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The situation in Libya: prospects and role of the Council of Europe

Committee Opinion¹

Committee on Migration, Refugees and Displaced Persons

Rapporteur: Ms Tineke STRIK, Netherlands, Socialists, Democrats and Greens Group

A. Conclusions of the committee

1. The Committee on Migration, Refugees and Displaced Persons welcomes the report on “The situation in Libya: prospects and role of the Council of Europe”, and heartily congratulates its rapporteur Mr Attila Korodi (Romania, EPP/CD) for his very thorough examination of the situation and his practical proposals for the role the Council of Europe could play in assisting the country in achieving institutional reforms and building democratic structures.
2. The committee is particularly satisfied to note the extensive and exhaustive chapter in the explanatory memorandum on migration challenges in the region, including those related to the externalisation of asylum procedures by the European Union and to the consequences of the reinforcement of border controls on its external borders. This chapter is well reflected in the draft resolution, although the committee would appreciate some added emphasis on certain aspects, especially in the light of its findings in several ongoing reports.
3. The Migration Committee therefore wishes to propose nine amendments to the draft resolution and one amendment to the draft recommendation, which it considers would better reflect some of the points raised in the memorandum and provide an update on the situation which is constantly evolving.

B. Proposed amendments

Amendment A (to the draft resolution)

In paragraph 8, replace the words “a real risk” with the words “a reality”.

Explanatory note:

It has become more and more evident from the reports quoted that migrants have indeed been tortured and subjected to inhuman treatment.

Amendment B (to the draft resolution)

At the end of paragraph 9, add the following sentence:

“This includes making more substantial pledges to resettle refugees after their evacuation from Libya or from locations south of Libya where they are stranded.”

1. Reference to committee: Doc. 13812, Reference 4140 of 26 June 2015.



Explanatory note:

As the Office of the United Nations High Commissioner for Refugees (UNHCR) evacuates refugees from Libya, it is necessary to ensure their swift resettlement.

Amendment C (to the draft resolution)

In paragraph 10.2, insert the word “irregular” before the word “migrant”.

Explanatory note:

Support by the Assembly for the complete closure of borders could be wrongly interpreted as a principle which could be applied elsewhere.

Amendment D (to the draft resolution)

In paragraph 10.2, replace the words “closing the southern border in Fezzan” with the words “reinforcing border security at the southern border in the Fezzan”.

Explanatory note:

Support by the Assembly for the complete closure of borders could be wrongly interpreted as a principle which could be applied elsewhere.

Amendment E (to the draft resolution)

In paragraph 11.1, delete the words “intensification of their”.

Explanatory note:

The respect of refugees’ and migrants’ fundamental rights should be absolutely guaranteed.

Amendment F (to the draft resolution)

In paragraph 11.1, replace the words “possibility of checking that they make the effort to respect” with the words “respect for”.

Explanatory note:

The respect of refugees’ and migrants’ fundamental rights should be absolutely guaranteed.

Amendment G (to the draft resolution)

After paragraph 11.1, insert the following paragraph:

“ensure that all co-operation with the Libyan Coast Guard is contingent on a system of monitoring and sanctions which will ensure compliance with international law in Libyan waters and that this co-operation is immediately suspended in the case of repeated human rights violations;”

Explanatory note:

Problems with treatment of migrants during rescues have been reported by international organisations and NGOs working in the area. These should be carefully investigated and effective monitoring systems implemented.

Amendment H (to the draft resolution)

After paragraph 11.1, insert the following paragraph:

“ensure that the Libyan Coast Guard is trained in international human rights law and the law of the sea, including the principle of non-refoulement, and follows the rules of the high seas in order to support rescue missions and facilitate co-operation with humanitarian NGOs in civil rescue operations, with the aim of avoiding endangering the lives of refugees and migrants;”

Explanatory note:

It is essential that the Coast Guard be trained and instructed in order to avoid violations of human rights at sea, and to co-operate with those engaged in humanitarian rescue work.

Amendment I (to the draft resolution)

After paragraph 11.1, insert the following paragraph:

“delay the setting up of a new Maritime Rescue Co-ordination Centre in Libya until capacity-building measures have proved successful in improving governance structures;”

Explanatory note:

A co-ordination centre operated on Libyan territory should be set up with a minimum guarantee of effective governance.

Amendment J (to the draft resolution)

After paragraph 11.2, insert the following paragraph:

“carry out an exhaustive financial and results-based assessment of the success of the implementation of the principles set out in the 2017 Malta Declaration;”

Explanatory note:

European Union member States should be encouraged to question the success of the externalisation and security policies pursued to the detriment of others over the past months.

Amendment K (to the draft resolution)

After paragraph 11, insert the following paragraph:

“The Assembly also urges member States to step up their contributions to development co-operation with the countries to the south of Libya, which will help to reduce the number of departures from countries not in conflict.”

Explanatory note:

The resolution refers in paragraph 6 to the arrival in Italy from Libya of migrants from countries not under threat. Their numbers can only be reduced if the countries concerned are able to create opportunities and future life projects in their home countries.

Amendment L (to the draft recommendation)

Before paragraph 3.1, insert the following paragraph:

“the establishment of criteria for monitoring the respect for human rights of migrants in Libya and in Libyan territorial waters based on the relevant conventions and in particular on the European Convention on Human Rights (ETS No. 5) and its case law;”

Explanatory note:

The Council of Europe’s *acquis* is an essential tool for the protection of human rights and could be used to establish practical guidelines for prevention and monitoring in the region.

C. Explanatory memorandum by Ms Tineke Strik, rapporteur for opinion

1. The Committee on Migration, Refugees and Displaced Persons fully supports the report by Mr Attila Korodi (Romania, EPP/CD). It faithfully describes the challenges and possible solutions for working with Libya to ensure the political stability in the country, which will benefit both the Libyan people and the global community, in particular in relation to the current migration flows into Europe from the African continent.

2. The committee is currently preparing two reports on subjects related to Mr Korodi’s report. The first concerns the threats to human rights of migrants as a result of the European Union’s externalisation policies.² It will examine in detail the challenges and threats to human rights protection of migrants through EU policies

as implemented in Turkey and in Libya, coupled with the reinforcement of the security along EU borders, especially the maritime borders in the Mediterranean. The risks of the EU–Turkey declaration of 18 March 2016 were examined in a report on the matter in 2016, for which I was rapporteur.³

3. The second report concerns extra-territorial processing of asylum claims,⁴ and works on the principle that Europe must develop safe alternatives for asylum seekers to apply for international protection without risking their lives in overcrowded boats or vehicles, of which one possibility is the processing of asylum applications in countries of origin or transit.

4. In [Resolution 2000 \(2014\)](#) on the large-scale arrival of mixed migratory flows on Italian shores, the Parliamentary Assembly called on member States to “respond positively to the suggestion of the Italian Minister of the Interior and others that camps should be set up in North African countries to process applications for asylum and international protection, and that the aim should be to intercept migrants before they set sail; consideration should be given to establishing centres to which the United Nations High Commissioner for Refugees would have access so that human rights can be protected”.

5. [Resolution 2147 \(2017\)](#) on the need to reform European migration policies called on the European Union to explore possibilities for the establishment of “hotspots” outside Europe. The European Union has been discussing the possibility of setting up refugee centres outside the European Union since 2015, and has continued to do so, despite criticism from the EU Court of Auditors⁵ on the experience with these hotspots in Greece and Italy.⁶

6. With respect to the migratory pressure at Libya’s southern borders, there is no doubt that more action needs to be taken to control illegal movement and especially to put a stop to the human trafficking of which the slave auctions in the north of Libya are the result. Resolving the migration crisis must address the reasons for the human trafficking within the Fezzan, which are linked to economic depression, tensions and conflict between communities and, again, political instability.

7. For this reason, I proposed that the committee adopt an amendment adding to the resolution a reference to the need to co-operate with the countries south of Libya to ease this pressure to move northwards. This dimension is also currently being examined by the Migration Committee.⁷

8. Finally, I considered it judicious to propose qualifying the Assembly’s support for the closure of the border in the Fezzan region, which to my mind could establish a dangerous precedent and be understood out of context as an implicit approval of closed borders elsewhere in the world.

2. “Human rights impact of the ‘external dimension’ of European Union asylum and migration policy: out of sight, out of rights?” (rapporteur: Ms Tineke Strik, Netherlands, SOC).

3. See [Resolution 2109 \(2016\)](#) on the situation of refugees and migrants under the EU–Turkey Agreement of 18 March 2016.

4. “The legal and practical requirements for extra-territorial processing of asylum claims” (rapporteur: Mr Domagoj Hajduković, Croatia, SOC).

5. https://www.eca.europa.eu/Lists/ECADocuments/SR17_6/SR_MIGRATION_HOTSPOTS_EN.pdf.

6. European Parliament, DG Internal Policies: On the frontline: the hotspot approach to managing migration (2016) at http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556942/IPOL_STU%282016%29556942_EN.pdf.

7. “Development aid: a tool for preventing migration crises” (rapporteur: Mr Pierre-Alain Fridez, Switzerland, SOC).