

Report of the Roundtable

**Inhumane treatment and Trafficking of people
in Libya: EU and EU Member States'
Responsibility**



**INHUMANE
TREATMENT AND
TRAFFICKING OF
PEOPLE IN LIBYA:**
*EU and EU Member
States' Responsibility*

ROUNDTABLE
1 April 2019 — 18:30 - 20:00
European Parliament — Room ASP3H1

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On 1 April 2019, a Roundtable entitled “*Inhumane treatment and trafficking of people in Libya – The EU’s and EU Member states’ responsibility*” was held from 18:30 - 20:00 in the European Parliament. The event was hosted by Members of the European Parliament (MEPs) Marie-Christine Vergiat (GUE/NGL Group) and Ana Gomes (S&D Group) together with the organisation Europe External Programme with Africa (EEPA). Speakers in this event were, among others, representatives of Médecins Sans Frontières, Amnesty International, Human Rights Watch, expert on human trafficking, legal experts, a journalist and human rights activists.

Opening by Marie-Christine Vergiat (MEP)

MEP Marie-Christine Vergiat (GUE/NGL), the moderator, expressed her dismay, anger and shame - as a European citizen and MEP - about EU migration policy. She deplored the fact that the European Union and its member states prevent migrants and refugees from crossing the Mediterranean Sea as part of its policy to limit irregular migration. She pointed out that 90% of refugees granted international protection arrived in an irregular situation via the Mediterranean Sea route. She also recalled the partnership between the EU and Libya: “*I was told that 250 Libyan coastguards would be trained, financed and equipped with the EU resources*” she said.

Before introducing the first presenter, Marie-Christine Vergiat emphasised that the EU did not realise the “aberration” of acting as if Libya was a normal state, whereas it is not.

Abraham Tesfai (Human rights activist)

Abraham read out the names of migrants/refugees who died from mistreatment in Libya. The list impressed on the meeting the dangerous situation in Libya which continues to cost lives. He reminded participants of the ordeals faced by detainees intercepted by the Libyan authorities. Many of them died in the centres from illness, from severe untreated infections, or were killed by machine guns. Others died from mistreatment (hunger, beatings, or torture), from exhaustion, or even from suicide (including by setting themselves on fire). “*Authorities are complicit and help the traffickers or/and are traffickers. People are dying everywhere*”, said Abraham.

Marie-Christine Vergiat stated that according to the EU government, only 6,000 people were registered in the Libyan detention centres. “*In reality, there are reportedly a total of 30,000 people in the Libyan centres. The EU’s intervention is negative. We fight against the trafficking of human beings but we fight those who seek to cross the sea. The suspension of naval operations is the perfect illustration. More than 10,000 refugees were rescued by NGOs last year. But because Member States cannot agree, actions have been suspended. And more recently, France announced that boats will be delivered in Libya, with full knowledge of the facts*”, she added.

Philippe Dam (Human Rights Watch)

The humanitarian crisis in the Mediterranean have three major implications for ensuring the rights of migrants and refugees, stated Philippe Dam. First, the failure to safely disembark persons at EU ports of safety after they are rescued at Sea by NGOs, military or merchant boats; secondly the deliberate efforts of EU member states to hinder rescue operations at sea and the suspension of rescue operations under operation Sofia; and thirdly the overall failure of EU policies to alleviate the suffering of migrants and refugees stuck in Libya, including those intercepted at sea by the Libyan Coast Guards.

Human Rights Watch published its report on the Libyan situation two months ago; testimonies of over a hundred people were collected (two government detention centres in Tripoli, as well as the centres of Zawiya and Misrata). In the testimonies, people explained how they face inhuman and degrading conditions and torture, sexual violence, extortion, and forced labour. In its most recent Libya update, UNHCR said that 6,000 refugees and migrants are currently held in Libyan detention centres. It is recognised that this is just the tip of the iceberg, as unknown thousands of others are held in warehouses and other forms of informal detention centres. *“We believe that to avoid complicity in gross human rights abuses, Italy and its EU partners should rethink their strategy to truly press for fundamental reforms and the ending of automatic detention”*, said Philippe Dam.

Inma Vazquez (MSF/DWB – Doctors Without Borders)

Inma Vazquez is MSF’s representative to the EU and NATO. She emphasised the horrific and inhumane conditions prevailing in the detention centres. *“We started to work in Libya in 2016 and the situation has not improved”*, she said. There have been some minor improvements in the facilities but the dynamics have not changed. Ill treatment, violence and disappearances are still regularly happening. Recently, an MSF medical team discovered 31 people locked up in a small room measuring just 4.5 metres by 5 metres in one of the centres,. There was no space to lie down, the room had no latrines and people were forced to urinate in buckets and plastic bottles. It took one week to negotiate their release. Every day MSF medical teams work in detention centres to deal with malnutrition, mental health problems, physical trauma and diseases like tuberculosis. An estimated 20% of the people in detention centres are women and children. MSF has tried to find alternatives to detention for the most vulnerable but in Libya, there are no safe alternatives. Some of them managed to escape. However, MSF medical teams have confronted situations in which people with tuberculosis or with severe mental health disorders were sent back to detention - or isolation - after hospitalization.

Inma Vazquez emphasized that people in the detention centers are the most vulnerable and the most trapped. According to UNHCR criteria, people in these circumstances are particularly entitled to protection. Since September 2017, the UNHCR has only managed to evacuate 3,016 people out of Libya. While these people suffer severe abuses in detention centres, EU member states lack the will to scale up opportunities for safe and legal options for such survivors to migrate to Europe. In September 2017, the UNCHR called for 40,000 resettlement places to be provided. In March 2019, states worldwide only managed to pledge a meagre 5,456 places.

Matteo de Bellis (Amnesty International)

People intercepted at sea by the EU-backed Libyan coastguard continue to be returned to Libya and placed in detention centres, where they are detained arbitrarily in awful conditions and exposed to horrific abuses, Matteo de Bellis informed the participants. European actions and policies that prevent entry into the EU are instrumental in trapping thousands of people in a situation of abuse. As part of its actions to prevent entry EU governments and institutions have offered all kinds of support to the Libyan authorities; in exchange, Libyan authorities prevent arrivals of refugees and migrants from reaching European shores.

The consequences of this EU approach are clear and include several elements, states De Bellis. First people intercepted at sea are returned to detention centres, where they face horrific conditions and human rights violations. Refugees stay in detention centres for longer than was the case in the past, with a complete absence of any legislation on asylum. In this situation, there is concern that people with valid claims to seek asylum, who cannot return to their home countries because they are at real risk of persecution or other serious human rights violations, and who have little chance to be resettled within the EU as possible places offered are significantly less than needed to accommodate legitimate demand, may accept return anyway out of desperation (through a programme implemented by International Organisation on Migration and funded by the EU).

Due to the continuing refusal of European states to disembark people rescued at sea on to their territory, rescue ships are sometimes left stranded for days or even weeks. Secondly, due the removal of European vessels and to the criminalization of NGOs there is now little capacity to rescue people, to estimate numbers drowning, or to monitor Libyan Coastguard behaviour.

While the EU is providing finance for programmes aimed at assisting refugees and migrants in Libya, these programmes cannot mitigate the harmful results of border control cooperation. The presence of UN agencies at ports where people are disembarked provides little comfort to those people, as they are nonetheless transferred to detention centres. As departures from Libya fall, now is the time to push for change: for an end to the immigration detention centres in Libya, for sufficient rescue capacity to be put in place, a fair disembarkation and relocation mechanism in Europe, as well as the establishment of safe and legal avenues for people to find safety without resorting to sea crossings.

Sara Creta (journalist)

According to the journalist, the EU institutions, the member states and the UNHCR are responsible for the situation in Libya. Sara Creta stressed that the media face difficulties in getting access to Libyan detention centres. Journalists cannot obtain the authorization to film what is happening inside the centres. She added that the only pictures of the detention centres to which the public has access were taken during visits of EU delegations. These pictures do not reflect reality. She said: "*People have courage to speak with the EU delegations because they are tired and are suffering. There are people who have been detained for 2 years.*" After the visits, refugees that were courageous enough to speak with the EU delegation have been beaten and then disappear. The journalist stated: "*I asked the UN about those missing ones but no one answered me*". The EU and the member states are failing to protect refugees'

rights. The journalist repeated that refugees are considered as “*commodity*”, moved from one place to another. Furthermore, in a detention centre controlled by the Department for the fight against illegal migration, refugees have been forced to move and pack large quantities of weapons on various occasions over the past few months and in some cases to accompany the militias to the conflict areas.

Sara Creta stressed that migrants or refugees do not have any information about their future and do not know where they will be sent. Moreover, she described the terrible living conditions in the centres: malnutrition, diseases and humiliation. The journalist denounced the vacuum of law and called for a new judicial system.

[Annick Pijnenburg \(legal expert on State Responsibility\)](#)

Annick Pijnenburg is a legal expert and a PhD researcher at Tilburg University, the Netherlands. In accordance with the *Draft Articles on the Responsibility of States for Internationally Wrongful Acts* (ARSIWA) (2001), there are different possibilities for States to incur responsibility under international law. In the case of the EU, Annick Pijnenburg declared that member states could incur responsibility for human rights violations in Libya in 3 possible scenarios:

- *Direct responsibility*: if a State breaches an international obligation and this is attributed to the conduct of that State (*art. 2 ARSIWA*). For instance, if an agent of the State (like a border guard) violates human rights, the State is responsible. All the EU member states have the obligation under the European Convention on Human Rights to not violate the Human Rights of people within their jurisdiction.
- *Not preventing harm*: If a state fails to do everything that it can reasonably be expected to do to protect or prevent human rights violations by others (e.g. human traffickers).
- *Indirect responsibility*: If a state aids or assists another state in committing human rights violations (if all the requirements of Article 16 ARSIWA are met)..

Annick Pijnenburg reported that cases had been brought against Italy and the United Kingdom in the context of migration from Libya.

[Makeda Saba \(Expert\)](#)

A presentation from Makeda Saba, expert on Eritrea, highlighted a case that was launched on 1 April by an Eritrean Foundation starting legal action against the EU for a project which uses forced labour in Eritrea: “The *EU is using development aid to tackle irregular migration*”, stated the presentation, “*but this fuels the factors that push people out*”. Many refugees come from Eritrea and end up in the detention centres in Libya.

The EU is spending 20 million euro in Eritrea to build infrastructure (roads). The EU acknowledges that labour from the indefinite National Service will be used – which is described by the UN as enslavement. Thus the EU will be party to the perpetration of enslavement: “*Any project implemented with the national service, will be complicit to enslavement*” said the Eritrean expert. In addition, the money will primarily benefit the Eritrean government, and to a

certain extent, people traffickers. The prevailing situation in Eritrea is one of the drivers of smuggling and trafficking. *“That is why the traffickers in Libya have grown very rich”*, the presentation concluded.

The presentation of Makeda Saba emphasised the harsh and ruthless conditions that prevail in the Eritrean military camps: *“They don’t have money. They have to work in extremely harsh conditions.”* Hence, the Foundation Human Rights for Eritreans has started legal action to sue the EU for complicity in the violation of Human Rights.

[Emiel Jurjens \(Attorney-at-law at Kennedy Van der Laan\)](#)

Emiel Jurjens represents the Foundation Human Rights for Eritreans. He explained that he and the Foundation have undertaken extensive research which has resulted in writing a letter of summons to the EU institutions. He informed participants that in a press conference earlier in the day the EU has been asked to stop its involvement in the project. *“The European Union is violating the Human Rights. We are asking for transparency.”* said The Foundation’s lawyer.

[Mulueberhan Temelso \(Director of the Foundation Human Rights for Eritreans\)](#)

The Director of the Foundation pointed out that the country was becoming emptier and emptier because of the exodus. *“The EU is funding 20 Million Euro for roads. I would prefer having 20 million Euro invested in Human Rights”* told Mulueberhan Temelso. According to him, those kinds of donations towards the Eritrean regime have to stop. For those who say that the partnership between the EU and Eritrea will boost the job market or the economy, Mr. Temelso asked: *“Do you know any NGO or private sector in Eritrea? Everything belongs to the regime.”*

QUESTIONS

1) What can the Parliament do?

Marie-Christine Vergiat answered that the Parliament has already done everything that was feasible (reports, testimonies...). She indicated that the migratory and humanitarian crisis is related to external policy, an area in which the Parliament has no competence. *“The trust fund is a way of diverting money from the European Development Fund to bypass the parliament’s control”* affirmed the MEP.

2) Is it possible to have more details on the support of the member states (France and Italy offering boats to Libya), and more clarity on the financial (trust fund) and material (through Operation Sophia) support of the EU? What money is going to which operations?

Metteo de Bellis (Amnesty International) answered that everything was very connected. He stated that the Italian government is involved with Libyan projects with the EU’s financial support such as the setting up of Libyan Maritime Rescue Coordination Centre. The project of the Italian coastguard has also been financed with the EU trust fund. Marie-Christine Vergiat added that it is unclear what is the EU’s financial participation in the agreement between Italy and Libya.

3) Can a causal link be established between the EU participation and the violation of human rights in Libya as regards Article 16 of the Draft Articles on the Responsibility of States for Internationally Wrongful Acts?

Annick Pijnenburg answered that causality could be hard to establish. However, she stated that concerning the Libyan coastguards, the connection was direct. To the extent that the Coastguards were returning refugees to Libya with the material and financial support of the EU, she affirmed that the link was relatively easy to establish. On the other hand, she declared that it was uncertain whether France or Italy could be said to facilitate and encourage the torture of refugees by sending boats to the Libyan Coastguard: *"The causal link is more difficult to prove"*.

Marie-Christine Vergiat added that officially the EU is only monitoring what is happening in Libya's controlled area, i.e. Tripoli and Adwya, but nowhere else.

Closing by Prof. Dr. Mirjam van Reisen (expert on human trafficking) and Marie-Christine Vergiat (MEP)

Mirjam van Reisen is a professor in Universities of Tilburg and Leiden. She is an expert on human trafficking and smuggling in the Horn of Africa. She thanked the speakers and the attendees for their contribution. She gave emphasis to the importance of speaking and debating on this subject.

Mirjam van Reisen has been working on trafficking and smuggling of refugees in the Horn region since 2009. *"I found it very hard because the rare information I collected was so direct. I remember that a boy - that was the same age as my son - had epilepsy, because he suffered from electrical shocks and torture"* she attested.

She concluded saying that *"we can only move forward by collaborating and working together. It's a giant puzzle but it requires all of us."* She also thanked the representatives of the international organisations, and Marie-Christine Vergiat. *"We hope we will keep on expressing and organizing roundtables and find a sense and accountability to what we do"* said the expert.

Marie-Christine Vergiat stressed the absence of emotion displayed by EU Commission representatives on situation in which the refugees find themselves. *"They are referred to as goods or merchandise"* said the MEP.

She concluded the roundtable by acknowledging the difficult role that UNHCR finds itself in this matter because of sources of its own financing. The budget is primarily funded by EU member states and notably by the USA.

LINKS:

Global Initiative:

[The Global Initiative Report : The Human Conveyor Belt Broken – assessing the collapse of the human-smuggling industry in Libya and the central Sahel](#)

HRW:

[The Human Rights Watch Report: No Escape from Hell EU Policies Contribute to Abuse of Migrants in Libya](#)

MSF:

[The Medecins Sans Frontieres Report: Refugees returned to overcrowded Libyan detention centres](#)

Amnesty International:

[The Amnesty International Report: Libya's Dark Web of Collusion. Abuses against Europe - Bound Refugees and Migrants](#)

BBC:

[EU denies claim of funding Eritrea 'forced labour' project](#)