



Resolution 2215 (2018)¹
Provisional version

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

Parliamentary Assembly

1. The Parliamentary Assembly regrets that the “Revolution of 17 February” which occurred in Libya in 2011 in the wake of the Arab Spring was not able to result in a successful political transition and that foreign military interventions also did not contribute to the return of domestic stability. It notes that the two elections held in 2012 and 2014 did not make it possible to avoid a serious fragmentation of the country on an institutional, regional and societal level. This fragmentation plunged the country into chaos and, for the European continent, resulted in an increased security risk and migratory flows. The Assembly notes that the collapse of Libyan Arab Jamahiriya led to the complete disappearance of a unified State apparatus and service infrastructure.
2. Bearing in mind that the first victims of the situation in Libya are first and foremost the Libyans themselves, the Assembly calls on all the parties to prevent and to stop committing violations of human rights and humanitarian law and to protect the human rights and fundamental freedoms of persons belonging to vulnerable groups such as displaced persons, women, children, human rights defenders and media professionals.
3. The Assembly also condemns all discrimination against women, whether with regard to their freedom of movement or their right to pass on their nationality to their children.
4. The Assembly notes that the situation in Libya has contributed and still contributes directly to the destabilisation of the region. This was initially of a large-scale economic nature, affecting countries such as Tunisia and Egypt, which lost a major trading partner and were deprived of the funds transferred by nationals employed in Libya. It soon became a security problem owing to the plunder of Libyan arsenals, the spread of terrorist groups in the Sahel-Saharan region and the return to their countries of origin of mercenaries employed by the Gaddafi regime.
5. The Assembly notes and welcomes the successes in the fight against terrorism in Libya, particularly against Daesh, which has not been able to establish itself lastingly, as in Syria and Iraq. In this connection, it points out that this fight must be carried out with due regard for Libya’s sovereignty, independence and territorial integrity.
6. The Assembly is perfectly aware that between 2014 and 2016, one of its member States, Italy, had to cope with the arrival of very large numbers of migrants from Libya, some of whom came from countries where respect for human rights is not under threat. It notes that the European Union’s response, particularly its Triton and Sophia air and sea operations, resulted in a reduction of nearly 32% of arrivals on the Italian coasts between November 2016 and November 2017, that these operations have saved over 200 000 lives since 2014 and that the European Union provides much of the funding for the activities of the United Nations High Commissioner for Refugees and the International Organisation for Migration in aid of refugees and migrants.

1. *Assembly debate* on 25 April 2018 (15th Sitting) (see [Doc. 14519](#), report of the Committee on Political Affairs and Democracy, rapporteur: Mr Attila Korodi; and [Doc. 14534](#), opinion of the Committee on Migration, Refugees and Displaced Persons, rapporteur: Ms Tineke Strik). *Text adopted by the Assembly* on 25 April 2018 (15th Sitting).
See also [Recommendation 2127 \(2018\)](#).



7. Nonetheless, the Assembly calls on the Council of Europe member States to comply with their obligations under Article 3 of the European Convention on Human Rights (ETS No. 5), which requires them to refrain from sending migrants back to countries where they are exposed to the risk of torture and inhuman or degrading treatment or punishment.
8. The Assembly recognises that this is a real risk in Libya, as borne out by the regular reports by the United Nations Secretary-General to the Security Council, the reports and studies of the United Nations High Commissioner for Human Rights, the reports of the United Nations Support Mission in Libya (UNSMIL), the reports of non-governmental organisations and various documentaries providing evidence of slavery.
9. The Assembly urges the member States of the Council of Europe, and in particular those members which are also members of the European Union, to do more than simply managing the migration problem as it currently applies to Libya and to devise a new framework which would make it possible to protect migrants, examine asylum applications in dignified conditions and respect State sovereignty regarding access to territory.
10. In this connection, the Assembly supports recent moves to:
 - 10.1. have the asylum applications of persons considered by the High Commissioner for Refugees to be “extremely vulnerable” investigated in safer, adjoining countries, as the French Office for the Protection of Refugees and Stateless Persons recently did. In this context, the Assembly asks member States and the international community to propose a contingent of protected persons to the High Commissioner for Refugees as a precondition for dealing with potential beneficiaries in Libya;
 - 10.2. prevent irregular migrants from entering Libya by reinforcing border security at the southern border in Fezzan;
 - 10.3. set up a task force involving European and African States to combat human traffickers, as decided at the African Union–European Union Summit in Abidjan on 29 and 30 November 2017.
11. In parallel with the establishment of this new framework, the Assembly calls on the European Union member States to:
 - 11.1. make any co-operation with the Libyan coastguards dependent on the respect for refugees’ and migrants’ fundamental rights, particularly by refraining from exposing them to situations in which they risk being subject to severe ill-treatment, in accordance with its [Resolution 2174 \(2017\)](#) on human rights implications of the European response to transit migration across the Mediterranean;
 - 11.2. 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;
 - 11.3. 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;
 - 11.4. 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;
 - 11.5. propose an alternative solution to the detention centres officially managed by the Ministry of the Interior, where migrants are cooped up in conditions which UNSMIL describes as inhuman, and which are reported by the High Commissioner for Human Rights to be broken beyond repair. The dismantlement of the detention centres and the creation of transit and departure facilities allowing the transfer of refugees, on a voluntary basis, to third countries could be a viable solution, on the condition that the management of these facilities by the Libyan authorities really respects human rights;
 - 11.6. 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.
12. 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.
13. The Assembly unreservedly supports the Action Plan which the Special Representative of the United Nations Secretary-General for Libya presented on 20 September 2017. It considers that the Libyan Political Agreement signed in Skhirat on 17 December 2015 is still the only framework in which an end can be brought

to the Libyan crisis, that only the institutions deriving from this, particularly the Government of National Accord, have, quite rightly, obtained international recognition, and that the validity of this agreement extends beyond 17 December 2017.

14. The Assembly welcomes the fact that the Special Representative wishes to make this Agreement more effective by prompting the various parties to amend those provisions which currently impede its full application.

15. The Assembly supports the Special Representative's efforts to promote the most inclusive possible dialogue between Libyans without outside interference. It believes that the national conference provided for by the Action Plan should enable Libyan players who have been ostracised or who have purposely distanced themselves from the Libyan Political Agreement to be involved in the current political negotiations. The Assembly calls on the Special Representative and the Libyan authorities to:

15.1. ensure that this national conference can be attended by representatives not only of the relevant political and military forces but also of social movements, tribes and local stakeholders;

15.2. draw a clear line between the inclusive nature of the national conference, which might enable non-jihadist militias to take part, and accepting some of the practices of these militias, particularly those which claim to be Madkhalists, whose aim is to impose restrictions on public freedoms in the name of a radical view of Islam.

16. The Assembly considers that the adoption of a Libyan constitutional framework is a prerequisite for holding parliamentary and presidential elections. It takes the view that if it is difficult to reach agreement on all the provisions of the draft Constitution, at least those should be adopted which relate to the functioning of the institutional authorities alone, in Chapter 3 of the draft Constitution. This minimum constitutional framework should be adopted before parliamentary and presidential elections are held.

17. The Assembly agrees with the Special Representative that elections should only be held if their results cannot be contested by any of the various Libyan players and that this concern should take precedence over any desire to hold the elections as quickly as possible. If this is so, the Assembly is prepared to provide assistance to the Libyan authorities with election observation when they consider this to be appropriate.

18. The Assembly would point out that, alongside dialogue between Libyans, national reconciliation cannot be brought about unless justice is done, whether this takes the form of transitional courts, international courts for the most serious crimes, or so-called hybrid courts, in other words partly national courts with a considerable international presence.

19. Being aware that only the establishment of unified State structures will help to end widespread and daily violations of human rights and humanitarian law in Libya and will be able to lastingly reduce the terrorist threat and stem migration flows, which are realities affecting the member States directly, the Assembly considers that the Council of Europe should contribute to the efforts of the United Nations Support Mission in Libya to this end, bearing in mind its expertise in institutional matters and the objectives set by the Special Representative of the United Nations Secretary-General for Libya in his Action Plan of 20 September 2017. Its contribution could, in particular, focus on:

19.1. the drafting of the Libyan Constitution, through the European Commission for Democracy through Law (Venice Commission);

19.2. the establishment of support for electoral procedures in preparation for a constitutional referendum and then for parliamentary and presidential elections, the Assembly being prepared, for its part, to serve as an election observer;

19.3. the creation of a media environment capable of reporting on the above elections, working as much as possible in line with international ethical standards for journalists.