

Ms. Benita Ferrero Waldner
European Commissioner for External Relations

Brussels, 27 July 2007
B692

Subject: Role of human rights concerns in EU-Libya relations

Dear Ms. Ferrero Waldner,

Amnesty International congratulates you on finally achieving the release of the six foreign medical workers from Libya. Our organization has been actively campaigning for the past eight years for them to receive a fair trial, and for their release as soon as it was clear that fair trials were no longer possible. We therefore welcome their release and return to Bulgaria this week.

The Libyan authorities now need to proceed urgently with implementing much-needed reforms to the criminal justice system to ensure that the lessons of this tragic case are learnt and this situation is not allowed to reoccur. In this context, it is in the EU's direct interest to ensure that any increased engagement with Libya is accompanied by a parallel increased engagement on human rights concerns and judicial reform. We are therefore concerned that in the Memorandum of Understanding signed on 24 July 2007 between the Commission and the Government of Libya, no mention has been made of judicial reform or any future dialogue on human rights issues as an integral component of increased cooperation.

Amnesty International receives details of many cases of Libyan journalists and dissidents each month who are not receiving fair judicial process. For example, we are currently asking for EU action in the specific case of 12 government critics, whose next hearing is scheduled for 4 August 2007, to ensure that they are afforded a fair hearing and that reports of torture are fully investigated. However, it is increasingly difficult to obtain information on cases such as these, and there is little hope of them benefiting from the levels of international attention that has brought the particular case of the medical workers to a conclusion. We therefore seek assurances from the Commission that these concerns will not only continue to be raised in EU-Libya relations, but that the opportunity for increased engagement will be used to further human rights goals. This includes increasing flows of information available on individual cases and addressing the lack of legal safeguards and various other judicial problems that marked this crisis from the outset.

We are equally worried about Article 5 of the Memorandum. Although the provision is drafted in very vague terms as regards the commitment of the Commission, it explicitly refers to the future specific agreement between Libya and the EU dealing with a variety of topics, including the surveillance of Libyan sea and land borders in the context of irregular migration. The memorandum explicitly states that this will be "on behalf of the EU".

Amnesty International has frequently raised concerns as regards the respect for human rights of refugees and migrants in Libya and believes that there are compelling grounds for the EU to apply clear human rights conditionality to any initiative regarding co-operation on irregular migration with the Libyan authorities. The country is not a party to the 1951 Convention related to the Status of Refugees or its 1967 Protocol and although the UNHCR has an office in Tripoli, Libya still has not, to Amnesty International's knowledge, signed a cooperation agreement for a formal UNHCR presence in the country. In national legislation, there are no procedures which would allow asylum-seekers to present an application for recognition of their refugee status by the Libyan authorities. In addition, detention conditions of 'illegal immigrants' are reported to be deplorable and expulsions of large numbers of 'illegal immigrants' are carried out on a regular basis with no attention paid to protection needs. In 2007 Amnesty International already launched two urgent actions regarding the risk of forcible return of Eritrean nationals to Eritrea where they would be subject to ill-treatment including

torture as punishment for "betraying" the country or fleeing military service and incommunicado detention. Amnesty International is also concerned by reports from inside detention centres that some of the Eritrean detainees have been tortured or otherwise ill-treated by guards in recent months.

Because of Libya's poor human rights record, not least as regards asylum seekers and irregular migrants, Amnesty International believes that human rights conditionality should be an essential element of any future agreement in this field with Libya and hopes that this will be sufficiently reflected in any proposal made to the Council. However, the memorandum does not contain any reference to the need for such cooperation to be developed in full respect of asylum seekers', refugees' and migrants' rights. Therefore, Amnesty International would like to receive more information on the Commission's intentions as regards the terms of reference and the nature of such a future agreement with Libya, the exact nature and objectives of the envisaged surveillance operations at Libyan land and sea borders and whether or not FRONTEX will be involved in such cooperation.

In anticipation of Libya being engaged into the EUROMED framework, it would seem not only appropriate but necessary for the human rights dimension to be incorporated from the outset as an essential element into any agreement with Libya.

We look forward to hearing from you with regard to the various issues raised in this letter.

Yours sincerely,



Dick Oosting
Director
Amnesty International EU Office