



Reference: **B1975**

Mr Josep Borrell Fontelles

High Representative of the European Union for Foreign Affairs and Security Policy/
Vice-President of the European Commission

02 December 2019

Dear High Representative Borrell,

LIBYA: EU MUST PRIORITIZE ENDING THE CYCLE OF IMPUNITY AND REFOCUS MIGRATION COOPERATION ON PROTECTION OF HUMAN RIGHTS

Amnesty International welcomes you to your role as High Representative / Vice President of the Commission (HR/VP). We were encouraged to hear of your willingness to engage with Amnesty International Spain, and look forward to continuing this dialogue on human rights with you at the European Union (EU) level through our Brussels office. We appreciate your statement during the European Parliament (EP) hearings that the HR/VP must be prepared to make proposals, take positions and go beyond the lowest common denominator. We strongly support your assertion that human rights are an integral part of EU foreign policy.

As foreign ministers prepare to discuss Libya at the upcoming Foreign Affairs Council, Amnesty International urge you to begin your mandate by placing accountability and the protection of human rights firmly at the center of EU efforts to support the Libyan political process and to address the situation of refugees and migrants.

Since 2011, the failure of both Libyan and international actors to prioritize the pursuit of accountability and a functioning justice system in Libya has allowed violations to thrive and further emboldened State and non-State actors to commit abuses with impunity.

This culture of impunity lies at the root of the reoccurring cycles of violence in Libya as once again illustrated by the hostilities raging in and around Tripoli since April 2019. Indeed, all parties have shown an utter disregard for the fundamental principles of international humanitarian law by carrying out indiscriminate and disproportionate attacks against civilians and civilian objects. In our recent [report](#), Amnesty International revealed evidence of potential war crimes by both the UN-backed Government of National Accord (GNA) and the self-proclaimed Libyan National Army (LNA). The fighting has killed and wounded hundreds of civilians caught in air strikes, artillery barrages, and the shelling of civilian infrastructure and displaced over 120,000 civilians living in the southern and eastern suburbs of the city.

In addition to violations committed during the conduct of hostilities, State and non-State actors in Libya have been responsible for serious human rights abuses including torture and ill-treatment, rape and other acts of sexual violence, arbitrary arrests and detention, forced displacement and enforced disappearance. Meanwhile, journalists, human rights defenders, lawmakers, state officials, members of the judiciary, prosecutors and lawyers are being deliberately targeted, further undermining the rule of law.

In this context, any EU efforts to support a political process in Libya must see peace and justice as mutually reinforcing and prioritize ending the cycle of impunity. Yet in the absence of a functioning domestic judicial system, EU support to international accountability mechanisms is crucial to addressing past violations and deterring future abuses. These imperatives are reflected by Special Representative of the Secretary General and Head of the United Nations Support

Mission in Libya, Ghassan Salame's call at the 42nd Session of the Human Rights Council for it to "establish an investigative mechanism, such as a commission of inquiry."¹

The conditions for refugees and migrants in Libya have also deteriorated amidst the ongoing hostilities. At particular risk are those in the overcrowded detention centres who are subject to horrific human rights abuses and violations, and at heightened risk of being targeted by the belligerent parties. In July, dozens of refugees and migrants were killed in an attack on the Tajoura Immigration Detention Centre in eastern Tripoli.

Thousands of migrants and refugees are held in detention centres, nominally run by the General Directorate for Combating Illegal Migration (DCIM), and thousands more are held in other facilities run by armed groups. In both cases, people are held indefinitely with no judicial oversight and, unless they escape, are sold to smugglers or into bonded labour, or returned to their countries with the assistance of the International Organization for Migration (IOM). A minority are resettled or evacuated to other countries. The vast majority of migrants and refugees being arbitrarily and indefinitely detained in the DCIM centres have been placed there following their interception at sea by the EU-funded and equipped Libyan Coast Guard, as EU Member States have not conditioned their assistance to Libya on the prior adoption of measures to ensure respect of human rights. Amnesty International has highlighted how the detention centres are used by militias, including those affiliated to the GNA, to obtain money from the relatives of those detained, who are sometimes even tortured while on the phone with their loved ones to force them to pay a ransom.

The EU Council's high level working group has also highlighted concerns over the Libyan government's own involvement in abuse of detained migrants, given its reluctance to address this situation. While it is urgent to close detention centres and release people held there, it is equally important that these people are also offered evacuation from the country, as even outside of detention centres they remain exposed to the risk of serious harm.

In light of this, we urge you to take steps towards addressing the serious and widespread human rights violations in Libya, including by adopting Foreign Affairs Council Conclusions which:

- **Underline that EU efforts to support the political process in Libya will prioritize the pursuit of justice and ending the cycle of impunity in Libya;**
- **Reaffirm the EU's full support for the mandate of the International Criminal Court;**
- **Reiterate the EU's previous [support](#) for comprehensive, independent and credible investigations into violations of International Humanitarian Law and violations and abuses of international human rights law, and explicitly support SRSB Salame's call for the establishment of an investigative mechanism, such as a Commission of Inquiry, at the UN Human Rights Council.** This mechanism should be empowered to determine responsibility for violations and preserve evidence of crimes.
- **Make continued cooperation on migration with Libyan authorities conditional on concrete and verifiable steps by the Libyan authorities towards:**
 - The prompt release of all refugees, asylum-seekers and migrants being arbitrarily detained, and the end of the system of automatic, indefinite detention.
 - The full and formal recognition of the UN Refugee Agency (UNHCR), in the form of a Memorandum of Understanding that guarantees the organization's full access to people of concern across the country and the possibility to carry out its full mandate.
 - The adoption and enactment of new legislation and policies on migration and asylum, providing for the decriminalization of irregular entry, stay and exit and the creation of an asylum system.
- **Emphasize the need to provide evacuation opportunities to refugees and migrants currently in Libya:** in particular to those to be released from detention centres, including through the offer of an adequate number of resettlement opportunities and their speedy processing.

¹ <https://extranet.ohchr.org/sites/hrc/HRCSessions/RegularSessions/42Session/Pages/Statements.aspx?SessionId=31&MeetingDate=25/09/2019%2000:00:00>

- Reiterate its call on Justice and Home Affairs Ministers to make progress on the issue of disembarkation of refugees and migrants rescued at sea, already underlined in conclusions adopted in July 2019, and emphasize that people rescued at sea should not be disembarked in Libya.

EU support to the Libyan political process, and to the situation of refugees and migrants in Libya, must be based on accountability and the protection of human rights. We welcome your leadership in addressing the serious and widespread human rights violations in Libya, and stand ready to provide any further information you may require.

Amnesty International looks forward to working with you in your role as HR/VP and to meeting you in the very near future to discuss human rights concerns and priorities.

Yours sincerely,



Eve Geddie
Head of European Institutions Office and Advocacy Director
Amnesty International