disembarkation points but disappearances are regularly reported by humanitarian actors. The Libyan government has not taken steps to improve the situation in the centres. The government's reluctance to address the problems raises the question of its own involvement.

After the bombing of the Tajoura detention facility, which was widely condemned by the international community, the IOM and the UNHCR jointly called for the multi-pronged response to be enhanced as follows: people currently detained should be released or evacuated from Libya urgently; alternatives to detention need to be secured, either through the existing GDF or by setting up open centres; and additional resources are needed to assist the migrant communities that are present in Libya and inform them of the potential risks when seeking shelter in the detention centres and possibly attempting to cross the Mediterranean.

HR/VP Mogherini and Commissioner Avramopoulos have sent a letter to Member States' interior and foreign ministries, encouraging them to speed up evacuations and resettlement procedures. So far the Libyan authorities have signalled that they are willing to close three detention centres in the Tripoli area. So far, any concrete planning has not followed this promise. Furthermore, it is unclear what would happen to the people in these three detention centres.

EU involvement and assistance

Since creating **the AU-EU-UN Task Force Taskforce** in 2017, the three organizations have worked together to save lives and support and protect migrants and refugees. The Task Force asked Libyan authorities to end their system of arbitrary detention, address the migrants and refugees' inhumane conditions, and manage asylum and migration in compliance with Human Rights and international law. Joint advocacy has helped ensure shelter to the survivors of the Tajoura attack.

The Taskforce has also helped establishing **the Gathering and Departure Facility (GDF)** in Tripoli.

Following the attacks on the Tajoura detention centre, the EU Delegation to Tripoli set **up a Post- Tajoura Working Group** composed by DE, SE, NL, FR, IT, CA, CH, UNSMIL, African Union , IOM, UNHCR and OHCHR) that aims at advocating for Libyan authorities to find solutions for the Tajoura survivors, the definitive closure of the Tajoura DC and the demilitarization of detention centres.

With **support from the EU, the IOM and the UNHCR** are also **providing protection and assistance in detention centres, at disembarkation points and in communities**. Local families are also benefitting from assistance provided by these organisations. More than 61 300 migrants have been provided with essential household items (such as blankets and mattresses) and hygiene kits, over 89 000 migrants have received medical assistance outside and inside detention centres and 14 600 children have received learning supplies. In an effort to improve community stabilisation, the EU has supported the rehabilitation of 16 social infrastructures across the country.

(d) Evacuations, resettlements and returns from Libya

The AU-EU-UN Task Force on Libya was established in Abidjan 29 November 2017 in the margins of the AU-EU summit. It was a concrete step to address jointly the dramatic situation of migrants and refugees in particular in Libya. The aim was to accelerate assisted voluntary returns to countries of origin, and the resettlement of those in need of international protection. The actors are the countries of origin, as well as the IOM and the UNHCR, whose operations are mainly funded through the EU TF for Africa and for a more limited amount via the Regional Development and Protection Programme). The Task Force has a broad agenda in supporting and improving the protection of refugees in Libya. The IOM is working on voluntary humanitarian returns from Libya, with over 55 000 returns carried out by the IOM and AU countries since the beginning of 2017.

The Emergency Transit Mechanism (ETM) in Niger is currently close to its agreed maximum capacity of 1 500 people, since as of 19 August it is hosting 1 194 people. Also, the Nigerien authorities have recently communicated to the UNHCR that they wish to lower the agreed capacity to 1 000.

According to the UNHCR, from the start of the evacuation operation from Libya to Niger in late 2017 to 5 July 2019, 3 924 people (including unaccompanied children) were evacuated: 2 911 to Niger, 710 to Italy and 303 to Romania.

The Gathering and Departure Facility (GDF) in Tripoli, through which evacuations are taking place, including to the ETM in Niger, was opened in December 2018. It is also at full capacity, currently hosting 1 005 people.

Major challenges also stem from the unwillingness of the Libyan authorities to cooperate to enable faster evacuations from the detention centres and to provide safe alternatives. It has proven very difficult, if not impossible, for experts from the IOM and the UNHCR to enter certain areas of Libya. The reluctance of officials to cooperate is closely linked to the widely reported human rights violations that take place in the detention centres and to the fact that the facilities form a profitable business model for the current Libyan government.

The Ministry of the Interior of the UN-backed GNA announced on 1 August 2019 that the detention centres in Tajoura, Misrata and al-Khums would be closed and the migrants residing there deported. The EU has been calling for the gradual closure of detention centres. However, it is as yet unclear how the possible closure will be managed. The EU is advocating the migrants' unconditional release and integration into the Libyan labour market, evacuation and voluntary return.

The UNHCR plans to assist in the closure by providing cash assistance to people from the detention centres. As Libya is not party to the 1951 Refugee Convention, the UNHCR cannot provide refugee status in the country. However, together with the GNA, the organisation is currently designing another ID document for persons of concern that would save them from being detained again.

The Rwandan government has agreed to resettle hundreds of migrants from Libya, starting with 500. The exact timing is not yet known. The GDF in Libya and the ETM in Niger are currently at their maximum capacity. Only a handful of countries, such as Italy and Canada, resettle refugees directly from Libya. The Canadian immigration authorities conduct refugee status determination via video calls to Libya.

EU involvement and assistance

EU Member States contribute substantially to global **resettlement efforts both directly from Libya and via the ETM in Niger.**

With regard to the total number of individuals resettled or awaiting resettlement (those registered in and resettled directly from Libya, those evacuated to Niger from Libya and those registered in and resettled from Niger), 5 422 individuals have been submitted for resettlement since September 2017 and 2 711 of these have been successfully resettled. Currently 571 individuals have been accepted for resettlement and are awaiting departure from Libya and Niger.

Against this background, the Member States are asked to answer the following questions:

1. With regard to countering the **smuggling of migrants**:

- (a) What measures do you consider effective in stemming the influx of migrants in Libya and fighting smuggling of migrants and what lessons can be drawn from past and ongoing initiatives?
- (b) What action can be taken so that third countries along the migratory route commit to the fight against smuggling?

2. With regard to **cooperation with the Libyan authorities**:

How can Member States step up joint advocacy vis-à-vis Libyans and what leverage do the EU and Member States have, in particular to end arbitrary detention of migrants?

3. With regard to **evacuations and resettlement**:

- (a) How could Member States help the UNHCR to identify safe and long-term solutions for vulnerable refugees and asylum seekers, and step up evacuations from Libya to Niger? Could ‘humanitarian corridors’ and/or direct evacuations/resettlement from Libya be increased?
- (b) What are the main difficulties with resettlements from Niger (according to your expertise, if applicable)? How can Member States step up resettlements?
