Libya: Focus on anti-smuggling policies and cooperation with Libyan authorities will expose people to ill-treatment and arbitrary detention

Address

Brussels, 22 February 2017

Dear Mr/Ms…

We, the undersigned non-governmental organisations, are deeply concerned with the direction of the EU-Libya policy as outlined in the Commission Communication on the Central Mediterranean (25.01.17) and reaffirmed in the conclusions of the Malta Summit (03.02.17) and the Council Conclusions (06.02.17), aiming to stop migratory movements through Libya.

The decision to transfer the responsibility for managing migratory movements along the central Mediterranean route to Libya will neither reduce human rights abuses, nor end smuggling. Instead, it will significantly increase harm and suffering.

EU plans will exacerbate arrests and detention of migrants in Libya and increase exposure to severe human rights abuses.

The UN-backed government in Tripoli has only a limited and precarious hold on power, competing with a variety of other actors. The EU itself describes Libya as 'unsafe' and systematic violence towards refugees and migrants has been widely documented. Multiple reports of human rights groups have described the grave, harrowing conditions in Libya: rape, torture, executions, and other sufferings. Our organizations have documented prolonged arbitrary detention, torture and other ill-treatment in the very centres where

refugees and migrants are detained after being intercepted at sea by Libyan entities performing coastguard activities.

The Malta Declaration purports that the EU will "seek to ensure adequate reception capacities and conditions in Libya for migrants, together with UNHCR and IOM". However, in a joint statement issued ahead of the informal Summit in Malta, these organisations have stated that "security constraints continue to hinder our ability to deliver life-saving assistance, provide basic services to the most vulnerable and find solutions through resettlement, assisted voluntary return or self-reliance". This leaves any assurances in relation to monitoring of human rights and the improvement of detention conditions entirely empty.

Given these conditions, how can EU member states take the responsibility for containing people in Libya? European governments cannot themselves return people to Libya without breaching the international principle of *non-refoulement* – as people returned would be at risk of being exposed to serious human rights violations. Thus we see that the new EU policies, which aim to enhance the Libyan authorities' ability to intercept refugees and migrants at sea and pull them back to Libya, represent a clear attempt to circumvent the EU's international obligations, in plain disregard of the harsh consequences thousands of men, women and children would be exposed to.

Funding the entities performing border control including coastguard activities in Libya will only encourage systematic arrests and detention of migrants and refugees, subjecting them to maltreatment and abuse in Libyan prisons. It will also potentially prevent those who are in fact fleeing persecution from seeking a safe haven. This approach will condemn people to further, and entirely unnecessary, suffering in direct violation of their human rights.

We would like to understand with whom the EU intends to work. How will Libyan border guards be vetted? Who will monitor these activities as many of these coastguard entities operate autonomously, with limited government control and without any judicial oversight? No accountability mechanism has been put in place for these actors.

Focusing on tackling smugglers will not prevent migration, nor provide solutions to human suffering.

Sustainable investment in countries of origin, along with opening and strengthening safe and regular channels to Europe is the most efficient way to address smuggling. Development assistance should for the benefit of vulnerable populations – not be linked to migration control objectives.

The EU leaders' decision to focus almost solely on the activities of people smugglers will not reduce the need for migration. People in search of safety from war, or suffering other rights violations or lack of livelihood opportunities, will continue to try to reach Libya and leave for Europe, no matter how many smugglers are arrested. In Niger, for example, people have already started to take more dangerous routes, heading into the desert before reaching Agadez, with smuggling prices going up and more people likely to die.

The opening and strengthening of safe and regular channels to Europe is paramount to preventing smuggler activity, vastly reducing the number of deaths in the Mediterranean; this could also lead to a substantially lower spending of the EU for search and rescue operations.

The EU-Turkey deal cannot serve as a good practice example

The EU-Turkey deal is cited by the Malta Summit as a 'success', but the only criterion was the number of arrivals, while the immense human cost of such an agreement was at no stage taken into consideration. Thousands of refugees and migrants at risk of being sent to Turkey remain trapped on Greek islands in inhumane and life threatening conditions. Importantly,

migrants and refugees have since been forced to alternative land routes – in several cases at the cost of human lives to hypothermia in Greece and Bulgaria. These routes are more diffused, less obvious and rarely covered in the media, leaving the illusion that the EU-Turkey deal has in fact stopped arrivals.

There is no evidence that the EU has undertaken any impact assessments on the potential implications of its policies on the people they are supposed to target. The EU must take full responsibility of the consequences of its policies in Libya and the potential human cost it entails.

We urge you to:

- Facilitate safe mobility by opening and strengthening safe and regular channels to Europe for refugees and migrants including through resettlement, humanitarian admission and humanitarian visas, family reunification, worker mobility across skill levels and student visas. Safeguard the right to seek asylum under all circumstances.
- Review the plans set out by the Malta Summit to ensure that safeguards for human rights and respect for international law are in place; ensure that the human rights of those on the move are respected, regardless of their status, as set out in the Valletta Action Plan.
- Guarantee that EU border management policies protect people and their rights, not aim to stop migratory movements. Fundamental freedoms must be upheld, and the security needs of different groups, including the most vulnerable, must be assessed.
- Take evidence of human rights abuses in Libya seriously and stop any actions that may lead people to be pulled back towards the Libyan coast. The current approach risks violating people's fundamental rights and the rule of law, including the principle of *non-refoulement*.
- Thoroughly assess the human rights situation of migrants and the risks they face in Libya, and undertake objective and genuine impact assessment of the actions funded and coordinated by the EU and support international agencies in ensuring that Libya fulfils its duty to uphold human rights.
- Demand specific measures to identify and protect vulnerable groups including children, migrants and refugees with disabilities, victims of torture or trafficking and those at risk of discrimination.

We would welcome an opportunity to discuss this further with you. Please feel free to contact us.

Yours Sincerely,

The undersigned organizations

Act Alliance, Act alliance EU, Action for Equality, Support, Antiracism (KISA), Aditus, Agisra e.V, Aitima, Amici dei Bambini, Amnesty International, Amref Health Africa, ARCI, ARCS Culture Solidali, Asociación Por Ti Mujer, Association Afrique Culture Maroc, Association for Integration and Migration, Association for the Social Support of Youth (ARSIS), Associazione Italiana Donne per lo Sviluppo (AIDOS), Associazione per gli Studi Giuridici sull'Immigrazione (ASGI), Associazione Universitaria per la Cooperazione Internazionale (AUCI), Asti, Austrian Red Cross, BAG Asyl in der Kirche , Ban Ying, Caritas Europa, CEFA, Centro Informazione e Educazione Allo Sviluppo Onlus (CIES), CIRÉ asbl, Comunità Volontari per il Mondo (CVM), CONCORD Sweden, Consorzio ONG Piemontesi (COP), Cooperazione e Solidarietà Internazionale (AOI), Cooperazione Internazionale Sud Sud (CISS), Cooperazione per il mondo in via di sviluppo (COMI), Cooperazione per lo sviluppo dei paesi emergenti (Cospe Onlus), Coordinamento Italiano network Internazionali (CINI), Detention Action UK, European Federation of National Organisations Working with the Homeless (FEANTSA), European Network

Against Racism (ENAR), European Network of Migrant Women, Fachstelle Fauenhandel und Frauenmigration (FIZ), Fédération internationale des droits de l'Homme (FIDH), Federazione Organismi Cristiani di Servizio Internazionale Volontario, Greek Forum of Refugees , het Wereldhuis, Immigrant Council of Ireland, International Catholic Migration Commission Europe (ICMC), Jesuit Refugee Service Europe (JRS), La Cimade, La Strada International , Médecins du Monde, Medibüro Kiel e.V. , Menedék - Hungarian Association for Migrants, Migrant Rights Centre Ireland (MRCI), Migrant Voice, Missing Children Europe, Naga Onlus, Open Society European Policy Institute, PAX, Platform for International Cooperation on Undocumented Migrants (PICUM), Prodocs, Progetto Mondo, Red Acoge, Réseau Education Sans Frontières (RESF), Segreteria Società Italiana di Medicina delle Migrazioni (S.I.M.M.), Serviço Jesuíta aos Refugiados (JRS Portugal), Sonia, Stichting Ros, Stowarzyszenie Interwencji Prawnej, Terre des Hommes, The Research, Centre on Asylum and Migration (IGAM), Un ponte per.