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## RECOMMENDATIONS

## EUROPEAN PARLIAMENT

**EU-Libya Framework Agreement**

P7\_TA(2011)0020

**European Parliament recommendation of 20 January 2011 to the Council on the negotiations on the EU-Libya Framework Agreement (2010/2268(INI))**

(2012/C 136 E/19)

*The European Parliament,*

- having regard to the proposal for a recommendation to the Council by Ana Gomes on behalf of the S&D Group on the ongoing negotiations on the EU-Libya Framework Agreement (B7-0615/2010),
- having regard to the General Affairs and External Relations Council conclusions of 15 October 2007 on opening discussions for a Framework Agreement between the EU and Libya, as well as the European Council conclusions of 18-19 June and 29-30 October 2009 on migration-related policies,
- having regard to the Memorandum of Understanding jointly signed by Commissioner Ferrero-Waldner and European Affairs Secretary El Obeidi on 23 July 2007,
- having regard to the ongoing negotiations between the EU and Libya on a Framework Agreement,
- having regard to the HIV Action Plan for Benghazi, launched in November 2004,
- having regard to the current EU-Libya practical cooperation on migration and to the Migration Cooperation Agenda signed by the Commission and Libya on 4 October 2010,
- having regard to the Universal Declaration of Human Rights of 10 December 1948,
- having regard to the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the Status of Refugees,
- having regard to several human rights instruments that Libya has signed, such as the International Covenant on Civil and Political Rights (1970), the International Covenant on Economic, Social and Cultural Rights (1970), the International Convention on the Elimination of All Forms of Racial Discrimination (1968), the Convention on the Elimination of All Forms of Discrimination against Women (1989), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1989), the Convention on the Rights of the Child (1993) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (2004),
- having regard to United Nations General Assembly (UNGA) Resolution 62/149 of 18 December 2007 calling for a moratorium on the use of the death penalty, and UNGA Resolution 63/168 of 18 December 2008 calling for the implementation of the 2007 General Assembly resolution 62/149,
- having regard to the African Charter on Human and Peoples' Rights and its protocol on the establishment of an African Court on Human and Peoples' Rights, ratified by Libya on 26 March 1987 and 19 November 2003 respectively,

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- having regard to the African Union Convention governing the specific aspects of refugees in Africa of September 1969, to which Libya has been a party since 17 July 1981,
  - having regard to the Charter of Fundamental Rights of the European Union,
  - having regard to its resolutions of 18 January 2007 on the death sentence imposed on medical personnel in Libya <sup>(1)</sup> and of 17 June 2010 on executions in Libya <sup>(2)</sup>,
  - having regard to Rule 121(3) and Rule 97 of its Rules of Procedure,
  - having regard to the report of the Committee on Foreign Affairs (A7-0368/2010),
- A. whereas, despite the persisting authoritarian rule and the systematic violation of international conventions on fundamental rights and freedoms, Libya has expanding commercial and political relations with EU Member States and plays a role as a partner for the EU in the Mediterranean region and in Africa, across a wide range of issues with an impact on security and stability, notably migration, public health, development, trade and economic relations, climate change, energy and cultural heritage,
- B. whereas several EU Member States have close relations with Libya, with national companies and banks serving as a vehicle for Libyan financial investment in Europe, and whereas on 30 August 2008 Italy signed a Friendship Agreement with Libya governing relations in various fields, including cooperation on managing migration and financial reparations for war and colonial rule; whereas on 9 November 2010 the Italian Parliament asked the Government to revise this Treaty,
- C. whereas the EU-Libya Framework Agreement currently under negotiation covers a wide range of areas, from strengthening political dialogue to managing migration, developing trade and economic relations, energy security and improving cooperation in different sectors; whereas the Framework Agreement is expected to provide an opportunity to step up political dialogue between Libya and the EU,
- D. whereas respect for human rights, democracy and the rule of law, as well as opposition to the death penalty, are fundamental EU principles; whereas Parliament is strongly committed to the universal abolition of the death penalty and repeatedly urged the revocation of the death sentences and release from prison of the five Bulgarian nurses and the Palestinian doctor who were imprisoned in Libya for several years, besides condemning executions of Libyan and non-Libyan citizens which have taken place in Libya,
- E. whereas Libya has ratified the African Union Convention governing specific aspects of refugee problems in Africa, Article 8 of which underlines that this Convention shall be an effective complement in Africa of the 1951 UN Convention on Refugees and that its Members should cooperate with the UNHCR; whereas, however, Libya has not ratified the 1951 UN Convention on Refugees, which is the only international convention which provides a comprehensive definition of refugees, to be accompanied by binding protection measures and a specific mechanism for monitoring by the Office of the United Nations High Commissioner for Refugees,
- F. whereas there is substantial evidence of Libya's practice of widespread discrimination against migrant workers on the basis of their national or ethnic origin, particularly its racial persecution of African migrant workers, and whereas the European Parliament is deeply concerned about reported acts of sexual violence against women,
- G. whereas Article 19(2) of the Charter of Fundamental Rights of the EU bans any removal, expulsion or extradition to a state of persons who are at a serious risk of being subjected to the death penalty, torture or other inhuman or degrading treatment or punishment,
- H. whereas Libya was elected to the UN Human Rights Council on 13 May 2010 and has ratified several human rights instruments and whereas, as a consequence, Libya has specific international legal

<sup>(1)</sup> OJ C 244 E, 18.10.2007, p. 208.

<sup>(2)</sup> Texts Adopted, P7\_TA(2010)0246.

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obligations to respect human rights, but has failed so far to take concrete measures to improve its human rights record and to launch genuine cooperation with the UN Special Procedures and Treaty Bodies; whereas human rights are indivisible and yet, despite enjoyment of some economic and welfare benefits due to the State's distribution of the national income, Libyans and foreigners in Libya do not enjoy most civil and political rights, namely freedom of expression, assembly and association, the right to a fair trial, labour rights, women's rights and free elections, and whereas cases of arbitrary detention, torture, involuntary disappearances and discrimination often occur, notably affecting migrants,

- I. whereas the exercise of State power in Libya is not anchored in the rule of law or in democratic accountability and has led to arbitrary and unpredictable behaviour regarding foreign persons and interests, such as recently occurred with Swiss businessmen, and foreigners executed for common criminality, whose identity was not disclosed,

1. Addresses, in the context of the ongoing Framework Agreement negotiations, the following recommendations to the Council:

- (a) Notes the recent Council decision to finally allow a limited number of Members of Parliament to read the mandate given to the Commission to negotiate a Framework Agreement between the EU and Libya; regrets however the delay in this decision and calls for the EP to be granted access to the mandates of all international agreements under negotiation, in accordance with Article 218(10) TFEU, which states that Parliament shall be immediately and fully informed at all stages of the procedure;
- (b) Welcomes the opening of negotiations between the EU and Libya, as a step to develop a new relationship for the EU in the Mediterranean region and in Africa; considers cooperation with Libya useful in addressing issues such as security and stability, migration, public health, development, trade, climate change, energy and culture;
- (c) Urges the Council and the Commission to strongly recommend that Libya ratify and implement the Geneva Convention on Refugees of 1951 and its 1967 Protocol, including full cooperation with UNHCR so as to guarantee adequate protection and rights for migrants, and adopt asylum legislation that recognises refugees' status and rights accordingly, notably the prohibition of collective expulsion and the principle of 'non-refoulement';
- (d) Reminds the Council and the Commission of their obligations to ensure full compliance of the EU's external policy with the Charter of Fundamental Rights, particularly its Article 19, which prohibits collective expulsion and grants the principle of 'non-refoulement';
- (e) Urges the Council and the Commission to request that the Libyan authorities sign a Memorandum of Understanding granting UNHCR a legal presence in the country, with a mandate to exercise its full range of access and protection activities;
- (f) Urges the Council and the Commission to ensure that a readmission agreement with Libya could only be envisaged for irregular immigrants, excluding therefore those who declare themselves asylum-seekers, refugees or persons in need of protection, and reiterates that the principle of 'non-refoulement' applies to any persons who are at risk of the death penalty, inhumane treatment or torture;
- (g) Calls on the Council to offer resettlement to recognised refugees identified by UNHCR in Libya according to the agreed Migration Cooperation Agenda of 4 October 2010;
- (h) Calls on the Council and the Commission to strengthen their support for UNHCR activities while promoting towards the Libyan authorities respect for international humanitarian standards for undocumented migrants in the country, including the systematic access of the UNHCR to detention centres;

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- (i) Calls on the Council and the Commission to propose assistance to Libya, involving UNHCR, IOM, ICMPD and other expert agencies, aimed at addressing the problem of trafficking of human beings in the region, with special attention to the protection of women and children, including assistance to integrate legal migrants and to improve conditions for migrants found illegally in the country; to this effect welcomes the agreement on a migration cooperation agenda signed between Commissioners Malmström and Füle and the Libyan authorities in October 2010;
- (j) Urges the Commission to disclose to Parliament all detailed information related to the financial external instruments used for the EU-Libya Partnership Agreement;
- (k) Urges the Council to encourage Libya to commit to a moratorium on the death penalty, in compliance with the UNGA resolutions adopted on 18 December 2007 and 18 December 2008, with a view to abolishing the death penalty, and to release statistics on all persons executed in Libya since 2008 and divulge the identity of the persons concerned and the charges on which they were convicted; calls on the HR/VP to demonstrate the political priority which the EU assigns to abolition of the death penalty by systematically raising this issue with Libyan authorities;
- (l) Calls on the Council to insist on the inclusion in the Framework Agreement of a clause on the International Criminal Court, leading Libya to consider ratifying the Rome Statute;
- (m) Calls on the Council to propose to Libya cooperation on programmes to strengthen regional synergies on sustainable development and environmental matters, such as climate change, water scarcity and desertification;
- (n) Calls on the Council and the Commission to encourage, during the negotiations on the Framework Agreement, Libya's participation in the Euro-Mediterranean Partnership and the activities and main projects of the Union for the Mediterranean;
- (o) Calls on the Commission to fully respect its obligation under Article 218 TFEU by duly informing Parliament on what is being sought by the EU on 'nuclear cooperation' with Libya under the 'Energy' chapter in the Framework Agreement negotiations, including all political and security implications;
- (p) Congratulates Libyan health authorities and professionals on the remarkable improvement in medical and scientific capacities to deal with HIV-AIDS, which was achieved through the Benghazi Action Plan, jointly implemented by the EU and Libya, and supports the requested extension of such cooperation to other infectious diseases and other medical centres in Libya; calls on EU Member States to extend specialised healthcare to Libyan patients, including facilitating temporary treatment in specialised institutions in Europe;
- (q) Considers that the Framework Agreement should include assistance on institutional capacity building, as a means to strengthen civil society, support modernisation, encourage democratic reforms, independent media and an independent judiciary, and encourage other efforts to open up space for business, academia, NGOs and other Libyan stakeholders;
- (r) Calls on the Council and Commission to ensure that the programmes designed for trade focus on provision of actual support to enterprises, particularly small and medium-sized businesses, in order to maximise their export potential;
- (s) Calls on the Council and Commission to encourage Libya to fully respect its pledges given when acceding to the UNHRC and thus urges Libya to issue standing invitations to those appointed under UN special procedures such as the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on torture, the Special Rapporteur on freedom of expression and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance as well as the Working Group on enforced and involuntary disappearances and the Working Group on arbitrary detentions, as requested in the recent Universal Periodic Review on Libya; calls in the same spirit for unfettered access to the country for independent scrutiny of the overall human rights situation;

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- (t) Calls on the Council to ensure that Schengen visas for Libyans are issued without unnecessary delays, to examine other facilitation procedures and to persuade Libyan authorities to facilitate visas for Europeans residing or conducting professional activities in Libya;
  - (u) Recommends the establishment of an EU Delegation in Tripoli as soon as possible;
2. Instructs its President to forward this recommendation to the Council and, for information, to the Commission and the Governments of the Member States.
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